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Presidential Documents

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The President

Presidential Determination No. 2013–12 of August 9, 2013—Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia

Correction

In Presidential document 2013–20465 beginning on page 51647 in the issue of Tuesday, August 20, 2013, make the following correction:

On page 51647, the heading of the document was omitted and should read "Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia".

[FR Doc. C1–2013–20465
Filed 12–05–13; 8:45 a.m.]
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Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2012–0052]

RIN 3150–AJ12

List of Approved Spent Fuel Storage Casks: HI–STORM 100 Cask System; Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Cask System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 9 to Certificate of Compliance (CoC) No. 1014. Amendment No. 9 broadens the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 Cask System and updates the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model. The amendment also makes editorial corrections.

DATES: The direct final rule is effective February 19, 2014, unless significant adverse comments are received by January 6, 2014. If the direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register.** Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please refer to Docket ID NRC–2012–0052 when contacting the NRC about the availability of information for this direct final rule. You may access publicly available information related to this direct final rule by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0052. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at: *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at: 1–800–397–4209, 301–415–4737, or by email to: *pdr.resource@nrc.gov.* An electronic copy of the proposed CoC, including Appendices A and B of the Technical Specifications (TS), Appendix A—100U and Appendix B—100U of the TS, and the preliminary safety evaluation report (SER) are available in ADAMS under Package Accession No. ML120530246.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6103, email: *Naiem.Tanious@nrc.gov.*

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I. Procedural Background

This direct final rule is limited to the changes contained in Amendment No. 9 to CoC No. 1014 and does not include other aspects of the HI–STORM 100 Cask System design. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on February 19, 2014. However, if the NRC receives significant adverse comments on this direct final rule by January 6, 2014, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rule section of this issue of the **Federal Register.** Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

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

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

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

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

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

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

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TSs.

For detailed instructions on submitting comments, please see the companion proposed rule published in

the Proposed Rule section of this issue of the **Federal Register.**

II. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that "the Secretary [of the U.S. Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [U.S. Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPA states, in part, that "[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor."

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater then Class C Waste," which added a new subpart K within 10 CFR part 72 entitled, "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72 entitled, "Approval of Spent Fuel Storage Casks," which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule (65 FR 25241; May 1, 2000) that approved the HI–STORM 100 Cask System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214, "List of approved spent fuel storage casks," as CoC No. 1014.

III. Discussion of Changes

On September 10, 2010 (ADAMS Accession No. ML102570739), Holtec International submitted a request to the NRC to amend CoC No. 1014. Holtec supplemented its request on the following dates: October 1, 2010 (ADAMS Accession No. ML102780596); November 14, 2011 (ADAMS Accession No. ML11320A185); April 17, 2013 (ADAMS Accession No. ML13114A952); and May 15, 2013 (ADAMS Accession No. ML13137A067). The amendment broadens the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 Cask System, updates the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model, and makes editorial corrections. The amendment changes are available in ADAMS under Package Accession No. ML120530246. The ADAMS Accession No. for the HI–STORM 100 Cask System Amendment No. 9, dated June 20, 2013, is ML120530271.

As documented in the SER (ADAMS Accession No. ML120530329), the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request. There are no significant changes to cask design requirements in the proposed CoC amendment. Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of confinement, shielding, and criticality control. If there is no loss of confinement, shielding, or criticality control, the environmental impacts would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 9 would remain well within the 10 CFR part 20, "Standards for Protection Against Radiation," limits. Therefore, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the May 1, 2000, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

This direct final rule revises the HI–STORM 100 Cask System listing in 10 CFR 72.214 by adding Amendment No. 9 to CoC No. 1014. The amendment consists of the changes previously described, as set forth in the revised CoC and TSs. The revised TSs are identified in the SER.

The amended HI–STORM 100 cask design, when used under the conditions specified in the CoC, the TSs, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210, "General license issued," may load spent nuclear fuel into HI–STORM 100 Cask Systems that meet the criteria of Amendment No. 9 to CoC No. 1014 under 10 CFR 72.212, "Conditions of general license issued 72.212."

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the HI–STORM 100 Cask System design listed in 10 CFR 72.214. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this direct final rule is classified as Compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has attempted to use plain language in promulgating this rule consistent with the Federal Plain Writing Act guidelines.

VII. Finding of No Significant Environmental Impact: Availability

A. The Action

The action is to amend 10 CFR 72.214 to revise the HI–STORM 100 Cask System listing within the "List of Approved Spent Fuel Storage Casks" to

include Amendment No. 9 to CoC No. 1014. Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

B. The Need for the Action

This direct final rule amends the CoC for the HI–STORM 100 Cask System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Holtec, in Amendment No. 9, requested changes to broaden the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 Cask Storage System, update the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model, and make editorial corrections.

C. Environmental Impacts of the Action

The potential environmental impact of using the HI–STORM 100 Cask System was initially analyzed in the environmental assessment for the final rule to add the HI–STORM 100 Cask System to the list of approved spent fuel storage casks in 10 CFR 72.214 (65 FR 25241; May 1, 2000). The environmental assessment for the May 1, 2000, final rule concluded that there would be no significant environmental impacts to adding the HI–STORM 100 Cask System, and therefore, the NRC issued a finding of no significant impact, which continues to be valid. The environmental assessment, for this Amendment No. 9, tiers on the environmental assessment for the May 1, 2000, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act.

HI–STORM 100 Cask Systems are designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of confinement, shielding, and criticality control. If there is no loss of confinement, shielding, or criticality control, the environmental impacts would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. There are no significant changes to cask design requirements in the proposed CoC amendment. In addition, because there are no significant design or process changes any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 9 would remain well within the 10 CFR part 20 limits. Therefore, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the May 1, 2000, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents. The staff documented its safety findings in an SER which is available in ADAMS under Accession No. ML120530329.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 9 and end the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into HI–STORM 100 Cask Systems in accordance with the changes described in proposed Amendment No. 9 would have to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. Therefore, the environmental impacts would be the same or less than the action.

E. Alternative Use of Resources

Approval of Amendment No. 9 to CoC No. 1014 would result in no irreversible commitments of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in 10 CFR part 51. Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled, "List of Approved Spent Fuel Storage Casks: HI–STORM 100 Cask System, Amendment No. 9," will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

VIII. Paperwork Reduction Act Statement

This direct final rule does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget (OMB), Approval Number 3150–0132.

Public Protection Notification

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

IX. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC approved cask designs is contained in 10 CFR 72.214. On May 1, 2000 (65 FR 25241), the NRC issued an amendment to 10 CFR part 72 that approved the HI–STORM 100 Cask System design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214.

On September 10, 2010, Holtec International submitted a request to the NRC to amend CoC No. 1014. Holtec supplemented its request on the following dates: October 1, 2010, November 14, 2011, April 17, 2013, and May 15, 2013. The amendment broadens

the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 Cask System, updates the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model, and makes editorial corrections.

The alternative to this action is to withhold approval of Amendment No. 9 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into HI–STORM 100 Cask Systems under the changes described in Amendment No. 9 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and Holtec International, Inc. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XI. Backfitting and Issue Finality

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises CoC No. 1014 for the Holtec International HI–STORM 100 Cask System, as currently listed in 10 CFR 72.214, "List of Approved Spent Fuel Storage Casks." The revision consists of Amendment No. 9, which broadens the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 Cask System, updates the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model, and makes editorial corrections.

Amendment No. 9 to CoC No. 1014 for the Holtec International HI–STORM 100 Cask System was initiated by Holtec International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 9 applies only to new casks fabricated and used under Amendment No. 9. These changes do not affect existing users of the HI–STORM 100 Cask System, and the current Amendment No. 8 continues to be effective for existing users. While current CoC users may comply with the new requirements in Amendment No. 9, this would be a voluntary decision on the part of current users. For these reasons, Amendment No. 9 to CoC No. 1014 does not constitute backfitting under 10 CFR 72.62, 10 CFR 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, no backfit analysis or additional documentation addressing the issue finality criteria in 10 CFR part 52 has been prepared by the staff.

XII. Congressional Review Act

The Office of Management and Budget has not found this to be a major rule as defined in the Congressional Review Act.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act sec. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Protection Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. Nuclear Waste Policy Act 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K is also issued under sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170).

Amendment Number 9 Effective Date: February 19, 2014.

SAR Submitted by: Holtec International, Inc.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 2nd day of December 2013.

For the Nuclear Regulatory Commission.

Michael R. Johnson,

Acting Executive Director for Operations.

[FR Doc. 2013–29162 Filed 12–5–13; 8:45 am]

BILLING CODE 7590–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1090

[Docket No. CFPB–2013–0005]

RIN 3170–AA35

Defining Larger Participants of the Student Loan Servicing Market

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau or CFPB) amends the regulation defining larger participants of certain consumer financial product and service markets by adding a new section to define larger participants of a market for student loan servicing. The Bureau is issuing the final rule pursuant to its authority, under the Dodd-Frank Wall Street Reform and Consumer Protection Act, to supervise certain nonbank covered persons for compliance with Federal consumer financial law and for other purposes. The Bureau has the authority to supervise nonbank covered persons of all sizes in the residential mortgage, private education lending, and payday lending markets. In addition, the Bureau has the authority to supervise nonbank "larger participant[s]" of markets for other consumer financial products or services, as the Bureau defines by rule. Rules defining larger participants of a market for consumer reporting and larger participants of a market for consumer debt collection were published in the **Federal Register** on July 20, 2012 (Consumer Reporting Rule) and October 31, 2012 (Consumer Debt Collection Rule). This final rule identifies a market for student loan servicing and defines "larger participants" of this market that are subject to the Bureau's supervisory authority.

DATES: Effective March 1, 2014.

FOR FURTHER INFORMATION CONTACT: Allison Brown, Program Manager, (202) 435–7107, Amanda Quester, Senior Counsel, (202) 365–0702, or Brian Shearer, Attorney, (202) 435–7794, Office of Supervision Policy, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On March 28, 2013, the Bureau published a notice of proposed rulemaking proposing to define larger participants of a market for student loan servicing.[1] The Bureau is issuing this final rule to define larger participants of the identified market (Final Rule).

I. Overview

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)[2] established the Bureau on July 21, 2010. Under 12 U.S.C. 5514, the Bureau has supervisory authority over all nonbank covered persons[3] offering or providing three enumerated types of consumer financial products or services: (1) Origination, brokerage, or servicing of consumer loans secured by real estate, and related mortgage loan modification or foreclosure relief services; (2) private education loans; and (3) payday loans.[4] The Bureau also has supervisory authority over "larger participant[s] of a market for other consumer financial products or services," as the Bureau defines by rule.[5]

The Bureau is authorized to supervise nonbank covered persons subject to 12 U.S.C. 5514 of the Dodd-Frank Act for purposes of: (1) Assessing compliance with Federal consumer financial law; (2) obtaining information about such persons' activities and compliance systems or procedures; and (3) detecting and assessing risks to consumers and consumer financial markets.[6] The Bureau conducts examinations, of various scopes, of supervised entities. In addition, the Bureau may, as appropriate, request information from supervised entities without conducting examinations.[7]

The Bureau prioritizes supervisory activity at nonbank covered persons on the basis of risk, taking into account, among other factors, the size of each entity, the volume of its transactions involving consumer financial products or services, the size and risk presented by the market in which it is a participant, the extent of relevant State oversight, and any field and market information that the Bureau has on the entity. Such field and market information might include, for example, information from complaints and any other information the Bureau has about risks to consumers.

The specifics of how an examination takes place vary by market and entity. However, the examination process generally proceeds as follows. Bureau examiners initiate preparations for the on-site portion of an examination by contacting an entity for an initial conference with management, and often by also requesting records and other information. Bureau examiners will ordinarily also review the components of the supervised entity's compliance management system. Based on these discussions and a preliminary review of the information received, examiners determine the scope of an on-site examination and then coordinate with the entity to initiate the on-site portion of the examination. While on-site, examiners spend a period of time holding discussions with management about the entity's policies, processes, and procedures; reviewing documents and records; testing transactions and accounts for compliance; and evaluating the entity's compliance management system. As with any Bureau examination, examinations of nonbanks may involve issuing confidential examination reports, supervisory letters, and compliance ratings.

The Bureau has published a general examination manual describing the Bureau's supervisory approach and

[1] 78 FR 18902 (Mar. 28, 2013).

[2] Public Law 111–203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5301 *et seq.*).

[3] The provisions of 12 U.S.C. 5514 apply to certain categories of covered persons, described in subsection (a)(1), and expressly exclude from coverage persons described in 12 U.S.C. 5515(a) or 5516(a). "Covered persons" include "(A) any person that engages in offering or providing a consumer financial product or service; and (B) any affiliate of a person described [in (A)] if such affiliate acts as a service provider to such person." 12 U.S.C. 5481(6).

[4] 12 U.S.C. 5514(a)(1)(A), (D), (E). The Bureau also has the authority to supervise any nonbank covered person that it "has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity . . . to respond . . . is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services." 12 U.S.C. 5514(a)(1)(C); *see also* 12 CFR part 1091 (prescribing procedures for making determinations under 12 U.S.C. 5514(a)(1)(C)). In addition, the Bureau has supervisory authority over very large depository institutions and credit unions and their affiliates. 12 U.S.C. 5515(a). Furthermore, the Bureau has certain authorities relating to the supervision of other depository institutions and credit unions. 12 U.S.C. 5516(c)(1), (e).

[5] 12 U.S.C. 5514(a)(1)(B), (a)(2); *see also* 12 U.S.C. 5481(5) (defining "consumer financial product or service").

[6] 12 U.S.C. 5514(b)(1).

[7] *See* 12 U.S.C. 5514(b) (authorizing the Bureau both to conduct examinations and to require reports from entities subject to supervision).

procedures. This manual is available on the Bureau's Web site.[8] As explained in the manual, examinations will be structured to address various factors related to a supervised entity's compliance with Federal consumer financial law and other relevant considerations. The Bureau has released procedures specific to education lending and servicing for use in the Bureau's examinations.[9] The Bureau also plans to use those examination procedures in supervising nonbank larger participants of the student loan servicing market.

This Final Rule establishes a category of covered persons that are subject to the Bureau's supervisory authority[10] under 12 U.S.C. 5514 by defining "larger participants" of a market for student loan servicing.[11] The Final Rule pertains only to that purpose and does not impose new substantive consumer protection requirements. Nonbank covered persons generally are subject to the Bureau's regulatory and enforcement authority, and any applicable Federal consumer financial law, regardless of whether they are subject to the Bureau's supervisory authority.

II. Background

On March 28, 2013, the Bureau published a notice of proposed rulemaking proposing to define larger participants of a market for student loan servicing (Proposed Rule).[12] The Bureau requested and received public comment on the Proposed Rule. The Bureau received 59 comments on the Proposed Rule from, among others, consumer groups, industry trade associations, companies, State-affiliated agencies, and individuals. The comments are discussed in more detail below in the section-by-section analysis.

The Proposed Rule included a test to assess whether a nonbank covered person is a larger participant of the student loan servicing market. Under this test, a nonbank covered person with an account volume exceeding one million, as described in the Proposed Rule, would be a larger participant of the student loan servicing market.

III. Summary of the Final Rule

The Bureau's existing larger-participant rule, 12 CFR part 1090, prescribes various procedures, definitions, standards, and protocols that apply with respect to all markets in which the Bureau has defined larger participants.[13] Those generally applicable provisions, which are codified in subpart A, also are applicable for the student loan servicing market described by this Final Rule. The definitions in § 1090.101 should be used, unless otherwise specified, when interpreting terms in this Final Rule.

As the Bureau has previously explained, it will include relevant market descriptions and larger-participant tests, as it develops them, in subpart B.[14] Accordingly, the Final Rule defining larger participants of the student loan servicing market amends Part 1090 by adding § 1090.106 in subpart B.

The Final Rule is the latest in a series of rules to define "larger participants" of specific markets for purposes of establishing, in part, the scope of coverage of the Bureau's nonbank supervision program. The Final Rule defines a student loan servicing market that would cover the servicing of both Federal and private student loans.[15] Under the Final Rule, "student loan servicing" means (1) receiving loan payments (or receiving notification of payments) and applying payments to the borrower's account pursuant to the terms of the post-secondary education loan or of the contract governing the servicing; (2) during periods when no payments are required, maintaining account records and communicating with borrowers on behalf of loan holders; or (3) interactions with borrowers, including activities to help prevent default, conducted to facilitate the foregoing activities. The Final Rule also sets forth a test that determines whether a nonbank covered person is a larger participant of the student loan servicing market.

To identify the larger participants of this market that are subject to the Bureau's supervision authority, the Bureau is adopting a test based on the number of accounts on which an entity performs student loan servicing. The Final Rule defines the criterion "account volume," which reflects the number of accounts for which an entity and its affiliated companies were considered to perform student loan servicing as of December 31 of the prior calendar year.[16] An entity is a larger participant if its account volume exceeds one million. As prescribed by existing § 1090.102, any nonbank covered person that has qualified as a larger participant will remain a larger participant until two years after the first day of the tax year in which the person last met the applicable test.

Pursuant to existing § 1090.103, a person can dispute whether it qualifies as a larger participant in the student loan servicing market. The Bureau will notify an entity when the Bureau intends to undertake supervisory activity; the entity will then have an opportunity to submit documentary evidence and written arguments that it is not a larger participant. Section 1090.103(d) provides that the Bureau may require submission of certain records, documents, and other information for purposes of assessing whether a person is a larger participant of a covered market; this authority will be available to the Bureau for facilitating its identification of larger participants of the student loan servicing market, just as in other markets.

IV. Legal Authority and Procedural Matters

A. Rulemaking Authority

The Bureau is issuing this Final Rule pursuant to its authority under: (1) 12 U.S.C. 5514(a)(1)(B) and (a)(2), which authorize the Bureau to supervise larger participants of markets for consumer financial products or services, as defined by rule; (2) 12 U.S.C. 5514(b)(7), which, among other things, authorizes the Bureau to prescribe rules to facilitate the supervision of covered persons under 12 U.S.C. 5514; and (3) 12 U.S.C.

[8] CFPB Supervision and Examination Manual (Oct. 31, 2012), *available at http://www.consumerfinance.gov/guidance/supervision/manual/.*

[9] The CFPB Supervision and Examination Manual's Education Loan Examination Procedures can be accessed at *http://www.consumerfinance.gov/guidance/supervision/manual/.*

[10] The Bureau's supervisory authority also extends to service providers of those covered persons that are subject to supervision under 12 U.S.C. 5514 12 U.S.C. 5514(e); *see also* 12 U.S.C. 5481(26) (defining "service provider").

[11] The Final Rule describes a market for consumer financial products or services, which the Final Rule labels "student loan servicing." The definition does not encompass all activities that could be considered student loan servicing. Any reference herein to the "student loan servicing market" means only the particular market for student loan servicing identified by the Final Rule.

[12] 78 FR 18902 (Mar. 28, 2013).

[13] 12 CFR 1090.100–103.

[14] 77 FR 42874, 42875 (July 20, 2012) (Consumer Reporting Rule); 77 FR 65775, 65777 (Oct. 31, 2012), as corrected at 77 FR 72913 (Dec. 7, 2012) (Consumer Debt Collection Rule).

[15] As discussed below, student loans include those under Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 *et seq.*, and, with limited exceptions, those that are otherwise extended to a consumer in order to pay post-secondary education expenses.

[16] Although the Bureau is adopting account volume as the criterion for identifying larger participants of the student loan servicing market, that criterion is not necessarily appropriate for any other market that may be the subject of a future rulemaking. As the Bureau explained in the Consumer Reporting Rule and the Consumer Debt Collection Rule, the Bureau expects to tailor each test to the market to which it will be applied. 77 FR 42874, 42876 (July 20, 2012) (Consumer Reporting Rule); 77 FR 65775, 65778 (Oct. 31, 2012) (Debt Collection Rule).

5512(b)(1), which grants the Bureau the authority to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial law, and to prevent evasions of such law.

B. Effective Date of Final Rule

The Administrative Procedure Act generally requires that rules be published not less than 30 days before their effective dates.[17] The Bureau proposed that the Final Rule would be effective at least 60 days after publication and received no comments relating to the effective date. The Bureau adopts March 1, 2014, as the effective date for the Final Rule, which is more than 60 days after publication.

V. Section-By-Section Analysis

Section 1090.106—Student Loan Servicing Market

Section 1090.106 relates to student loan servicing. The student loan servicing market is composed of entities that service Federal and private student loans that have been disbursed to pay for post-secondary education expenses.[18] Students may obtain Federal student loans to fund their own post-secondary education expenses; a parent or guardian of a student may also obtain certain Federal student loans to fund that student's post-secondary education expenses.[19] A private student loan may be available to any individual willing to help secure funding for post-secondary education expenses.

Student loans are essential for many students to obtain post-secondary education and are a significant part of the nation's economy, as several industry and consumer group commenters recognized in their comments. In fact, during the last decade, a greater proportion of Americans than ever pursued post-secondary education; from fall 2000 to fall 2010, the number of undergraduate students increased by 45 percent.[20] At the same time, published tuition and fees at public four-year institutions have increased on average at an annual rate of 5.2 percent per year above the general rate of inflation.[21] In light of the rising cost of obtaining post-secondary education, American consumers have increasingly turned to student loans to bridge the gap between personal and family resources and the total cost of education. From the academic year 2001–2002 to 2011–2012, the average total borrowing per student increased by 55 percent.[22] According to one recent estimate, two-thirds (66 percent) of college seniors who graduated in 2011 had student loan debt, with an average of $26,600 for those with loans.[23] As of the end of 2012, the principal balance of outstanding student loan debt totaled approximately $1.1 trillion, and student loans were the largest category of non-mortgage debt in the United States.[24]

Student loan servicers play a critical role in the student loan market. Servicing, in general, is the day-to-day management of a borrower's loan. Servicers' duties typically include maintaining account records regarding a borrower, sending periodic statements advising borrowers about amounts due and outstanding balances, receiving payments from borrowers and allocating them among various loans and loan holders, answering borrower questions, reporting to creditors or investors, and attempting default aversion activities for delinquent borrowers. Servicers receive scheduled periodic payments from borrowers pursuant to the terms of their loans (or notification of such payments if borrowers are instructed to send payments to a lockbox service or other third party), and apply the payments of principal and interest and other such payments as may be required pursuant to the terms of the loans or of the contracts governing the servicers' work.

Student loan servicers also play a role while students are still in school. A borrower may receive multiple disbursements of a loan over the course of one or more academic years. Repayment of the loan may be deferred until some future point, such as when the student finishes post-secondary education. A student loan servicer will maintain records of the amount lent to the borrower and of any interest that accrues; the servicer also may send statements of such amounts to the borrower.

In short, most borrowers, once they have obtained their loans, conduct almost all transactions relating to their loans through student loan servicers. The Final Rule will enable the Bureau to supervise larger participants of an industry that has a tremendous impact on the lives of post-secondary education students and former students, as well as their families.[25]

Several commenters stated that it is essential to supervise this market due to the substantial impact that student loan servicers can have on a borrower's experience with student loans. One commenter also stated that greater oversight is needed due to the size of the market, uneven existing oversight, and the particular vulnerability of student loan borrowers. That commenter noted that education loan borrowers are not able to choose their loan servicers. It also observed that student borrowers, who are often young at the time of origination, may be signing loan agreements for the first time, and that disclosures to co-signers may be limited.

A number of consumer groups and individual commenters expressed concerns about this market. One commenter noted that according to the 2012 Annual Report of the CFPB Student Loan Ombudsman, 65 percent of complaints received by the Bureau about student loans related to

[17] 5 U.S.C. 553(d).

[18] Throughout this preamble, the terms "student loan" and "post-secondary education loan" are used interchangeably.

[19] See 20 U.S.C. 1078–2 (describing the Federal PLUS loan program, which, among other things, permits parents to obtain loans to pay for the cost of their children's education). A borrower who has one or more outstanding student loans may sometimes take out a new loan to refinance and consolidate those existing student loans. For purposes of the Final Rule, such a refinancing would also be considered a student loan.

[20] Coll. Bd. Advocacy & Policy Ctr., Trends in College Pricing 2012, at 4 (Oct. 2012).

[21] Coll. Bd. Advocacy & Policy Ctr., Trends in College Pricing 2012, at 7 (Oct. 2012).

[22] Coll. Bd. Advocacy & Policy Ctr., Trends in Student Aid 2012, at 4 (Oct. 2012).

[23] These figures reflect one nonprofit organization's estimate of the percentage of 2010–2011 bachelor's degree recipients with student loan debt at public and private nonprofit four-year colleges and the average cumulative debt level for those with loans. See The Inst. for Coll. Access & Success, Student Debt and the Class of 2011, at 2 (2012), *available at http://projectonstudentdebt.org/files/pub/classof2011.pdf.*

[24] As of September 30, 2012, the total Federal student aid loan portfolio amounted to $948 billion. U.S. Dep't of Educ., Federal Student Aid Annual Report 2 (2012), *available at http://www2.ed.gov/about/reports/annual/2012report/fsa-report.pdf.* The Department of Education and the Bureau have together estimated that American consumers owe more than $150 billion in outstanding private student loans. CFPB & Dep't of Educ., Private Student Loans 17 (Aug. 29, 2012) (report to the Senate Committee on Banking, Housing, and Urban Affairs, the Senate Committee on Health, Education, Labor, and Pensions, the House Committee on Financial Services, and the House Committee on Education and the Workforce), *available at http://files.consumerfinance.gov/f/201207_cfpb_Reports_Private-Student-Loans.pdf.* Since the Proposed Rule was issued, the Board of Governors for the Federal Reserve has published data on total outstanding student loan debt that includes all holders of student loans, including the Federal government. Bd. of Governors of the Fed. Reserve Sys., Federal Reserve Statistical Release G.19 (Oct. 7, 2013), *available at http://www.federalreserve.gov/releases/g19/Current/g19.pdf.* Consistent with the estimates from the Department of Education and CFPB noted above, the Federal Reserve estimates principal balance of outstanding student loan debt as of December 31, 2012 to be approximately $1.1 trillion. *Id.*

[25] "Servicing loans" is a "consumer financial product or service" pursuant to the Dodd-Frank Act. *See* 12 U.S.C. 5481(15)(A)(i) (defining "financial product or service," including "extending credit and servicing loans"); see *also* 12 U.S.C. 5481(5) (defining "consumer financial product or service").

repayment and servicing. Consumer groups also provided examples that they said show dysfunction in the servicing process for both Federal and private student loans. Among other things, these groups noted that many borrowers have reported difficulties with repayment plans and forbearances. The groups attribute many of these complaints to the transfer of servicing within the William D. Ford Federal Direct Loan Program (as discussed below), which they say has resulted in many borrowers being placed in the wrong repayment plan or inadvertently missing payments. These groups also noted that borrowers have reported problems with private student loan servicers that claim to lack authority to approve relief options for borrowers.

One trade association took a different view, asserting that current laws, including the Higher Education Opportunity Act (HEOA) and the Truth in Lending Act (TILA) and their implementing regulations already protect student borrowers. This trade association asserted that the Bureau needs to explain the problem it is trying to address and the alternatives it considered before proceeding with this rulemaking.[26]

In response to these comments, the Bureau notes that it has wide discretion in choosing markets in which to define larger participants. The Bureau need not conclude, before issuing a rule defining larger participants, that the market identified in the rule has a higher rate of noncompliance, poses a greater risk to consumers, or is in some other sense more important to supervise than other markets. Indeed, 12 U.S.C. 5514(b)(1) recognizes that the purposes of supervision include assessing compliance and risks posed to consumers. Thus, the Bureau is not required to determine the level of compliance and risk in a market before issuing a larger-participant rule.[27]

The student loan servicing market is a reasonable choice for the Bureau. Because student loan servicing is an important activity that affects millions of consumers, supervision of larger participants of this market will be beneficial to both consumers and the market as a whole. Supervision of larger participants of the student loan servicing market will help the Bureau ensure that these market participants are complying with applicable Federal consumer financial law and will help the Bureau detect and assess risks to consumers and to the market. The supervision program thereby will further the Bureau's mission to ensure consumers' access to fair, transparent, and competitive markets for consumer financial products and services.

The existence of substantive Federal consumer financial laws that govern student loan servicing, including TILA, does not undermine the need for this rulemaking. Indeed, one purpose of the supervision program established by the Final Rule will be to oversee nonbank compliance with existing Federal consumer financial laws and assess risks to consumers in the student loan servicing market.

As one industry commenter recognized, establishment of supervision over larger nonbank participants in the student loan servicing market is also appropriate because banks that engage in student loan servicing already are subject to Federal supervision with respect to Federal consumer financial law.[28] Extending supervisory coverage to larger nonbank participants will help ensure that nonbank student loan servicers are subject to comparable scrutiny.

Student loan servicers handle three main types of post-secondary education loans on which borrowers still have outstanding balances; only two of these categories of loans are still available for new originations. First, some outstanding loans were made under the Federal Family Education Loan Program (FFELP).[29] FFELP loans were funded by private lenders, guaranteed by entities that are generally State-affiliated or not-for-profit entities, and reinsured by the Federal government. These loans are either serviced by the loan holders themselves or serviced pursuant to contracts with the loan holders. FFELP loans constituted the vast majority of Federal student loans before 2010. Second, pursuant to the 2010 SAFRA Act, new originations under FFELP were discontinued, and the U.S. Department of Education became the primary lender for Federal student loans, providing loans directly to borrowers under the William D. Ford Federal Direct Loan Program.[30] Direct loans are serviced by entities that contract with the Department of Education pursuant to Title IV of the Higher Education Act of 1965.[31] These entities are known as Title IV Additional Servicers (TIVAS).[32] Third, the student loan market includes private student loans made without Federal involvement. Private student loans are usually serviced either by the originating institutions or by other, nonbank entities. The same nonbank entities awarded servicing rights under the TIVAS contracts may also service both legacy FFELP loans and private student loans.

The student loan servicing market includes fewer than 50 nonbank servicers. As discussed below, approximately 33 guaranty agencies also engage in student loan servicing activities by providing default aversion services in connection with FFELP loans. The student loan servicing market

[26] A commenter urged the Bureau to conclude that, as a consequence of 12 U.S.C. 5517(e), the Bureau cannot exercise supervisory authority over collection attorneys acting as service providers to student loan servicers. The purpose of the Final Rule is to define the scope of the student loan servicing market, not to define the scope of supervision of any particular service provider. The Bureau's authority to supervise service providers to supervised nonbanks is established and regulated by the Dodd-Frank Act.

[27] A commenter argued that, because the student loan servicing industry is already subject to numerous Federal and State regulations, the Final Rule may "create[ ] duplicative and potentially inconsistent compliance obligations." The commenter requested that the Bureau make clear that "conduct that complies with applicable Federal regulations, including [Department of Education] regulations, also complies with the CFPB's requirements for enforcement or supervision purposes." But the Final Rule does not create any new "compliance obligation" of the type that concerns the commenter. Nothing in the Final Rule requires loan servicers to engage in, or refrain from, any particular conduct. Instead, the Final Rule identifies those persons that are subject to Bureau supervision as larger participants of the student loan servicing market. In addition, the requirements of Department of Education regulations are not coextensive with those imposed by the statutes and regulations enforced by the Bureau. Accordingly, compliance with the Department of Education's regulations does not necessarily satisfy a servicer's obligation to comply with Federal consumer financial laws.

[28] *See, e.g.*, 12 U.S.C. 5515(a) (establishing the Bureau's supervisory authority over very large depository institutions and credit unions and their affiliates). One of the Bureau's mandates under the Dodd-Frank Act is to ensure that "Federal consumer financial law is enforced consistently without regard to the status of a person as a depository institution, in order to promote fair competition." 12 U.S.C. 5511(b)(4).

[29] 20 U.S.C. 1071 *et seq.*

[30] Public Law 111–152, §§ 2101–2213, 124 Stat. 1029, 1071–81 (2010). The Direct Loan Program actually began in 1992, *see* Public Law 102–325, §§ 451–52, 106 Stat. 569–76 (1992), but Federal Direct loans constituted only a small portion of Federal student lending before the enactment of the SAFRA Act in 2010. Two additional Federal programs under Title IV also authorize student loans. One offers grants to those who pledge to become teachers. If the recipients do not become teachers, then the disbursed funds are converted from grants to loans. *See* 20 U.S.C. 1070g *et seq.* A second finances loans made directly by certain post-secondary education institutions through their financial aid offices. *See* 20 U.S.C. 1087aa *et seq.*

[31] 20 U.S.C. 1087f(b).

[32] Most of the initial Direct Loan servicing business went to one entity: Affiliated Computer Services, Inc. (ACS). As the Department of Education began contracting with additional servicers, those additional servicers became Title IV Additional Servicers. In order to avoid confusion, when the Bureau uses the term TIVAS, the Bureau means to refer also to ACS, the original servicer of Federal Direct loans.

is heavily concentrated.[33] As measured by unpaid principal balance and by number of borrowers with loans being serviced, five nonbanks, the TIVAS, account for between approximately 67 percent and 87 percent of activity in the market.[34] There are only a few nonbanks in the middle tier of this market, each with a market share that is slightly greater than 1 percent. Many of the firms in this middle tier service loans placed with them by smaller nonbanks that are in the lowest tier of the market.[35] Finally, the lowest tier of the market includes a few dozen smaller nonbank servicers, each of which has only a fraction of a percent in market share.[36] Many of these smaller nonbanks are not-for-profit entities or closely associated with State or local governments, and at least half of them contract to other firms the servicing of the loans for which they have servicing rights.[37] As noted, approximately 33 guaranty agencies also participate in the servicing market by providing default aversion services, but available data indicate that these entities' default aversion activities do not constitute a significant share of the student loan servicing market.[38]

Section 1090.106(a)—Market-Related Definitions

Unless otherwise specified, the definitions in § 1090.101 should be used when interpreting terms in the Final Rule. The Final Rule defines additional terms relevant to the student loan servicing market. These terms include "student loan servicing," which delineates the scope of the identified market; "post-secondary education expenses"; "post-secondary education loan"; and "account volume."

Account volume. The Bureau received a few comments related to the definition of "account volume," which the Bureau proposed as the criterion that would determine whether an entity is a larger participant of the student loan servicing market.[39] For the reasons explained below, the Bureau has adopted the definition of "account volume" as proposed.

Section 1090.106(a) defines the term "account volume" as the number of accounts with respect to which a nonbank covered person is considered to perform student loan servicing and contains instructions for calculating account volume.[40] Account volume is based on the number of students or prior students with respect to whom a nonbank covered person performs student loan servicing. For example, a servicer might service a post-secondary education loan made to a student at the beginning of the student's time in college and paid back over a number of years after the student completed college. As another example, a servicer might service a post-secondary education loan made to a parent of a student to fund that student's education expenses.[41] In each of these examples, the student whose post-secondary education expenses a loan funded represents at least one account, even if the student is not an obligor on the loan.

However, the Bureau is aware that in some situations, a student or prior student may correspond to more than one account at a given servicer. For example, if a nonbank covered person is servicing a loan to a student and also a loan to that student's parent, the servicer will typically maintain separate accounts for the two loans. The student and the parent will each receive separate statements regarding their loans, and the servicer will remit payments on the loans to their respective holders. As another example, a student may receive loans from two different originators, or a given originator may securitize loans to the

[33] The Bureau has estimated entity-level data for nonbank student loan servicers as of December 31, 2012, based mainly on the 2012 Student Loan Servicing Alliance (SLSA) Servicing Volume Survey, to which most nonbank servicers reported data as of December 31, 2011. Depository institutions also service student loans, but they do not report to SLSA and will not be larger participants under this Final Rule. To construct its estimates for nonbank servicers, the Bureau augmented the data from SLSA's Servicing Volume Survey in several ways. (1) For the servicers that elected not to report their servicing information to SLSA, the Bureau estimated their servicing volume using Department of Education reports, shareholder presentations, and other market information. (2) The Bureau forecasted the growth of the largest student loan servicers' portfolios of Federal Direct loans on the basis of the overall growth in Federal Direct loans of 11.8 percent in 2012. *See* Dep't of Educ., Federal Student Aid Annual Report 2 (2012), *available at http://www2.ed.gov/about/reports/annual/2012report/fsa-report.pdf.* (3) The Bureau accounted for publicly reported market changes, including the Department of Education's borrower volume reallocations. (4) The Bureau also included in its estimate of a servicer's volume the borrowers for whose loans the servicer performs subservicing under contract with other servicers. The results of these calculations are entity-level estimates of total unpaid principal balance, borrower volume, and loan volume. In response to a comment discussed below, the Bureau has updated these calculations to include guaranty agencies that provide default aversion services. The resulting Bureau estimates are cited hereinafter as "2012 SLSA Servicing Volume Survey, augmented by CFPB estimates."

[34] *See* 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates. Because the Bureau does not have data directly on servicers' "account volume" as defined in the Final Rule, the Bureau has used data on both unpaid principal balance and number of borrowers to estimate market share. The Bureau calculated the lower end of the market-share range using data regarding unpaid principal balance. In making this calculation, the Bureau used its estimate of $1.1 trillion in outstanding student loan debt as the denominator. Because the $1.1 trillion estimate includes unpaid principal balance serviced by both banks and nonbanks, and because the relevant market includes only servicing by nonbanks, the Bureau expects the TIVAS' actual share of the nonbank student loan servicing market to be somewhat larger than the lower end of the range. The Bureau calculated the upper end of the range using data reported to SLSA regarding the number of borrowers for whom loans are serviced. The calculation is slightly different from the Bureau's estimate when it issued the Proposed Rule because the Bureau has now factored in guaranty agencies that provide default aversion services. This likely overestimates market coverage because there may be nonbanks engaged in "student loan servicing" as defined in the Final Rule that do not report to SLSA and that are not included in the Bureau's augmented analysis due to insufficient data. Indeed, as one commenter noted, the 2012 SLSA Servicing Volume Survey is a voluntary survey of participating SLSA members' servicing volume and does not purport to be a definitive survey of the marketplace, though it does provide a snapshot of the participating servicers' volume as of December 31, 2011. However, the Bureau need not resolve these uncertainties regarding market share to issue the Final Rule. As discussed below, the approximately seven entities that will likely qualify as larger participants under the Bureau's Final Rule engage in substantially more market activity than the next largest participants, evaluated under any of the proposed criteria.

[35] *See* HCERA/SAFRA—Not-For-Profit (NFP) Servicer Program documentation, as of Sept. 25, 2013 (showing firms that contract servicing rights to other entities), *available at https://www.fbo.gov/spg/ED/FSA/CA/NFP-RFP-2010/listing.html.*

[36] *See* 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[37] *See* HCERA/SAFRA—Not-For-Profit (NFP) Servicer Program documentation, as of Sept. 25, 2013 (showing firms that contract servicing rights to other entities), *available at https://www.fbo.gov/spg/ED/FSA/CA/NFP-RFP-2010/listing.html.*

[38] In 2011, these 33 guaranty agencies reported a total of approximately $111 million in net default aversion fee revenue to the Department of Education. Fed. Student Aid, FY 2011 Summary of Guaranty Agency Financial Reports, *available at http://www.fp.ed.gov/attachments/publicotions/EDForms2000DatoFY11AnnualReport.pdf* (summation of row AR–30). The guaranty agencies' default aversion activities are discussed in more detail in the Threshold section below.

[39] Several commenters advocated using the number of borrowers or the number of loans that a servicer handles to assess whether an entity is a larger participant. Those comments are discussed below, in connection with § 1090.106(b).

[40] The number of accounts generally will be counted as of December 31 of the prior calendar year. In general, a loan originator may open an account for a borrower at the beginning of an academic year and then disburse funds for the student's expenses at various points throughout the year. An originator may allocate the borrower's account to a servicer at the beginning of the academic year, even though the originator will be making further disbursements. If a servicer is responsible for servicing loans with respect to a student as of December 31, the corresponding account will be included in the calculation of account volume.

[41] For example, under the Federal PLUS loan program, a student's parent or guardian may take out a loan to pay the student's expenses. *See* 20 U.S.C. 1078–2. In the private lending market, the Bureau understands that, subject to underwriting criteria, post-secondary education loans may be available to any person who wishes to support a student's education.

student through two different securitization vehicles. These different holders of the student's loans may all retain the same servicer, which may maintain separate accounts for the different loans.[42] The servicer may send the student one consolidated statement or multiple statements, depending on the circumstances and its practices, and the servicer will remit payments on the loans to different loan holders. Under the Final Rule, the criterion for larger-participant status will recognize these separate accounts as additional servicing activity.

To provide a straightforward understanding of what constitutes an "account," the Final Rule counts each separate stream of fees to which a servicer is entitled for servicing post-secondary education loans with respect to a given student or prior student.[43] The Bureau believes that student loan servicers are generally compensated, on a monthly basis, at a fixed rate for each account. For Federal Direct loans and Federally-owned FFELP loans, this compensation structure is determined by contract with the Department of Education, and the average fee rate for 2013 was estimated to be $1.68 per month per account.[44] In total, according to Bureau analysis of available Department of Education data and other sources, these loans make up greater than 50 percent of the total outstanding dollar volume of student loans and more than 90 percent of all new student loan originations.[45] For loans held by private entities (both private loans and FFELP loans), the rate may vary depending on the contracts governing a given servicer's business. But the same basic compensation structure appears to be common throughout the student loan servicing market. The Bureau therefore expects that counting the number of streams of fees a servicer receives for servicing loans with respect to a given student will be an appropriate way to represent the scope of the servicer's business with respect to that student.

One trade association commented that, while uncommon, in some instances, servicer compensation is calculated as a percentage of the aggregate principal balance of all loans serviced. This commenter asked whether such servicers have just one income stream. The Bureau recognizes that some nonbank covered persons may not receive servicing fees on a per-account basis. This might occur, for example, in the unusual circumstance where a servicer is compensated based on aggregate principal balance for all loans in its portfolio, regardless of the student or prior student to whom the loans correspond. Similarly, a nonbank covered person might not be compensated on a per-account basis for servicing of loans it holds. For such a person, each student or prior student whose education is funded by a loan will still count as one account under the proposed definition of "account volume" that the Bureau is adopting in the Final Rule, regardless of whether the student or former student is an obligor on the loan.

Another trade association stated that the Proposed Rule was not sufficiently clear to permit servicers to compute the number of accounts they service and posed two hypothetical questions that it said highlighted the rule's lack of clarity. First, the commenter asked whether there would be one or at least two income streams if a servicer is paid by a lender for servicing both FFELP loans and private education loans for a particular student or former student. Pursuant to the Final Rule, the answer would depend on whether the servicer receives separate fees for its services on the FFELP loans and private education loans, information that should be readily available to the servicer. If the servicer receives a fee for the FFELP loans and a separate fee for the private education loans of a particular borrower, there would be two accounts for this borrower. If the servicer receives one fee for all of the loans, there would only be one account for this borrower. Second, the commenter asked whether there would be one income stream or four income streams if a servicer is paid by a lender on a per-loan basis for servicing where a borrower has four outstanding private education loans. Because the Final Rule provides that a "nonbank covered person has one account for each stream of fees to which the person is entitled," the hypothetical servicer would have four accounts for this borrower. The Bureau regards these consequences as straightforward applications of the definition of "account volume" and does not believe they show the definition to be unclear.

A commenter expressed concern about the Bureau's use of the term "student or prior student" in the Proposed Rule's section-by-section analysis and asked that the Bureau instead use "borrower" in the section-by-section analysis of the Final Rule in order to clarify that a parent borrowing on behalf of a student is a separate consumer. Other commenters also suggested using "borrower" in the definition of "number of accounts" and offered a possible definition of "borrower." Paragraph (i) of the account volume definition in the Proposed Rule said: "A nonbank covered person has at least one account for each student or prior student with respect to whom the nonbank covered person performs student loan servicing." The Bureau's use of the term "student or prior student" was not meant to suggest that a student and a parent borrowing on behalf of that student are generally the same consumer. However, the Bureau believes that it is important for the definition of "account volume" to refer to a "student" rather than a "borrower." The difference between the two terms, as used in the definition of "account volume," would be most significant for a servicer that does not receive compensation on a per-account basis. As discussed above, such a servicer has at least one account for each student with respect to which the servicer is servicing loans. The Bureau prefers "student or prior student" for these purposes because "student or prior student" provides a clear reference to a single individual and avoids the complexities, described in the § 1090.106(b) criterion discussion below, that may be associated with counting borrowers in situations

[42] In some instances, student loans that have been securitized in the secondary market may have a single loan originator but a separate legal holder for each loan. The Bureau understands that a securitization sponsor will typically use the same servicer for multiple securitizations.

[43] Ancillary fees (such as a late payment fee or a disbursement fee) that a servicer may receive in particular circumstances would not constitute a distinct stream of fees for performing student loan servicing.

[44] *See* Title IV Redacted Contract Awards 12–13, *available at https://www.fbo.gov/spg/ED/FSA/CA/FSA-TitleIV-09/listing.html*. The contract fixes monthly compensation on a per-borrower basis, and the compensation depends on the repayment status of each borrower being serviced. *See also* Student Aid Administration Fiscal Year 2013 Request, at AA–15, *available at http://www2.ed.gov/obout/overview/budget/budget13/justificotions/oo-saadmin.pdf*. The Student Aid Administration estimates the average cost per-borrower (which is equivalent to a servicer's per-account compensation for purposes of this Final Rule) to be $1.68 per month, based on the contractual prices and the proportion of borrowers with different repayment statuses. *Id*.

[45] Bd. of Governors of the Fed. Reserve Sys., Federal Reserve Statistical Release G.19 (Oct. 7, 2013), *available ot http://www.federalreserve.gov/releases/g19/Current/g19.pdf*; CFPB & Dep't of Educ., Private Student Loans 17 (Aug. 29, 2012) (report to the Senate Committee on Banking, Housing, and Urban Affairs, the Senate Committee on Health, Education, Labor, and Pensions, the House Committee on Financial Services, and the House Committee on Education and the Workforce), *available at http://files.consumerfinance.gov/f/201207_cfpb_Reports_Private-Student-Loans.pdf*; Dep't of Educ., Federal Student Aid Annual Report 2 (2012), *available at http://www2.ed.gov/obout/reports/onnual/2012report/fso-report.pdf*.

involving co-makers, co-signers, or endorsers.[46]

The definition attributes to a nonbank covered person the sum of the number of accounts of the person and its affiliated companies. Under 12 U.S.C. 5514(a)(3)(B), the activities of affiliated companies are to be aggregated for purposes of computing activity levels for rules—like the Final Rule—under 12 U.S.C. 5514(a)(1). In the consumer reporting and consumer debt collection markets, the Bureau implemented the aggregation called for by 12 U.S.C. 5514(a)(3)(B) by prescribing the addition of all the receipts of a person and its affiliated companies to produce the person's annual receipts. The Bureau proposed a similar calculation for the student loan servicing market. The account volume for each nonbank covered person would be the sum of the number of accounts serviced by that nonbank covered person and the numbers of accounts serviced by all affiliated companies.[47] The calculation would add together each account on which any affiliated company was providing student loan servicing. For example, if two affiliated companies each serviced the loans of 10 students, each of the two companies' account volume would be 20.[48] The calculation would be the same even if the companies service loans for some of the same students.

Several commenters expressed support for the Bureau's proposed method of aggregating accounts of affiliated companies for the purpose of calculating account volume, and the Bureau received no comments objecting to the proposed method.[49] For the reasons described above and in the Proposed Rule, the Bureau adopts the aggregation method as proposed.

Post-secondary education expenses. The Bureau proposed to define the term "post-secondary education expenses" to mean any of the expenses that are included as part of the cost of attendance of a student as defined in 20 U.S.C. 1087*ll*. The Bureau received support and no comments raising concerns regarding this definition and adopts the definition as proposed.

Post-secondary education loan. The Bureau proposed to define the term "post-secondary education loan" as an extension of credit that is made, insured, or guaranteed under Title IV of the Higher Education Act of 1965, 20 U.S.C. 1070 *et seq.*, or that is extended to a consumer with the expectation that the funds extended will be used in whole or in part to pay post-secondary education expenses.[50] The Bureau received a number of comments related to the definition of "post-secondary education loan," and the Bureau is adopting the proposed definition in the Final Rule, with only technical changes, for the reasons described below.

Loans made to parents or other third parties. A number of consumer groups requested that the Bureau clarify that the definition includes loans made to parents or other third-parties to pay for a student's educational expenses. Some of the groups suggested that the Bureau replace "consumer" with "borrower" in the definition of "post-secondary education loan" and define "borrower" as "a person who has obtained a post-secondary education loan for the borrower or a third-party." The Bureau recognizes that a loan may be made to a parent or guardian, or to another consumer, to fund the post-secondary education expenses of a student who is not a borrower of that loan. As the Bureau explained in the Proposed Rule, such a loan would be a "post-secondary education loan" under the definition as originally proposed because the term "post-secondary education loan" includes a loan made to a parent, guardian, or other consumer to fund the post-secondary education expenses of a student who is not a borrower. Thus, the Bureau concludes that it is not necessary to add a definition of "borrower" or to change the definition of "post-secondary education loan."

Open-end loans and loans secured by real property. Consumer groups also urged the Bureau to remove the definition's exclusions for open-end loans, as defined by the Bureau's Regulation Z, 12 CFR 1026.2(a)(20), and loans secured by real property (such as residential mortgages or reverse mortgages), if they are expressly marketed as student loans. These groups advocated for including such loans within the definition of "post-secondary education loan," arguing that the goal should be to protect student loan borrowers as a whole, rather than creating technical distinctions. One trade association also urged that the Bureau, if it did not use the existing TILA definition as discussed below, include open-end credit plans in its definition of post-secondary education loan, noting that the needs of consumers who use open-end credit plans to pay for post-secondary expenses are essentially identical to those of users of traditional private student loans.

The Bureau recognizes that students and their families may use credit cards or home equity lines of credit to finance post-secondary education. However, for the reasons set forth below, the Bureau concludes that it is appropriate to exclude these two categories of credit from the defined category of "post-secondary education loan," as originally proposed.

First, the Bureau believes that open-end loans and loans secured by real estate are sufficiently different from conventional student loans such that it would not be advisable to include them in the definition of "post-secondary education loan." Such loans and post-secondary education loans as defined in this Final Rule are typically serviced separately due in part to the different features of these types of loans. The commenters suggested that the Bureau did not provide any evidence on this point, but they offered no reason to think the Bureau was mistaken.

Indeed, as the Bureau indicated in proposing the rule, multiple differences between these forms of credit suggest that a given servicer is unlikely to handle servicing, in the same portfolio and using the same procedures, of both student loans and either credit cards or home equity loans. The platforms that

[46] As noted above, the term "student or prior student" includes any student or prior student whose post-secondary education expenses are or were funded by one or more post-secondary education loan(s) that the servicer is servicing, regardless of whether the student or prior student is an obligor on the loan(s). If a servicer is not compensated on a per-account basis and a student and the student's parent(s) borrow independently of each other for the student's higher education expenses, the Bureau recognizes that by using "student or prior student" in the definition of account volume the student and the student's parent(s) will be counted as just one account. The Bureau believes that this circumstance would only occur rarely.

[47] Pursuant to the definition of account volume, each person's number of accounts as of the prior calendar year's December 31 will be aggregated together where two persons become affiliated companies in the middle of that prior year. As a further consequence of the definition, where two affiliated companies cease to be affiliated companies in the middle of a year, the account volume of each will continue to include the other's number of accounts until the succeeding December 31.

[48] This example assumes that each company is receiving only a single stream of fees for each of the 10 students.

[49] One commenter suggested that the Bureau prevent evasion by aggregating accounts of firms that act as agents or are under contract to another firm in addition to affiliated companies. The Bureau will apply the definition in 12 CFR 1090.101 to determine whether an entity is an "affiliated company." In developing that definition, the Bureau considered whether to expand aggregation to include contractors or agents. 77 FR 42874, 42877 (July 20, 2012). The reasons the Bureau gave at that time for aggregating only the activity of "affiliated companies," as defined in the rule, are valid for this market as well.

[50] Loans for refinancing or consolidating post-secondary education loans would also be considered post-secondary education loans. However, loans under an open-end credit plan or secured by real property are not post-secondary education loans.

are used to service post-secondary education loans, including private student loans, have in many instances evolved out of program-specific requirements, such as those of the Title IV/FFELP guidelines. Similarly, the platforms used for credit cards or home equity loans have been developed to suit the structures of those loans, the applicable regulatory obligations, and the requirements of loan holders. For example, servicing of loans secured by real estate must account for escrow payments, if applicable, and must comply with mortgage-specific regulatory requirements. Credit card servicers typically do not aggregate credit card accounts for single billing in the manner that a student loan servicer might, and unlike student loan servicers, credit card servicers post purchase transactions on a daily basis. In addition, credit card servicers must manage balances that revolve on a monthly basis. Meanwhile, even if incurred for education purposes, credit card debt and loans secured by real estate also typically lack some of the standard features of student loans, such as the initial period in which no payments are required.

Commenters stated that structural differences of this nature are an insufficient reason to exclude servicing of these other types of loans from the market and that the Bureau's rule should include in the market servicing of as many types of student loans as possible. The Bureau disagrees. The purpose of the Final Rule is to define the student loan servicing market for purposes of its nonbank supervision program. Even if some credit cards or home equity loans are marketed at origination for use in paying educational expenses, the servicing of such loans is nonetheless separate from the servicing of conventional student loans.

Second, pursuant to 12 U.S.C. 5514, the Bureau has supervisory authority, independent of the Final Rule, over nonbank covered persons that offer or provide origination or servicing of loans secured by real estate, including home equity loans or lines of credit. The Bureau also has supervisory authority regarding large portions of the credit card market through its supervision of very large banks and credit unions and their affiliates and service providers pursuant to 12 U.S.C. 5515. Indeed, one of the three examples cited by the commenters is a credit card issued by a large bank that already is subject to the Bureau's supervisory authority.

The commenters stated that even if such loans are serviced by entities already within the Bureau's authority those entities should be subject to supervision as student loan servicers under this larger participant rule. They asserted that the existence of supervisory authority over some of these entities under different auspices is irrelevant. The Bureau disagrees. If an entity is already subject to the Bureau's supervisory authority, the Bureau may examine the entire entity for compliance with all Federal consumer financial law and assess and detect risks to consumers or to markets for consumer financial products and services posed by any activity of the entity, not just the activities that initially rendered the entity subject to Bureau supervision.[51] In light of this existing authority, it is not necessary to define as larger participants entities that are otherwise under the Bureau's supervision, because the Bureau already can supervise the servicing activities in which such entities may engage regarding student loans.

As the commenter points out, there may be entities that are not currently supervised by the Bureau that service open-end loans for the purpose of financing a consumer's higher education costs. Because open-end loans are not widely offered for educational purposes, including the servicing of these loans in the market would not change the set of entities subject to Bureau supervision under any of the thresholds considered by the Bureau. But regardless, the Bureau believes that the considerations described above regarding how these loans differ from conventional student loans justify defining the market without including the servicing of these loans. For all of these reasons, the Bureau has decided not to include open-end and real-estate secured loans in the definition of "post-secondary education loan."

Truth in Lending Act definition of "private education loan." The definition of "post-secondary education loan" helps determine the scope of the student loan servicing market identified by the rule, because the market activities involve servicing of "post-secondary education loans." Two trade associations commented that the Bureau should align the definition of "post-secondary education loan" with the definition of "private education loan" that appears in 15 U.S.C. 1650(a)(7) and in Regulation Z, 12 CFR 226.46(b)(5). As in previous larger-participant rules, the Bureau does not intend its definitions to mirror the scope of definitions in TILA or other Federal consumer financial law. The Final Rule and TILA serve different purposes. TILA is a substantive consumer protection statute that regulates the origination and servicing of consumer credit. As amended by the Higher Education Opportunity Act,[52] TILA prescribes certain disclosure and timing rules that apply specifically to a category of loans, "private education loans," defined in the statute. The Final Rule, by contrast, defines larger participants of a market for student loan servicing for purposes of delineating, in part, the scope of the Bureau's supervisory authority. The Bureau emphasizes that the definitions in the Final Rule are relevant only to that purpose and have no applicability to the scope, coverage, definitions, or any other provisions of TILA or any other law or regulation.

The definition of "private education loan" in Regulation Z that the commenters asked the Bureau to adopt differs in at least two ways from the definition of "post-secondary education loan." First, Regulation Z, in accordance with the TILA definition, includes only loans that are "not made, insured, or guaranteed under title IV of the Higher Education Act of 1965."[53] Thus, Federal loans are not "private education loans" under TILA and Regulation Z. Second, Regulation Z further excludes loans that have a term of 90 days or less or that have a term of one year or less and no interest rate.[54]

The Bureau believes that servicing of both Federal loans and short-term loans should be included in the identified student loan servicing market. First, Federal loans are commonly serviced by private nonbank servicers, accounting for roughly 30 million borrowers at the seven largest nonbank servicers.[55] These companies typically use similar platforms for servicing both Federal and private loans, and servicing for both kinds of loans affects consumers in similar ways. Indeed, one of the two commenters that urged the Bureau to model its definition of "post-secondary education loan" on the TILA definition of "private education loan" simultaneously urged the Bureau to ensure that it supervises the servicing of Federal loans. This commenter argued

[51] *See* 12 U.S.C. 5514(b)(1); 77 FR 42874, 42880 (July 20, 2012) ("[I]f an entity is subject to the Bureau's supervisory authority, the Bureau may examine the entire entity for compliance with all Federal consumer financial law, assess enterprise-wide compliance systems and procedures, and assess and detect risks to consumers or to markets for consumer financial products and services posed by any activity of the entity, not just the activities that initially rendered the entity subject to Bureau supervision.").

[52] Public Law 110–315, 122 Stat. 3078 (2008).

[53] 15 U.S.C. 1650(a)(7)(A)(i).

[54] 12 CFR 1026.46(b)(5).

[55] *See* 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

that borrowers of Federal student loans should receive the same benefits of Bureau oversight as borrowers of private student loans. The Bureau agrees.

Second, servicing of short-term loans can give rise to many of the same concerns as longer-term loans.[56] For example, servicers of short-term loans may have obligations under the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.* And their work may pose risks to consumers, if, for example, they maintain account records inaccurately, fail to provide basic account information, or misinform consumers. The Bureau seeks in this Final Rule to address the impact that the servicing of student loans, including short-term loans, has on the lives of post-secondary education students and former students and their families.

The Bureau stresses that it need not identify specific risks associated with either type of loan before including servicing of such loans in the market. As the Bureau has observed before, it need not reach any conclusions about the extent of noncompliance in a market before defining larger participants of the market.[57] The Bureau has identified the student loan servicing market not just to include risky behavior, but to encompass a set of activities that are related. Servicers handling Federal loans and servicers handling short-term loans are all participating in the process of managing student loans and interactions with borrowers. Aside from the specific requirements applicable solely to "private education loans" under TILA, many other legal requirements apply to both these servicing activities and servicing of "private education loans." To the extent that the risks attendant on servicing differ between loans that are or are not "private education loans," the Bureau can adjust the scope and focus of its supervision activities accordingly.

One trade association also suggested that the Bureau's potential supervisory authority in this area is actually limited to "private education loans." The association noted that 12 U.S.C. 5514(a)(1)(D) gives the Bureau supervisory authority over nonbank institutions that offer or provide loans that are "private education loans" as defined by TILA. Meanwhile, under 12 U.S.C. 5514(a)(1)(B), the Bureau defines larger participants of markets for "other consumer financial products or services." The association argued that because paragraph (D) covers private education loans, student loans are not an "other consumer financial product or service" and cannot be the subject of a rule under 12 U.S.C. 5514(a)(1)(B).

The commenter's argument is unclear, because the market defined by the Final Rule includes the servicing of many loans that are not "private education loans." This market activity is not "offer[ing] or provid[ing] . . . private education loan[s]," and it is therefore an "other" consumer financial product or service. The commenter suggested that the Bureau's authority under section 5514(a)(1)(B) is limited to entities that offer or provide loans that are not addressed elsewhere in section 5514(a)(1), as private education loans are. Thus, the commenter appears implicitly to have assumed that all activity relating to student loans is the same type of consumer financial product or service as the business of offering or providing a private education loan. In the commenter's view, as the Bureau understands it, section 5514(a)(1)(D) describes all the student loans that Congress wanted to be subject to the Bureau's supervisory authority. So "other" consumer financial products or services should be wholly distinct from the category of student loans for which Congress already decided the scope of the Bureau's authority.

The Bureau disagrees. The better reading, in light of the purposes of the provision, is that "other" simply means "remaining" consumer financial products or services, *i.e.* those with respect to which section 5514(a) does not expressly provide the Bureau supervisory authority.[58] The Final Rule, which identifies a market for servicing post-secondary education loans as defined in the Final Rule, achieves the statutory purpose: It defines the larger participants of a market that includes products and services other than "offer[ing] or provid[ing] . . . private education loan[s]" as defined in TILA.

Of course, the market defined by the Final Rule does include servicing activities related to private education loans as well. But the commenter offers no reason to think that a larger-participant rule must avoid any possible overlap with one of the categories expressly enumerated in section 5514(a)(1). The word "other" was not meant to limit the Bureau's rulemaking authority in this area. The purpose was simply to permit the Bureau to expand its supervisory authority beyond what section 5514(a)(1) explicitly prescribes. Consistent with that purpose, the Bureau can identify a market that both overlaps with the enumerated categories and includes other consumer financial products or services. Nonbank entities that offer or provide private education loans to consumers are already subject to the Bureau's supervisory authority. But the Bureau can reasonably take account of their activity in identifying a market for other products or services and deciding how to define larger participants of the market.

Finally, the commenters suggested that the difference between the definition of "post-secondary education loan" and the Regulation Z definition of "private education loan" might complicate implementation of the new Rule and industry compliance. These commenters did not explain how such consequences might arise, and the Bureau does not believe the Final Rule's definition will complicate either implementation or industry compliance. The commenters may be assuming that servicers will need to calculate whether they are larger participants to determine whether they need to comply. However, the Final Rule does not impose any substantive compliance obligations and does not require such a calculation. Generally, an entity will need to calculate its account volume only if it decides to dispute that it is a larger participant when the Bureau initiates supervision activity, such as an examination or a requirement that the company provide reports to the Bureau.

Student loan servicing. The Bureau proposed to define the term "student loan servicing" to mean receiving any scheduled periodic payments from a borrower pursuant to the terms of any post-secondary education loan, and making the payments of principal and interest and other amounts with respect to the amounts received from the borrower as may be required pursuant to the terms of the post-secondary education loan or of the contract governing the servicing; or, during a period when payment on a post-secondary education loan is deferred, maintaining account records for the loan and communicating with the borrower regarding the loan, on behalf of the

[56] Contrary to the suggestion of a commenter, a decision to include servicing of short-term loans in the market identified by the Final Rule does not constitute a repudiation of the reasons the Federal Reserve Board gave for excluding such loans from the category of "private education loans." The Board concluded that the particular disclosure and timing requirements applicable to that category of loans are not necessary for the excluded short-term loans. 74 FR 41194, 41204–05 (Aug. 14, 2009) (noting, *inter alia*, that the waiting period required by the HEOA could delay disbursement of a short-term emergency loan). The Board did not suggest that short-term student loans warrant *no* consumer protections or administrative oversight. As noted below, such loans remain subject to other requirements of TILA and Regulation Z, as well as other applicable Federal consumer financial law.

[57] 77 FR 42874, 42883 (July 20, 2012) (Consumer Reporting Rule).

[58] *See* American Heritage Dictionary (5th ed. 2011) (listing, as the principal meaning of "other," "being the remaining ones of several").

loan's holder. The proposed definition would also have made clear that student loan servicing includes interactions with a borrower to facilitate such activities. The Bureau received a number of comments on the proposed definition. In response to these comments, the Bureau is adopting the proposed definition with several adjustments, as explained below.

Activities required for "student loan servicing." One commenter suggested that activity should not be included within the defined market unless the entity engages in all of the activities listed in the proposed definition of "student loan servicing." The Bureau declines to adopt this suggestion because in some circumstances multiple entities may contribute in handling an account. For example, some companies may perform specialized servicing functions, such as the default aversion services discussed below, but may not perform other servicing operations. The Bureau believes the companies' activities should nonetheless be considered part of the identified market. Otherwise, servicers might divide their activities among different entities in an attempt to evade supervision. In addition, the activities of maintaining account records and communicating with a borrower take place during a period when no payments are due on the borrower's loan. Such a period may last for years, for example while the student is in school. The Bureau believes a servicer's activities during such a period regarding a borrower should be included in the market to the same extent as servicing activities performed when payments are due.

Lockbox services. The Bureau is changing the first sentence of the proposed definition of "student loan servicing" to address comments received relating to the use of a lockbox and similar services. A servicer noted in its comment that the first sentence of the definition refers to "receiving" payments even though servicers of Federally-owned loans have no direct role in the receipt of borrower payments. As the commenter explained, the collection of such payments is instead performed by the U.S. Treasury and its contractors, independent of the servicer. A trade association commenter raised a similar issue, expressing concern that organizations that provide some, but not all, of the activities listed in the proposed definition of "student loan servicing" would inappropriately be considered student loan servicers. The trade association stated that an organization should not be considered a servicer if it only accepts payments for a servicer (for example, by providing "lockbox" services).

The Bureau does not believe servicing activity should be excluded from the market merely by virtue of the fact that the servicer uses a lockbox service to collect payments. But the Bureau agrees that the lockbox service, *i.e.* the function of merely receiving payments for a loan holder and providing notification to a servicer, should not itself be considered student loan servicing for purposes of the Final Rule. To make clear that servicing with the assistance of a lockbox service is nonetheless market activity, the Bureau has inserted the words "or notification of such payments" after "receiving any scheduled periodic payments from a borrower" in the first sentence of the Final Rule's definition of "student loan servicing." To make clear that a lockbox service that simply receives and remits money without handling borrowers' accounts is not a market participant, the Bureau has further revised this sentence of the definition by substituting "applying payments to the borrower's account" for "making the payments of principal and interest and other amounts with respect to the amounts received from the borrower." By "applying payments," the Bureau means the activity of adjusting the amount of principal, interest, or other amounts due on an account when payments are received from the borrower. A lockbox that merely receives payments and passes them on would not engage in "student loan servicing" under the Final Rule's definition because it does not apply payments (part of the defined activity in paragraph (i)) or communicate or otherwise interact with the borrower (as in paragraphs (ii) or (iii)).[59]

Guaranty Agencies and Default Aversion Services. A guaranty agency submitted a comment expressing concern that guaranty agencies could be interpreted to be engaging in "student loan servicing." The commenter stated that the Bureau should exclude guaranty agencies by adding a definition of "student loan servicer" that is limited to entities performing student loan servicing at the direction of and under contract with the loan holder and owner.

As the commenter explained, guaranty agencies engage in a variety of activities, including assisting borrowers in applying for Federal student loans, completing program reviews, providing default aversion services, and administering and collecting payments on loans in default. The commenter asserted that guaranty agencies perform their functions on behalf of the Department of Education as fiduciaries and that those functions are unrelated to the Bureau's consumer protection mission. It also noted that guaranty agencies do not take payments for non-defaulted loans or grant deferments or forbearances, although they do conduct default aversion services prior to default and collect on defaulted loans.

The Bureau believes that servicing another servicer's account should be considered an activity that is within the market and that limiting the market definition to activities performed at the direction of and under contract with the loan holder and owner could be read to exclude these activities. Under certain circumstances, a servicer performs much or all of the activity described by the proposed definition, but it does so under contract with another servicer, which in turn is under contract to the loan's holders. The focus of the Bureau's supervision program is on servicing as it is provided to consumers. Therefore, for purposes of this rule, the Bureau believes the activities described above should be considered part of the market to the same extent as though the subservicer were under contract directly with the loan holder. The Bureau therefore has decided not to adopt the definition of "student loan servicer" suggested by the commenter.

The commenter also urged the Bureau not to include default aversion services in the student loan servicing market. The proposed definition of "student loan servicing" expressly mentioned such activity, and the commenter pointed to this aspect as another way the Bureau could refine the definition to exclude guaranty agencies. The Bureau believes it is appropriate to include default aversion services, even when conducted as a standalone servicing function, in the student loan servicing market. As the Proposed Rule explained, the Bureau regards default aversion activities as closely connected to the core aspects of student loan servicing—receiving and applying payments and maintaining account records and communicating with

[59] One commenter stated that entities that provide a third-party servicing system or communicate with borrowers but do not receive payments or maintain account records should not be considered to be engaged in "student loan servicing." An entity that provides a software system but does not itself apply payments to specific borrower accounts or interact with borrowers would not be engaged in "student loan servicing." By contrast, an entity that communicates with borrowers could be engaged in "student loan servicing" under the Final Rule, depending on the purpose of its borrower interactions. For example, the default aversion services that a guaranty agency provides pursuant to the Department of Education's regulations would be included in the market, as discussed in more detail below.

borrowers.[60] The Bureau recognizes that many student loan servicers perform or subcontract default aversion activities for loans that they are servicing. In addition, efforts to prevent default on post-secondary education loans can help save borrowers from the serious consequences resulting from default, which can include the accrual of thousands of dollars in penalties and fees and a damaged credit profile.[61] Default aversion can help protect consumers from certain risks; but, when not conducted in compliance with applicable law, default aversion can exacerbate those risks or create others. The Bureau expects to assess those risks in its supervision of larger participants of the student loan servicing market. These potential risks are not limited to entities that work for the owner of the note and instead result from the nature of the activity, regardless of any other functions the entities may perform.

The default aversion services provided by guaranty agencies in particular should be within the defined market because they are similar to those provided by traditional servicers. Under Department of Education regulations, a guaranty agency's default aversion services consist of "activities . . . designed to prevent a default by a borrower who is at least 60 days delinquent and that are directly related to providing collection assistance to the lender."[62] A guaranty agency may contact a borrower and urge the borrower to bring the loan current. As part of these efforts, the agency may suggest forbearance, deferment, or various repayment plans. The agency may provide the borrower information that will help the borrower assess his or her eligibility for various options. The Bureau believes borrowers perceive these communications no differently from communications that the borrower has received from the servicer of the borrower's loan. Thus, when a guaranty agency provides default aversion services, it plays a role that is, from the borrower's perspective, likely to be indistinguishable from the role of a servicer.[63]

The Bureau believes the proposed definition of "student loan servicing" appropriately reflected these considerations. The proposed market definition included interactions with a borrower to facilitate the core servicing activities of receiving and remitting payments or maintaining records and communicating about them with a borrower.[64] The word "facilitate" indicates that the interactions included within the market are only those that are related to the core servicing activities and are performed in order to make those activities, particularly receiving payments, more likely to succeed. To clarify further that the purpose of an interaction with a borrower is important for determining whether it is "student loan servicing," the Bureau is using the phrase "conducted to facilitate," rather than simply "to facilitate." The Bureau has also consolidated the final two sentences of the definition to ensure that it is clear that activities to prevent default on obligations arising from post-secondary education loans only constitute servicing if they are conducted to facilitate the core servicing activities described in paragraphs (i) or (ii) of the definition. The Bureau is also making several structural changes to the definition, relative to the Proposed Rule, to simplify the definition.[65]

Periods when no payment is required. The Bureau has adjusted the clause of the definition that addresses periods when payments are not required on the loan. As proposed, the definition would have included maintaining account records and communicating with a borrower "during a period when payment on a post-secondary education loan is deferred." However, the Bureau intends this clause to apply during all periods when no payment is required on a loan, including, for example, periods of forbearance. To ensure this is clear, the definition as adopted refers to "a period when no payment is required."

Section 1090.106(b)—Test To Define Larger Participants

Criterion. The Bureau has broad discretion in choosing a criterion for assessing whether a nonbank covered person is a larger participant of a market within which the Bureau will conduct supervision. The Bureau proposed to use account volume as the criterion that determines which entities are larger participants of a market for student loan servicing. The Bureau invited comment on this proposal, and also asked for comment regarding two other possible criteria: total amount of unpaid principal balance and number of student loans serviced. The Bureau also invited suggestions for other criteria that commenters believed might be superior.

Comments from several consumer groups and one trade association supported using account volume as the measure of market participant size. On the other hand, a number of industry comments suggested that the Bureau instead use either number of borrowers or number of loans as the criterion. For the reasons set out below, the Bureau has adopted account volume as the criterion in § 1090.106(b), as proposed.

The Bureau believes that account volume is the appropriate criterion because, among other things, it is a meaningful measure of a student loan servicer's level of participation in the market and of the servicer's impact on consumers. First, the number of accounts on which a person performs servicing reflects the magnitude of the student loan servicer's interactions with consumers. Each account represents a regular series of interactions with at least one consumer. Account volume should therefore appropriately reflect the comparative amount of consumer impact of various servicers.[66] Second,

[60] One commenter requested that the Bureau clarify its description of a servicer's role in modifying a borrower's payment plan. The Bureau understands that certain servicers may have limited or no discretion in the loan amounts or interest rates modified. But the Bureau believes that even where the servicers' role involves only communicating the borrower's extenuating circumstances to the loan holder, informing the borrower, and modifying the borrower's account in accordance with directions from the loan holder, these services are closely connected to the core of servicing.

[61] Default on a Federal student loan has an additional deleterious consequence: A loan in default may not qualify for income-based repayment, an alternative plan under which a low-income borrower may be able to reduce his or her monthly payments.

[62] 34 CFR 682.404(a)(2)(ii).

[63] Further, if the default aversion services fail and the borrower defaults, the guaranty agency must return the fee it received for providing the services, 34 CFR 682.404(k)(2)(ii), and the guaranty agency shares a loss on the default because part of its function is to insure lenders against loss on student loans. Under Department of Education regulations, a guaranty agency guarantees no more than 97 percent of the unpaid balance of defaulted loans that were disbursed on or after July 1, 2006; a lender thus bears at least 3 percent of the loss. 34 CFR 682.401(b)(14). The guaranty agency's interests in the outcome of default aversion are comparable to those of the loan's primary servicer, which will lose from default because the loan servicer's functions (and compensation) with respect to the borrower will terminate.

[64] As discussed above, the definition the Bureau is adopting also includes receiving notice of payments, and it replaces remitting payments with applying payments to borrowers' accounts.

[65] A commenter expressed concern that the proposed definition of "student loan servicing" might be read to include third-party service providers that assist schools by providing default prevention services. Such services are often provided in an effort to improve the schools' cohort default rates under the Higher Education Act of 1965, 20 U.S.C. 1070 *et seq.*, and its implementing regulations, 34 CFR parts 600 *et seq.* Whether entities performing default aversion activities are engaged in "student loan servicing" under the Final Rule will depend on the purpose for which the services are performed. If they are done to facilitate the activities described in paragraphs (i) or (ii) of the Final Rule's definition, they will be "student loan servicing."

[66] While account volume may not correlate perfectly with the amount of consumer interaction, the Bureau believes the two are reasonably related. For example, although account volume may not reflect the number of co-signers on borrowers'

Continued

because account volume is defined, in part, in terms of how many streams of fees a servicer receives with respect to a given student, the Bureau anticipates that the account volume criterion will correlate to the amount of compensation a person receives for its student loan servicing (and also to receipts and other comparable measures of market participation). Third, the degree of consumer impact increases directly when a servicer handles multiple accounts for a given consumer because the accounts are likely to represent loans held by different loan holders. In that situation, the servicer will be managing the consumer's dealings with multiple other companies. In addition, different loan holders may impose different standards and requirements for how the servicer performs its tasks, including the task of applying the consumer's payments to multiple accounts. The coordination needed can be complicated and represents an additional facet of servicing that account volume reflects.

Some commenters asserted that servicers do not currently track account volume based on fee streams and expressed concern that it will be burdensome for companies to track this information. This concern is misplaced for at least two reasons. First, as noted above, the larger participant rule does not require entities to calculate whether they are larger participants. Second, student loan servicers should be able to determine relatively easily whether their account volume meets the threshold, if the occasion to do so arises. Most market participants already assemble data on the number of loans they service and the number of borrowers of those loans. Many student loan servicers are members of the Student Loan Servicing Alliance, a trade organization, and have reported the sizes of their servicing programs to SLSA annually on both those bases.[67] A servicer's account volume would not necessarily be the same, for any particular servicer, as the number of its loans or the number of its borrowers. But because any student with respect to whom a nonbank covered person is performing student loan servicing corresponds to at least one account, a nonbank covered person's account volume will generally be at least as large as that person's number of borrowers.[68] Thus, any student loan servicer whose number of borrowers is above the threshold can expect that its account volume will also exceed the threshold.

Presently, few if any entities with less than one million borrowers are likely to have account volumes anywhere close to the threshold.[69] As discussed above, the detailed calculation of account volume generally reflects the number of accounts for which the servicer is receiving fees. The Bureau expects that servicers will readily be able to ascertain this number if the occasion arises to do so because servicers are presumably invoicing and expecting receipts on that basis. One servicer noted in its comment that such information is not typically aggregated or tracked across clients but acknowledged that servicers may track billable accounts for purposes of contract management and client invoicing.

Several industry commenters claimed that number of loans or number of borrowers would be a superior measure. These commenters did not agree on which of these measures would be preferable, but they generally suggested that account volume as a criterion would treat otherwise similar servicing portfolios differently.[70] The commenters noted that servicers are compensated based on different variables (e.g., per-borrower, per-loan, or per-account) depending on the lender and stated that two organizations' servicing portfolios that include the same number of borrowers and/or loans could, under the proposed definition, have a significantly different number of income streams depending on the method of compensation. Another commenter noted that using the Bureau's definition of account volume could produce different results for servicers that are employed by multiple student loan holders or securitization trusts as opposed to those that service multiple loans held by the same holder. For example, while one servicer may be administering four loans for a single borrower and receiving one stream of fees because all those loans are owned by the same entity, another servicer may be receiving four streams of fees for the borrower because the loans are owned by four separate entities.

The Bureau recognizes that two servicers whose portfolios contain the same number of borrowers or the same number of loans, according to their respective calculations, may have different numbers of accounts under the Bureau's definition. But because the Bureau does not regard number of borrowers or number of loans as the sole or proper measure of market participation, these apparent discrepancies do not mean that number of accounts is an improper measure. The Bureau has sought to develop a definition that appropriately represents a firm's participation in the market and overall impact on consumers and is sufficiently clear to apply when the Bureau assesses whether a firm is a larger participant in the market.

While the number of loans and the number of borrowers for which an entity performs servicing are both relevant to the entity's consumer impact and market participation, neither measure is superior to number of accounts. Although one commenter suggested that a servicer servicing four loans for four different holders should be treated the same as a servicer handling four loans for the same holder, the former portfolio will probably be substantially more complex than the latter and involve more consumer impact, as discussed above. The account volume criterion captures this additional consumer impact. Meanwhile, the number of borrowers does not measure the extent of a particular borrower's interactions with the servicer because the extent of a servicer's contact with a borrower will depend on various factors including the number of accounts or loans the borrower has and whether the borrower is the principal obligor on the account.

In addition, each of the alternative criteria would produce discrepancies between servicing portfolios. Different servicers may define and count "loans" in various ways, depending on the type of loans serviced and the details of the servicing contracts.[71] Thus, two portfolios that are the same in many important respects might nonetheless have different numbers of loans. With

loans, the Bureau believes that servicers' interactions with co-signers are relatively infrequent compared to their interactions with borrowers. A servicer typically deals with a co-signer only when the borrower has failed to make payments.

[67] *See, e.g.*, 2012 SLSA Servicing Volume Survey.

[68] The number of students with respect to whom a servicer is servicing loans is not identical to the number of borrowers, but the Bureau expects the differences to be fairly small.

[69] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates. Data from SLSA and other sources do not reveal any entities servicing between approximately 350,000 borrowers and 1.4 million borrowers.

[70] One servicer also noted that data are reported to the National Student Loan Data System (NSLDS) at the loan level. However, the data reported to the NSLDS do not include private loans.

[71] There is no industry-wide definition of a student loan because there is not a uniform system for reporting loans in the marketplace. Only Federal student loans are reported in the NSLDS. Although many servicers have reported their loan volume to SLSA, SLSA has not established standards for counting loans or borrowers. To establish a clear criterion for determining larger-participant status based on loan volume, the Bureau would need to choose a particular understanding of what constitutes a single "loan" and a single method of counting loans.

respect to number of borrowers, two trade associations proposed in their comments that loans that involve more than one borrower (co-makers) or that are co-signed or endorsed should be counted for a single borrower so as not to "artificially" inflate the number of borrowers attributable to a servicer. These comments did not address how the number of borrowers should be counted when individuals are responsible for multiple loans that involve a co-maker, co-signer, or endorser.[72] Whatever result the Bureau might specify for these various alternative criteria would produce different borrower counts for servicing portfolios that are arguably similar.[73]

As commenters noted, number of accounts does not correlate perfectly with number of borrowers or number of loans. But, compared to these other two measures, number of accounts seems the most appropriate basis on which to measure overall market participation. Of the three measures, account volume better reflects consumer interactions, servicer compensation, and the number of holders for the loans a servicer is handling with respect to each borrower.

The Bureau does not have data directly on servicers' account volumes, as defined in this Final Rule, but believes that the numbers of borrowers that servicers reported to SLSA in 2012 is an adequate proxy to enable the Bureau to analyze the market and select a threshold for larger-participant status. For purposes of its analysis, the Bureau noted in proposing the rule that, for most firms, the number of accounts may not differ substantially from the number of borrowers—the Bureau estimated that a firm's number of accounts generally is no more than about 50 percent greater than the number of borrowers it reports.[74]

Two commenters expressed concern about this part of the Bureau's analysis. One servicer asserted that the "CFPB assumes that the ratio between loans and borrowers will be approximately two loans per borrower." The servicer also noted that it had calculated its own overall average loan-to-borrower ratio as 3.54 as of December 2012. It reported that its loan-to-borrower ratio varies among its portfolios based on portfolio characteristics: It estimated that it services 2.35 loans for each borrower of FFELP and private student loans, and 4.17 loans for each borrower of loans that it services as a TIVAS on behalf of the Department of Education. This commenter appears to misunderstand the Bureau's analysis. The Bureau did not assume a 2-to-1 ratio or any other ratio for *loans*-to-borrowers, but has instead estimated that the typical *account*-to-borrower ratio is unlikely to exceed 1.5 based on market-wide information. The numbers provided by the commenter are not to the contrary because they do not reflect account-to-borrower ratios but instead are estimates of the servicer's loan-to-borrower ratios. The commenter's *account*-to-borrower ratio would be substantially lower than the ratio it provided because each borrower corresponds to only one account for Federal Direct loans and Federally-owned FFELP loans and a servicer generally would not have more accounts than loans for other types of loans.

Another commenter noted that the ratio of number of accounts to number of borrowers could change in the future, depending on the state of the economy and changes to student loan policy at the Federal level. This commenter indicated that borrowers may go back to school or otherwise need to take out more loans in the coming years. The Bureau's analysis is not intended to estimate what the account-to-borrower ratio will be in the future. Instead, the ratio is merely to assist in translating the numbers of borrower that servicers reported in the 2012 SLSA volume survey into information about servicers' current account volume. In light of this purpose, the Bureau concludes that the 2012 SLSA volume survey is an adequate proxy to enable the Bureau to conduct a sufficient analysis of the market so that it can select a threshold for larger-participant status.

Threshold. The Bureau has broad discretion in setting the threshold above which an entity would qualify as a larger participant of the market for student loan servicing. The Bureau proposed that a nonbank covered person would be a larger participant of the student loan servicing market if the person's account volume exceeded one million. The Bureau received a number of comments on the proposed threshold. In light of the comments, and for the reasons stated below, the Bureau adopts the proposed threshold in the Final Rule.

As discussed above, the Bureau does not have precise data on market participants' account volumes calculated in accordance with the Final Rule's definition. However, the number of a servicer's accounts, under the Final Rule's definition of "account volume," is generally no smaller than the number of borrowers whose loans it is servicing. In addition, the Bureau believes that in general the number of accounts should be no greater than the number of loans (if any) that a servicer has reported to SLSA. These two figures, therefore, provide estimated outer bounds for a given servicer's number of accounts with a sufficient degree of precision to enable the Bureau's threshold-setting analysis. According to the 2012 SLSA volume survey, seven nonbank entities each serviced the loans of more than

[72] For example, it is unclear how many unique borrowers a family would represent if the parents were co-makers on loans for education expenses for each of their two children, endorsed additional loans taken out by one of their two children for the child's education expenses, and also each had loans taken out on their own for their own education. One trade association also noted that with respect to Federal Parent PLUS loans and some private education loans, the student may not be considered the borrower but would instead be considered a loan beneficiary, and suggested that only the loan obligor be included in any accounting of the number of borrowers in that circumstance. Because the Final Rule does not use number of borrowers as the criterion, the Bureau need not address this suggestion.

[73] One commenter also asserted that the Proposed Rule appeared to mix two different concepts, as "per-account" is generally not the same as "per-borrower." This commenter appears to have misunderstood the Bureau's proposal because the Proposed Rule, like the Final Rule the Bureau is now adopting, does not equate account with borrower.

[74] The Bureau reached this estimate as follows: For Federally-owned loans (including Federal Direct loans and Federally-owned FFELP loans), each borrower corresponds to exactly one account (that is one stream of fees), because the Department of Education compensates servicers based on their number of borrowers, rather than on the number of loans they service. *See* Title IV Redacted Contract Awards, Attachment A–6—Servicing Pricing Definitions, *available at https://www.fbo.gov/spg/ED/FSA/CA/FSA-TitleIV-09/listing.html.* According to SLSA's data, the seven largest firms have reported that they service 30 million borrowers of Federally-owned loans. Among outstanding student loans that are not Federally-owned (commercially-held FFELP loans and all private student loans), the Bureau believes that the number of accounts is unlikely to exceed the number of loans reported by the various servicers, as the Bureau is unaware of any fee stream that corresponds to a unit smaller than a single loan. The seven largest firms reported to SLSA that they service 45 million non-Federally-owned loans. (The Bureau recognizes that because SLSA has not established standards, servicers have adopted different methods for counting private loans and their borrowers, but the Bureau does not expect the variations to be substantial for purposes of this estimate.) Thus, the Bureau believes an upper-bound estimate of the number of accounts serviced by the seven largest market participants is 75 million—the sum of the number of accounts corresponding to 30 million borrowers of Federally-owned student loans (at one account per borrower) and the number of accounts corresponding to 45 million loans that are not Federally-owned (at one account per loan). The seven largest firms report that they are servicing the loans of a total of 49 million borrowers. Therefore, the Bureau's upper-bound estimate for the number of accounts serviced by these seven firms, 75 million, is roughly 50 percent greater than the aggregate number of borrowers reported by these seven firms, 49 million. Using a similar means of estimating, the Bureau has calculated that an upper-bound estimate of the number of accounts serviced market-wide is about 50 percent more than the estimated number of borrowers in the market.

one million borrowers.[75] Those seven nonbanks, which will presumably be larger participants under the Final Rule, are responsible for between approximately 71 and 93 percent of activity in the nonbank student loan servicing market.[76] The next largest market participants report servicing the loans of approximately 300,000 borrowers each and are unlikely to reach the one million threshold on the basis of account volume.[77]

Although guaranty agencies engage in student loan servicing when they provide default aversion services in the manner provided by regulation,[78] the Bureau does not believe that the inclusion of this default aversion activity in the definition of "student loan servicing" changes the number of entities that currently meet the definition of larger participants under the Final Rule. A guaranty agency is compensated for performing default aversion by receiving a fee of one percent of the total unpaid principal and accrued interest owed by the borrower as of the date an institution asked the agency to engage in default aversion.[79] In light of the net default aversion income reported by each guaranty agency to the Department of Education and available data about FFELP balances, the Bureau does not believe that any guaranty agency performs this function for more than one million accounts.[80]

The Bureau believes that the account volume threshold of one million is consistent with the objective of supervising market participants that represent a substantial portion of the student loan servicing market and have a significant impact on consumers. The seven student loan servicers that the Bureau believes will likely be larger participants collectively service the loans of approximately 49 million borrowers.[81] At the same time, this threshold will subject to the Bureau's supervisory authority only entities that can reasonably be considered larger participants of the market.

One industry commenter urged the Bureau to increase the threshold to three million accounts. This would likely allow the Bureau to supervise only the five very largest participants in the market, which are the five Title IV Additional Servicers (TIVAS). The TIVAS represent between approximately 67 and 87 percent of activity in this market based on unpaid principal balance and number of borrowers.[82] In support of this change, the commenter noted that the TIVAS have a much higher volume than the next largest entities in the market. Other commenters including consumer groups opposed this change, noting that it would fail to include in the Bureau's supervisory program two very large loan servicers responsible for billions of dollars in education loans and would leave only five student loan servicers subject to the Bureau's supervision under the larger participant rule.

The Bureau agrees that even if these two entities are smaller than the TIVAS, they should nevertheless be considered "larger participants" of the market at present. Servicers with responsibility for over one million accounts have a substantial impact on consumers and the market. In fact, each of the two servicers that might be removed from the definition of "larger participant" if the threshold were increased from 1 million to 3 million accounts currently services approximately 1.5 million borrowers.[83] Additionally, these two servicers are responsible for the direct servicing of a large number of loans assigned to various smaller State-affiliated agencies or not-for-profits by the Health Care and Education Reconciliation Act of 2010.[84] In light of these relationships, the Bureau believes that supervising servicers that handle between one and three million accounts is an efficient way to monitor the servicing of loans assigned by statute to smaller servicers. The Bureau therefore declines to raise the threshold.[85]

Several consumer groups suggested lowering the threshold to 200,000 accounts. One of these commenters stated that a lower threshold would give the Bureau more flexibility because it would allow the Bureau to supervise between 15 and 18 entities, representing between approximately 74 and 99 percent of activity in this market.[86] Some asserted that a servicer with 200,000 accounts would need a similar large-scale investment in technology, internal controls, and human resources as a servicer with one million accounts; given that level of investment, the commenters said, supervision would not be burdensome. Consumer groups also stated that a lower threshold would increase the Bureau's ability to examine niche servicers that specialize in servicing important subsectors of borrowers.

The Bureau notes that the additional entities that would be included using

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[75] By contrast, the median number of borrowers with loans being serviced by a given entity is approximately 250,000. 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[76] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates. This estimated range is slightly different from the Bureau's estimate when it issued the Proposed Rule because the Bureau has now factored in guaranty agencies that provide default aversion services, as noted above.

[77] As discussed above, the Bureau expects the number of accounts at a given servicer to be less than 50 percent larger than the number of borrowers. A firm with 300,000 borrowers is therefore unlikely to have more than 450,000 accounts. However, the Bureau's estimates do not take account of any servicers that do not report data to SLSA. These estimates also do not reflect any affiliations that may exist among market participants. If two student loan servicers that appear to be below the threshold given their reports to SLSA are actually affiliated companies, their aggregated account volume might render them both larger participants.

[78] 34 CFR 682.404.

[79] 34 CFR 682.404(k). This fee cannot be paid more than once on any loan. *Id.*

[80] In 2011, 33 guaranty agencies reported a total of $111 million in net default aversion fee revenue, which, given the one percent fee, corresponds to $11.1 billion in outstanding principal and interest of FFELP loans. Fed. Student Aid, FY 2011 Summary of Guaranty Agency Financial Reports, *available at http://www.fp.ed.gov/attachments/publications/EDForms2000DataFY11AnnualReport.pdf* (providing the total default aversion fees collected by guaranty agencies in FY 2011). The Bureau has estimated the average FFELP balance at $20,600 per borrower based on the total outstanding balance and number of borrowers reported by Federal Student Aid in the repayment, deferment, forbearance, and other categories as of September 30, 2012. Fed. Student Aid, Direct Loan Portfolio by Loan Status, *available at http://studentaid.ed.gov/sites/default/files/fsawg/datacenter/library/PortfoliabyLoanStatus.xls*. Using this data, the Bureau has estimated that the 33 guaranty agencies together provided default aversion services on the loans of less than one million borrowers. Because the highest net default aversion fee revenue reported by a single guaranty agency to the Department of Education was $33,725,085, the Bureau concludes based on the same analysis that no individual guaranty agency currently has even close to one million fee streams from default aversion services on its own.

[81] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[82] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[83] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[84] 20 U.S.C. 1087f(a)(4); HCERA/SAFRA—Not-For-Profit (NFP) Servicer Program documentation, as of Sept. 25, 2013 (showing firms that contract servicing rights to other entities), *available at https://www.fbo.gov/spg/ED/FSA/CA/NFP-RFP-2010/listing.html.*

[85] The trade association advocating a higher threshold also suggested that only the TIVAS should be treated as larger participants because the TIVAS are now receiving all new account allocations under the Federal Direct Loan Program. The Bureau recognizes that account allocations may implicate which entities have sufficient volume to meet the larger participant threshold of one million accounts in the future, but does not view this as a reason to adjust the threshold. In any event, entities that are not TIVAS may well obtain additional volume through other sources, such as subservicing contracts.

[86] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates. Three entities reported servicing the loans of between 133,000 and 200,000 borrowers. Although these entities would be below a threshold of 200,000 borrowers, they might qualify as larger participants using a threshold of 200,000 accounts. As discussed above, the Bureau expects a firm's number of accounts generally to be no less than its number of borrowers and no more than about 50 percent greater.

this lower threshold are only a fraction of the size of even the smallest entities that exceed the one million account threshold.[87] Additionally, many of the entities that would be captured between 200,000 and one million accounts are State-affiliated agencies or not-for-profit entities that place their loans with two servicers that will likely be larger participants.[88] Because these two servicers are above the one million account threshold, the Bureau should be able to evaluate these common servicing platforms and identify risks they pose to consumers. To the extent these smaller entities raise additional concerns, the Bureau has other tools that it could use to address them, including (1) establishing supervision authority over a particular company based on a reasonable-cause determination pursuant to the Bureau's risk determination rule, 12 CFR part 1091, pursuant to 12 U.S.C. 5514(a)(1)(C); (2) enforcement investigations where warranted; (3) coordination with State regulators, State attorneys general, and the Federal Trade Commission; and (4) research and monitoring. In light of the availability of these alternative tools, the Bureau declines to lower the threshold for larger-participant status.[89]

One commenter noted that the one million account threshold would not cover any servicers with annual receipts below $30 million and suggested the threshold should be lowered to align with the size standard for "small businesses" in this market established by the U.S. Small Business Administration (SBA). At the time the comment was filed, the threshold was $7 million in annual receipts for entities that fall in the NAICS code for "other activities related to credit intermediation," the category that includes "loan servicing." After the comment period closed, the SBA raised its size standard for this NAICS code to $19 million, effective July 22, 2013.[90] The SBA also increased the size standard for a related category—"consumer lending" (which includes "student lending")—to $35.5 million.[91] In setting its size standards, the SBA considers a variety of factors—such as eligibility for Federal small-business assistance and Federal contracting programs; startup costs, entry barriers, and industry competition; and technological change.[92] These factors differ from the concerns articulated in this preamble that motivate the Bureau's definition of "larger participants" in a particular market such as student loan servicing. Because the SBA's measure and the Bureau's threshold are used for different purposes and targeted at different statutory objectives, the Bureau does not believe it is necessary as a general matter to adjust its threshold for a given market to conform to a particular SBA threshold.

The same commenter also suggested that a lower threshold than what the Bureau proposed is in order for this market because the threshold for larger participant status under the Consumer Reporting Rule is only $7 million in annual receipts. As stated in the Proposed Rule, the Bureau considers each market separately and may adopt different criteria and thresholds for each market. The Bureau selected annual receipts in the consumer reporting context for ease of application and made it clear that it had not determined that annual receipts, or a threshold of $7 million in annual receipts, would be appropriate for any other market that might be the subject of a future larger participant rulemaking.[93] This tailored approach is necessary because the markets that the Bureau has considered to date (consumer reporting, consumer debt collection, and student loan servicing) differ in many ways: Firms in the three markets perform entirely different functions and interact with consumers in different ways, the market structures are different, the substantive Federal consumer financial laws principally relevant to the three markets differ substantially, and the manner in which annual receipts connect to consumer interactions is different in each of the markets. In light of these and other significant differences, the Bureau continues to believe that the criterion and threshold used in the Final Rule would fit the student loan servicing market better than would the criteria and threshold used in the Consumer Reporting Rule.

A number of individual commenters suggested that the Bureau supervise all student loan servicers or particular subcategories regardless of size, such as all Federal student loan servicers. Some of these commenters asserted that small servicers are as likely to engage in fraudulent practices as larger servicers are. The Bureau does not believe that including a category of servicers regardless of size would be consistent with 12 U.S.C. 5514(a)(1)(B), which authorizes the Bureau to define "larger participants" of other markets for consumer financial products or services.[94] The Bureau therefore declines to make the changes suggested by these comments.[95]

Finally, one commenter urged the Bureau to read "larger participant" more broadly in light of the consumer protection purposes of the Dodd-Frank Act. In assessing whether an entity is a "larger participant," this commenter suggested that the Bureau consider whether the entity mainly focuses on student loan servicing rather than assessing the volume of its accounts.

[87] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[88] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates; HCERA/SAFRA—Not-For-Profit (NFP) Servicer Program documentation, as of Sept. 25, 2013 (showing firms that contract servicing rights to other entities), *available at https://www.fbo.gov/spg/ED/FSA/CA/NFP-RFP-2010/listing.html.*

[89] Two consumer groups suggested that the Final Rule should automatically cover servicers that the Department of Education is required by statute to contract with for loan servicing. The Health Care and Education Reconciliation Act of 2010 directed the Secretary of Education to allocate up to 100,000 servicing accounts to each eligible not-for-profit student loan servicer in existence as of July 1, 2009, subject to certain limitations. 20 U.S.C. 1087f(a)(4). A consumer group commenter stated that when Congress mandates that a servicing contract be given to a student loan servicer, that servicer should be subject to Bureau oversight to manage taxpayer money. As noted above, the Bureau believes that many of these entities currently have total account volumes that fall between 200,000 and 1 million. For the same reasons that the Bureau has chosen not to lower the threshold to 200,000 accounts, the Bureau has decided not to adjust the Proposed Rule's definitions in a way that would render these not-for-profit entities larger participants of the student loan servicing market.

[90] 78 FR 37409, 37412 (June 20, 2013); 13 CFR 121.201 (NAICS code 522390). For the purposes of its analysis under 12 U.S.C. 5512(b)(2)(A), the Bureau assumes that participants in the student loan servicing market will be classified in NAICS code 522390, "other activities related to credit intermediation." NAICS lists "loan servicing" as an index entry corresponding to this code. *See* Census Bureau, 2012 NAICS Definition, 522390 Other Activities Related to Credit Intermediation, *available at http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=522390&search=2012 NAICS Search.* The Bureau solicited comment on whether this or any other NAICS code is most appropriate for this market and did not receive any comments. The Bureau is aware that a nonbank larger participant of the student loan servicing market might identify itself as falling within a NAICS code other than the one that includes loan servicing. For example, some entities may report under NAICS code 522291 for consumer lending, which is the index entry corresponding to student lending.

[91] *See* 78 FR 37409, 37412 (June 20, 2013); 13 CFR 121.201 (NAICS code 522291).

[92] 13 CFR 121.102(a); Size Standards Div. Office of Gov't Contracting & Bus. Dev., "SBA Size Standards Methodology" (Apr. 2009), *available at http://www.sba.gov/sites/default/files/size_standards_methodology.pdf.*

[93] 77 FR 42874, 42876, 42890 (July 20, 2012) (Consumer Reporting Rule). The "annual receipts" criteria used in the Consumer Reporting Rule and the Consumer Debt Collection Rule also differ in some respects from the SBA's definition of "annual receipts." For example, the SBA counts all of a person's receipts in calculating annual receipts, while the Consumer Reporting and Consumer Debt Collection Rules count only receipts resulting from a market-related activity. *Id.*

[94] 12 U.S.C. 5514(a)(1)(B), (a)(2).

[95] As noted above, nonbank covered persons generally are subject to the Bureau's regulatory and enforcement authority, and any applicable Federal consumer financial law, regardless of whether they are subject to the Bureau's supervisory authority.

Under such an approach, a monoline company engaging in a certain volume of student loan servicing might be a larger participant even though a multiline company engaging in substantially more student loan servicing would not be a larger participant. The Bureau has decided not to adopt this approach because the Bureau does not believe that a company's status as a larger participant of the student loan servicing market should change based on the relative magnitude of *other* lines of business in which it may engage. For the reasons stated above, the Bureau adopts the proposed threshold of one million accounts for the student loan servicing market.

VI. Section 1022(b)(2)(A) of the Dodd-Frank Act[96]

A. Overview

The Bureau has considered potential benefits, costs, and impacts of the Final Rule.[97] The Proposed Rule set forth a preliminary analysis of these effects, and the Bureau requested and received comments on the topic. In addition, the Bureau has consulted with or offered to consult with the Department of Education, the Federal Trade Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration, regarding, among other things, consistency with any prudential, market, or systemic objectives administered by such agencies.

The Final Rule defines a category of "larger participant[s] of . . . market[s] for other consumer financial products or services" that would be subject to the Bureau's nonbank supervision program pursuant to 12 U.S.C. 5514(a)(1)(B). The category includes "larger participants" of a market for "student loan servicing" that the Final Rule describes. Whether a firm is a larger participant in this market is measured on the basis of account volume. If a nonbank covered person's account volume (measured, per the definition, as of December 31 in the preceding calendar year) exceeds one million, then it is a larger participant. If a firm is deemed to be a larger participant in a given year, then it will remain a larger participant for at least the subsequent year as well, regardless of its account volume in that year.

B. Potential Benefits and Costs to Consumers and Covered Persons

This analysis considers the benefits, costs, and impacts of the key provisions of the Final Rule measured from a baseline that includes the Bureau's existing rules defining larger participants of certain markets.[98] At present, there is no Federal program for supervision of nonbank student loan servicers of private student loans with respect to Federal consumer financial law. With respect to Federal student loans, there is no Federal program for supervision of nonbank student loan servicers with respect to Federal consumer financial law, but servicing of Federal student loans must be conducted in accordance with the Department of Education's performance standards.[99] With the Final Rule in effect, the Bureau will be able to supervise larger participants of the defined student loan servicing market.

The Bureau notes at the outset that limited data are available with which to quantify the potential benefits, costs, and impacts of the Final Rule. For example, although the Bureau has general quantitative information, as discussed above, on the number of market participants and their numbers of borrowers and loans and volumes of unpaid principal balances, the Bureau lacks detailed information about their rates of compliance or noncompliance with Federal consumer financial law and about the range of, and costs of, compliance mechanisms used by market participants.

In light of these data limitations, this analysis generally provides a qualitative discussion of the benefits, costs, and impacts of the Final Rule. General economic principles, together with the limited data that are available, provide insight into these benefits, costs, and impacts. Where possible, the Bureau has made quantitative estimates based on these principles and data as well as on its experience of undertaking supervision.

The discussion below describes three categories of potential benefits and costs. First, the Final Rule authorizes the Bureau's supervision in the student loan servicing market. Larger participants of the market may respond to the possibility of supervision by changing their systems and conduct, and those changes may result in costs, benefits, or other impacts. Second, when the Bureau undertakes supervisory activity at specific student loan servicers, those servicers will incur costs from responding to supervisory activity, and the results of these individual supervisory activities also may produce benefits and costs.[100] Third, the Bureau analyzes the costs that may be associated with entities' efforts to assess whether they qualify as larger participants under the rule.

In considering the costs and benefits of the Final Rule, it is important to note that Federal student loans and private student loans differ in various ways, including repayment options, terms, and conditions; the treatment of delinquent accounts; and servicing standards, which for Federal loans are imposed by the Department of Education. Federal student loans are also much more prevalent than private student loans: Of the 39 percent of undergraduates who obtained education loans in the 2007–2008 academic year, 90 percent obtained Federal loans and only 39 percent obtained private student loans.[101]

1. Benefits and Costs of Responses to the Possibility of Supervision

The Final Rule will subject larger participants of the student loan servicing market to the possibility of Bureau supervision. That the Bureau will be authorized to undertake supervisory activities with respect to a nonbank covered person that qualifies as a larger participant does not necessarily mean the Bureau will in fact undertake such activities regarding that

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[96] 12 U.S.C. 5512(b)(2)(A).

[97] Specifically, 12 U.S.C. 5512(b)(2)(A) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services, the impact on depository institutions and credit unions with $10 billion or less in total assets as described in 12 U.S.C. 5516, and the impact on consumers in rural areas. In addition, 12 U.S.C. 5512(b)(2)(B) directs the Bureau to consult, before and during the rulemaking, with appropriate prudential regulators or other Federal agencies, regarding consistency with objectives those agencies administer. The manner and extent to which the provisions of 12 U.S.C. 5512(b)(2) apply to a rulemaking of this kind that does not establish standards of conduct are unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the analysis and consultations described in those provisions of the Dodd-Frank Act.

[98] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits and costs and an appropriate baseline. The Bureau, as a matter of discretion, has chosen to describe a broader range of potential effects to more fully inform the rulemaking.

[99] Dep't of Educ., Federal Student Aid Annual Report 2 (2012), *available at http://www2.ed.gov/about/reports/annual/2012report/fsa-report.pdf.*

[100] Pursuant to 12 U.S.C. 5514(e), the Bureau also has supervisory authority over service providers to nonbank covered persons encompassed by 12 U.S.C. 5514(a)(1), which includes larger participants. The Bureau does not have data on the number or characteristics of service providers to the roughly seven larger participants of the student loan servicing market. The discussion herein of potential costs, benefits, and impacts that may result from the Final Rule generally applies to service providers to larger participants.

[101] National Postsecondary Student Aid Study 2008 (hereinafter NPSAS 2008).

covered person in the near future. Rather, supervision of any particular larger participant as a result of this rulemaking is probabilistic in nature. For example, the Bureau will examine certain larger participants on a periodic or occasional basis. The Bureau's decisions about supervision will be informed, as applicable, by the factors set forth in 12 U.S.C. 5514(b)(2) relating to the size and transaction volume of individual participants, the risks their consumer financial products and services pose to consumers, the extent of State consumer protection oversight, and other factors the Bureau may determine are relevant. Each entity that believes it qualifies as a larger participant will know that it may be supervised and may gauge, given its circumstances, the likelihood that the Bureau will initiate an examination or other supervisory activity.

The prospect of potential supervisory activity may create an incentive for larger participants to increase their compliance with Federal consumer financial law. They may anticipate that by doing so (and thereby decreasing risks to consumers), they can decrease the likelihood of their actually being subjected to supervision as the Bureau evaluates the factors outlined above. In addition, an actual examination will likely reveal any past or present noncompliance, which the Bureau can seek to correct through supervisory activity or, in some cases, enforcement action. Larger participants may therefore judge that the prospect of supervision increases the potential consequences of noncompliance with Federal consumer financial law, and they may seek to decrease that risk by curing or mitigating any noncompliance.

The Bureau believes it is likely that market participants will increase compliance in response to the Bureau's supervisory activities authorized by the Final Rule. However, because the Final Rule itself does not require any student loan servicer to alter its performance of student loan servicing, any estimate of the amount of increased compliance would be both an estimate of current compliance levels and a prediction of market participants' behavior. The data the Bureau currently has do not support a specific quantitative estimate or prediction. But, to the extent that student loan servicers increase their compliance in response to the Final Rule, that response will result in both benefits and costs.[102]

The Bureau notes that the existing levels of compliance with Federal consumer financial law may be different for the servicing of Federal and private student loans. The Department of Education's Office of Federal Student Aid (FSA) sets performance standards and oversees the operations of Federal student loan servicers.[103] FSA standards for systems, controls, and legal compliance may have the collateral consequence that entities comply more faithfully with some aspects of Federal consumer financial law with respect to their servicing of Federal student loans. To that extent, any increase in compliance that results from the Final Rule may be smaller for Federal than for private student loan servicing. Both the benefits and the costs of increased compliance might thus be smaller for Federal student loan servicing.

a. Benefits From Increased Compliance

Increased compliance will be beneficial to consumers that are affected by student loan servicing. As discussed above, the potential pool of consumers who are directly affected by student loan servicing is broad: In the 2007–2008 academic year, 39 percent of undergraduates and 43 percent of graduate students obtained new student loans.[104] Increasing the rate of compliance with such laws will benefit consumers and the consumer financial market by providing more of the protections mandated by those laws. The roughly seven larger participants of the student loan servicing market that will likely, at the outset, qualify as larger participants under the Final Rule's threshold currently service the student loans of approximately 49 million borrowers.[105] A number of Federal consumer financial laws, including the Electronic Fund Transfer Act (EFTA) and its implementing regulation, Regulation E; the Fair Credit Reporting Act (FCRA) and its implementing regulation, Regulation V; the Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B; and Title X of the Dodd-Frank Act offer substantive protections to consumers regarding student loan servicing.[106] Increasing the rate of compliance with such laws will benefit consumers by providing more of the protections mandated by those laws.[107]

For instance, many student loan servicers receive loan payments through preauthorized electronic fund transfers. Among other things, EFTA establishes certain guidelines for ensuring that fund transfers are not sent without consumers' consent.[108] Increased compliance with EFTA might include a higher degree of fidelity to EFTA's consent process and could thereby decrease the risk that borrowers will suffer unauthorized transfers of their funds. Unauthorized transfers could adversely affect consumers by modifying the amount and timing of payments. Even if the amount of payments per period is anticipated, the timing of payments could constrain consumers in the very short run. For example, a consumer might plan to make a student loan payment in one pay period and a car payment in the next pay period, but may have insufficient funds both to make payments in the same pay period and to meet his other financial obligations without incurring additional charges such as overdraft fees. Furthermore, the timing of anticipated payments may affect overall consumption for certain groups of consumers.[109]

[102] Another approach to considering the benefits, costs, and impacts of the Final Rule would be to focus almost entirely on the supervision-related costs for larger participants and omit a broader consideration of the benefits and costs of increased compliance. As noted above, the Bureau has, as a matter of discretion, chosen to describe a broader range of potential effects to more fully inform the rulemaking.

[103] Dep't of Educ., Federal Student Aid Annual Report 2 (2012), *available at http://www2.ed.gov/about/reports/annual/2012report/fsa-report.pdf.*

[104] NPSAS 2008.

[105] *See* 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates. If a servicer were handling loans to an individual consumer for more than one holder, the servicer might count that consumer as more than one borrower. Nonetheless, 49 million borrowers corresponds to a comparably large number of consumers with whom the anticipated larger participants interact.

[106] 15 U.S.C. 1693 *et seq.* (EFTA); 12 CFR part 1005 (Regulation E); 15 U.S.C. 1681 *et seq.* (FCRA); 12 CFR part 1022 (Regulation V); 15 U.S.C. 1691 *et seq.* (ECOA); 12 CFR part 1002 (Regulation B); 12 U.S.C. 5301 *et seq.* (Dodd-Frank Act).

[107] Among other things, EFTA is intended to establish basic consumer rights with regard to the use of electronic systems to transfer funds. 15 U.S.C. 1693. FCRA was enacted to improve credit report accuracy and protect consumer privacy. *See Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 52 (2007) ("Congress enacted the FCRA in 1970 to ensure fair and accurate credit reporting, promote efficiency in the banking system, and protect consumer privacy."). ECOA makes it unlawful for creditors to discriminate against applicants, with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract), the receipt of public assistance income, or the applicants' exercise of certain rights under Federal consumer financial protection laws. 15 U.S.C. 1691(a).

[108] 15 U.S.C. 1693e.

[109] Recent work by Mastrobuoni and Weinberg and by Shapiro and Slemrod demonstrated that the timing of payments to consumers can affect their consumption. Mastrobuoni, Giovanni and Weinberg, Matthew, 2009. "Heterogeneity in Intra-Monthly Consumption Payments, Self-Control, and Savings at Retirement," *American Economic Journal: Economic Policy*, American Economic Association, vol. 1(2), pp. 163–89; Shapiro, Matthew and Slemrod, Joel, 1995. "Consumer Response to the Timing of Income: Evidence from

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As another example, many student loan servicers furnish information to consumer reporting agencies about borrowers' payment histories. Such servicers therefore have certain obligations under FCRA and Regulation V. FCRA prohibits the furnishing of information to a consumer reporting agency that the furnisher knows or has reasonable cause to believe is inaccurate.[110] A servicer that furnishes information to consumer reporting agencies must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information furnished, considering applicable Federal guidelines, and must periodically review the policies and procedures and update them as necessary to ensure their continued effectiveness.[111] FCRA and Regulation V also give consumers the ability to dispute information furnished to consumer reporting agencies by submitting disputes to the consumer reporting agencies or directly to furnishers.[112] A student loan servicer receiving a dispute must generally conduct a reasonable investigation.[113] Increased compliance with these FCRA requirements will increase the accuracy of information that is furnished to consumer reporting agencies and thus of the information that is included in consumer reports. Given that student debt is a substantial proportion of total consumer debt in the United States, increasing the accuracy of reporting in this segment of the debt market could have a substantial positive effect on consumer report accuracy.[114] Because consumer reports are often critical in decisions regarding consumer financial products and services, more accurate information could lead to better economic decisions that would benefit both markets and consumers.[115]

More broadly, the Bureau will be examining whether larger participants of the student loan servicing market engage in unfair, deceptive, or abusive acts or practices (UDAAPs).[116] Conduct that does not violate an express prohibition of another Federal consumer financial law may nonetheless constitute a UDAAP.[117] Among the areas that the Bureau will examine with, in part, a view to preventing UDAAPs are repayment status processing, loan servicing transfers, general payment processing, application of prepayments and partial payments, and default aversion. To the degree that any servicer is currently engaged in any UDAAP in these areas, the cessation of the unlawful act or practice would benefit consumers.[118] All of the previously listed areas could be reviewed during an examination and, therefore, student loan servicers might improve policies and procedures relating to these areas in order to avoid engaging in UDAAPs.

b. Costs of Increased Compliance

On the other hand, increasing compliance involves costs. In the first instance, those costs will be paid by the market participants that choose to increase compliance. Student loan servicers might need to hire or train additional personnel to effectuate any changes in their practices that would be necessary to produce the increased compliance. They might need to invest in systems changes to carry out their revised procedures. In addition, student loan servicers might need to develop or enhance compliance management systems, to ensure that they are aware of any gaps in their compliance. Such changes will also require investment and might entail increased operating costs.

An entity that incurred costs in support of increasing compliance might try to recoup those costs by attempting to increase servicing revenues.[119] Whether and to what extent such an increase occurred will depend on competitive conditions in the student loan servicing market. For example, larger participants of the student loan servicing market may be in competition with depository institutions or credit unions (or affiliates thereof) that are already subject to Federal supervision with respect to Federal consumer financial law. Assuming as a baseline Bureau supervision of depository institutions and credit unions with over $10 billion in assets (and their affiliates) and prudential regulator supervision with respect to these areas of other depository institutions and credit unions,[120] to the extent the Final Rule results in an increase in the costs faced by the roughly seven larger participants, that increase will be a competitive benefit to those other covered persons. And competition from those other covered persons might reduce the ability of the roughly seven larger participants to pass an increase in their costs through as an increase in the price of servicing.

Any increase that did occur could constitute a cost of the rule borne in part by originators and holders of student loans. Originators or holders might respond to such a cost by choosing to bear the higher servicing costs, by exiting the student loan market, or by

a Change in Tax Withholding," *American Economic Review*, American Economic Association, vol. 85(1), pp. 274–83. Consumers can also be expected to adjust their consumption in response to the timing of anticipated account debits such as automatic-debit student loan payments.

[110] 15 U.S.C. 1681s–2(a)(1)(A).

[111] 12 CFR 1022.42.

[112] 15 U.S.C. 1681i(a)(1), 1681s–2(a)(8); 12 CFR 1022.43.

[113] 15 U.S.C. 1681i (indirect); 12 CFR 1022.43 (direct). In 2011 approximately eight million consumer contacts with the three largest consumer reporting agencies resulted in approximately 32 to 38 million disputed items on consumers' credit files. CFPB, Key Dimensions and Processes in the U.S. Credit Reporting System 4 (2012), *available at http://www.consumerfinance.gov/reports/key-dimensions-and-processes-in-the-u-s-credit-reporting-system/.*

[114] As discussed above, the Bureau estimates that outstanding student loan debt was approximately $1.1 trillion at the end of 2012. This figure represents ten percent of total U.S. consumer debt at the end of the fourth quarter of 2012. *See* Fed. Reserve Bank of N.Y., Quarterly Report on Household Debt and Credit 3 (Feb. 2013), *available at http://www.newyorkfed.org/research/national_economy/householdcredit/DistrictReport_Q42012.pdf* (finding that total U.S. consumer debt was $11.31 trillion at the end of the fourth quarter of 2012).

[115] Inaccurate information, for example, could lead to a consumer's being denied a loan that the consumer could afford to and would be likely to repay. Several studies have identified the problems that inaccurate consumer reporting creates in credit markets. *See, e.g.*, Avery, Robert B., et al., *Credit Report Accuracy and Access to Credit*, 2004 Fed. Res. Bull. 297, 314–15 (estimating fraction of individuals for whom inaccuracies in credit reports might affect credit terms); *see also id.* at 301–02 (citing prior research). Inaccurate information could also lead to a consumer's being offered credit at an interest rate higher than would be available if the creditor knew the consumer's true credit history. Conversely, some inaccuracies, by exaggerating some consumers' credit worthiness, may enable such consumers to receive lower interest rates than they otherwise would but understate their risk of default. In all these cases, increasing the accuracy of consumer report information should improve the pricing and allocation of credit.

[116] 12 U.S.C. 5531.

[117] The CFPB Supervision and Examination Manual provides further guidance on how the UDAAP prohibition applies to supervised entities. That examination manual is available at *http://www.consumerfinance.gov/guidance/supervision/manual.*

[118] See CFPB Supervision and Examination Manual (Oct. 31, 2012), available at *http://www.consumerfinance.gov/guidonce/supervision/manual/*, for a more extensive discussion on the areas in which the Bureau intends to examine. Examiners will be reviewing these business lines for UDAAPs and for any other noncompliance with Federal consumer financial law.

[119] The Bureau uses the terms "revenues" and "receipts" interchangeably in the discussion that follows. The term "annual receipts," however, is used with specific meaning in the context of the SBA's size standards. How a participant receives its revenue depends on the participant's business model. Compensation for servicing Federal student loans is based on contracts with the Department of Education and assignments are dependent on a Department of Education Performance Score Card. *See* Title IV Redacted Contract Awards, *available at https://www.fbo.gov/spg/ED/FSA/CA/FSA-TitleIV-09/listing.html; see also* Dep't of Educ., 2012 FSA Conference Session 14, Federal Loan Servicer Panel Discussion 11 (Nov. 2012). For private student loans, servicing contracts are negotiated between loan holders or guarantors and master servicers, and between master servicers and subservicers.

[120] *See* 12 U.S.C. 5515; 12 U.S.C. 5516.

servicing their portfolios of student loans in-house.

Whether and to what extent such an increase might occur will depend on market conditions. With respect to private student loans, origination and servicing are subject to the negotiation of terms, conditions, and prices; the Bureau lacks detailed information with which to predict what portion of any cost of increased compliance would be borne by loan originators or holders, and what portion would be borne by consumers. For Federally-owned loans, the price of servicing is determined by contracts between servicers and the FSA or in the case of guaranty agencies by regulation.[121] Because the FSA, as a dominant purchaser of servicing, has great control over pricing, the Bureau expects that relatively little if any increase in the cost of servicing Federal student loans would be passed through as an increase in the price of servicing. With respect to consumers, Federal student loans "were authorized as entitlement programs in order to meet student loan demand."[122] Eligibility criteria, interest rates, and loan limits for Federal student loans are determined by Federal law, including the periodic reauthorization of the Higher Education Act of 1965.[123] Therefore, while the price of servicing Federal student loans might change, depending on market conditions, the pricing for and access to Federal student loans would likely not change substantially as a consequence of increases in servicers' compliance with Federal consumer financial law.

2. Benefits and Costs of Individual Supervisory Activities

In addition to the responses of market participants anticipating supervision, the possible consequences of the Final Rule include the responses to and effects of individual examinations or other supervisory activity that the Bureau might conduct in the student loan servicing market.

a. Benefits of Supervisory Activities

Supervisory activity could provide several types of benefits. For example, as a result of supervisory activity, the Bureau and the entity might uncover deficiencies in an entity's policies and procedures. The Bureau's examination manual calls for the Bureau generally to prepare a report of each examination, to assess the strength of the entity's compliance mechanisms, and to assess the risks the entity poses to consumers, among other topics. The Bureau will share examination findings with the entity because one purpose of supervision is to inform the entity of problems detected by examiners. Thus, for example, an examination might find evidence of widespread noncompliance with Federal consumer financial law, or it might identify specific areas where an entity has inadvertently failed to comply. These examples are only illustrative of what kinds of information an examination might uncover.

Detecting and informing entities about such problems should be beneficial to consumers. When the Bureau notifies an entity about risks associated with an aspect of its activities, the entity is expected to adjust its practices to reduce those risks. That response may result in increased compliance with Federal consumer financial law, with benefits like those described above. Or it may avert a violation that would have occurred had Bureau supervision not detected the risk promptly. The Bureau also may inform entities about risks posed to consumers that fall short of violating the law. Action to reduce those risks would also be a benefit to consumers.

Given the obligations student loan servicers have under Federal consumer financial law and the existence of efforts to enforce such law, the results of supervision also may benefit student loan servicers under supervision by detecting compliance problems early. When an entity's noncompliance has resulted in litigation or an enforcement action, the entity must face both the costs of defending its actions and the penalties for noncompliance, including potential liability for statutory damages to private plaintiffs. The entity must also adjust its systems to ensure future compliance. Changing practices that have been in place for long periods of time can be expected to be relatively difficult because they may be severe enough to represent a serious failing of an entity's systems. Supervision may detect flaws at a point when correcting them would be relatively inexpensive. Catching problems early can, in some situations, forestall costly litigation. To the extent early correction limits the amount of consumer harm caused by a violation, it can help limit the cost of redress. In short, supervision might benefit student loan servicers under supervision by, in the aggregate, reducing the need for other more expensive activities to achieve compliance.[124]

b. Costs of Supervisory Activities

The potential costs of actual supervisory activities arise in two categories. The first involves the costs to individual student loan servicers of increasing compliance in response to the Bureau's findings during supervisory activity and to supervisory actions. These costs are similar in nature to the possible compliance costs, described above, that larger participants in general might incur in anticipation of possible supervisory activity. This analysis will not repeat that discussion. The second category is the cost of supporting supervisory activity.

Supervisory activity may involve requests for information or records, on-site or off-site examinations, or some combination of these activities. For example, in an on-site examination, generally, Bureau examiners begin by contacting an entity for an initial conference with management. That initial contact is often accompanied by a request for information or records. Based on the discussion with management and an initial review of the information received, examiners determine the scope of the on-site exam. While on-site, examiners spend some time in further conversation with management about the entity's policies, processes, and procedures. The examiners also review documents, records, and accounts to assess the entity's compliance and evaluate the entity's compliance management systems. As with the Bureau's other examinations, examinations of nonbank participants in the student loan servicing market may involve issuing confidential examination reports and compliance ratings. The Bureau's examination manual describes the supervision process and indicates what materials and information an entity can expect examiners to request and review,

[121] *See* 34 CFR 682.404(k) (setting the default aversion fee for guaranty agencies); Title IV Redacted Contract Awards, *available at https://www.fbo.gov/spg/ED/FSA/CA/FSA-TitleIV-09/listing.html.*

[122] Dep't of Educ., Student Loans Overview: Fiscal Year 2013 Budget Request, at R–28, *available at http://www2.ed.gov/about/overview/budget/budget13/justifications/r-loansoverview.pdf.*

[123] 20 U.S.C. 1070 *et seq.*

[124] Further potential benefits to consumers, covered persons, or both might arise from the Bureau's gathering of information during supervisory activities. The goals of supervision include informing the Bureau about activities of market participants and assessing risks to consumers and to markets for consumer financial products and services. The Bureau may use this information to improve regulation of consumer financial products and services and to improve enforcement of Federal consumer financial law, in order to better serve its mission of ensuring consumers' access to fair, transparent, and competitive markets for such products and services. Benefits of this type would depend on what the Bureau learns during supervision and how it uses that knowledge. For example, because the Bureau would examine multiple covered persons in the student loan servicing market, the Bureau would build an understanding of how effective compliance systems and processes function.

both before they arrive and during their time on-site.

The primary cost an entity will face in connection with an examination would be the cost of employees' time to collect and provide the necessary information. At this stage in its nonbank supervision program, the Bureau does not have precise estimates of the expected duration and frequency of its examinations and the resources that entities may expend to cooperate with such examinations. The frequency and duration of examinations of any particular entity will depend on a number of factors, including the size of the entity, the compliance or other risks identified, whether the entity has been examined previously, and the demands on the Bureau's supervisory resources imposed by other entities and markets. Nevertheless, some rough estimates may be useful to provide a sense of the magnitude of potential staff costs that entities might incur.

The Bureau has engaged in multiple mortgage servicing exams. Because both mortgage servicing and student loan servicing involve collecting and remitting payments on long-term loans, examinations of mortgage servicers should be a reasonable analogue for the examinations the Bureau will conduct under the Final Rule.[125] Therefore, the Bureau can estimate duration and labor intensity of examinations using information from mortgage servicing examinations that have already been completed. The average duration of the on-site portion of a Bureau examination of a mortgage servicer is ten weeks.[126] The Bureau estimates the cost of an examination to a student loan servicer by assuming that, similarly, Bureau examiners might review materials and interview employees for ten weeks. An entity could be expected to devote the equivalent of one full-time employee during that time and for two weeks beforehand to prepare materials for the examination. The typical cost of an employee involved in responding to supervision can be expected to be roughly $50 per hour.[127] Twelve weeks of such an employee's time would cost approximately $24,000.[128]

Three commenters contended that the Bureau underestimated the costs of supervision and stated that the Bureau should have used a different basis for its estimate. In particular, two of the commenters stated that the Bureau should have based its estimate of costs on, among other things, audits of servicers required by the Department of Education. In the commenters' view, this would have resulted in a substantially higher estimate. The Bureau believes the analogue it uses is a better analogue than those proposed by the commenters because it more accurately reflects the sort of examination to which student loan servicers will be subject. Bureau examinations, as detailed in the "Overview" section of the preamble to this rule, test for compliance with Federal consumer financial protection laws. Student loan servicing and mortgage loan servicing examinations will involve some of the same Federal consumer financial protection laws, and the general process and costs will be relatively similar.[129] On the other hand, audits required by the Federal loan holder, the Department of Education, or FFELP loan holders, include preparing and filing detailed financial statements regarding matters other than Federal consumer financial protection law.[130] The Bureau does not believe that the burden of accommodating an audit regarding matters other than compliance with Federal consumer financial protection law is more analogous to the costs imposed by this rule than examinations of similar entities for compliance with similar Federal consumer financial protection law. One commenter also urged the Bureau to recognize the cumulative burden of Federal reviews. However, the commenter did not identify any respect in which the existence of Department of Education audits would make Bureau supervision more burdensome.

One commenter stated that the Bureau's cost estimate should be increased because additional employee time will be required. That more than one employee might be involved in an examination does not, in itself, suggest the Bureau's estimate was inaccurate. In estimating that an examination might require a full-time compliance officer for 12 weeks and using the mean hourly wage for compliance officers, the Bureau did not mean to suggest that only one mid-level person would be involved in an examination. Instead, the Bureau recognizes that both junior and high-level staff may participate on a part-time basis and that these staff may be drawn from different offices within the entity. The Bureau intended its original estimate to represent the aggregate amount of labor resources a company might dedicate to responding to supervisory activity. The Bureau's estimate was based on the Bureau's experience in mortgage servicing examinations. As discussed above, the Bureau continues to believe these examinations are an appropriate analogue on which to base its estimate.

The commenter specifically suggested that the Bureau's cost estimate was too low because it did not sufficiently account for the cost of attorneys, which the commenter asserted will likely be involved in examinations. The Bureau has not suggested that counsel is required during an examination. However, to provide further information about potential costs of the rule, the Bureau has additionally estimated the cost of an examination using the assumption that the equivalent of two full-time compliance officers participated for 12 weeks, and a lawyer participated in the examination for

[125] Mortgage servicing examinations likely differ in detail from the supervisory activity the Bureau would undertake for student loan servicers. For example, mortgage servicers have certain obligations under the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 *et seq.*, which does not apply to student loan servicing. As another example, mortgages are secured by real estate, and servicing activities can involve that security interest. The parts of the Bureau's examination manual that relate to mortgage servicing and education lending reflect the differences between these two markets. Nonetheless, for the majority of borrowers, the core activities of the two types of servicers are comparable. The Bureau therefore expects that its experience supervising mortgage servicers can provide a useful guide for estimating the costs of examinations of student loan servicers.

[126] This estimate was derived prior to issuance of the Proposed Rule using confidential supervisory Bureau data on the duration of on-site mortgage servicing examinations at both depository institutions and nonbanks. For purposes of this calculation, the Bureau counted its mortgage servicing examinations for which the on-site portion had been completed. Additionally, the Bureau counted only the on-site portion of an examination, which included time during the on-site period of the examination that examiners spent examining the entity while off-site for holiday or other travel considerations. However, the Bureau did not count time spent scoping an examination before the on-site portion of the examination or summarizing findings or preparing reports of examination afterwards.

[127] Bureau of Labor Statistics (BLS), Occupational Employment Statistics, *available at ftp://ftp.bls.gov/pub/special.requests/oes/oesm11all.zip*. BLS data for "activities related to credit information" (NAICS code 522300) indicate that the mean hourly wage of a compliance officer in that sector is $33.13. BLS data also indicate that salary and wages constitute 66.6 percent of the total cost of compensation. *See* BLS, Employer Costs for Employee Compensation Database, Series ID CMU2025220000000D, *available at http://data.bls.gov/timeseries/CMU2025220000000D?data_tool=XGtable* (providing wage and salary percent of total compensation in the credit intermediation and related activities private industry for Q4 2011). Dividing the hourly wage by 66.6 percent yields a total mean hourly cost (including total costs, such as salary, benefits, and taxes) rounded to the nearest dollar of $50 per hour.

[128] All figures assume 40 hours of work per week.

[129] *See, e.g.*, 12 U.S.C. 5531 (prohibiting unfair, deceptive, or abusive acts or practices).

[130] *See, e.g.*, Dep't of Educ., Office of Inspector Gen., Lender Servicer Financial Statement Audit and Compliance Attestation Guide, *available at http://www2.ed.gov/about/offices/list/oig/nonfed/lenderserviceraudtguidejanuary2011.pdf* (establishing audit standards for certain servicers of FFELP loans).

approximately 10 percent of the firm's overall activity during the course of the examination, roughly 100 hours.[131] Under these assumptions, the total labor costs would be approximately $59,000.

By comparison, the Bureau estimates that a student loan servicer with responsibility for one million accounts would receive at least $20.2 million per year in revenue from that activity.[132] Thus, the labor costs associated with an examination, as estimated above, would be no greater than 0.12 percent of the receipts of such a firm using the Bureau's original estimate or 0.29 percent using the alternative estimate that incorporates the equivalent of two full-time compliance officers and attorney involvement.[133] Note that $20.2 million is an estimated lower bound on the receipts of a larger participant as defined by the Final Rule. The costs associated with an examination are therefore likely to be a much smaller percentage of receipts each year for a given larger participant.

The overall costs of supervision in the student loan servicing market will depend on the frequency and extent of Bureau examinations. Neither the Dodd-Frank Act nor the Final Rule specifies a particular level or frequency of examinations.[134] The frequency of examinations will depend on a number of factors, including the Bureau's understanding of the conduct of market participants and the specific risks they pose to consumers; the responses of larger participants to prior examinations; and the demands that other markets make on the Bureau's supervisory resources. These factors can be expected to change over time, and the Bureau's understanding of these factors may change as it gathers more information about the market through its supervision and by other means. The Bureau therefore declines to predict, at this point, precisely how many examinations in the student loan servicing market it would undertake in a given year.[135]

3. Costs of Assessing Larger-Participant Status

Finally, the Bureau acknowledges that in some cases student loan servicers may incur costs in assessing whether they qualify as larger participants and potentially disputing their status.

Larger-participant status depends on the number of accounts for which a student loan servicer is performing servicing as of December 31 of the prior calendar year. This number should be readily extractible from administrative records because account volume is, in general, derived from the compensation a servicer receives. In addition, all but one large nonbank student loan servicer reported to SLSA their number of borrowers and number of loans as of December 31, 2011.[136] These two figures should be lower and upper bounds for a servicer's number of accounts. Student loan servicers that service Federal loans should at a minimum know their Federal loan volumes as of December 31 because the Department of Education keeps up-to-date records of Federal student loan servicers in the National Student Loan Data System.[137]

To the extent that some student loan servicers do not already know their account volumes, such servicers might, in response to the Final Rule, develop new systems to count their accounts in accordance with the proposed definition of "account volume." The data the Bureau currently has do not support a detailed estimate of how many student loan servicers would engage in such development or how much they might spend. Regardless, student loan servicers would be unlikely to spend significantly more on specialized systems to count accounts than it would cost them to be supervised by the Bureau as larger participants. It bears emphasizing that even if expenditures on an accounting system successfully proved that a student loan servicer was not a larger participant, it would not necessarily follow that the student loan servicer could not be supervised. The Bureau can supervise a student loan servicer whose conduct the Bureau determines, pursuant to 12 U.S.C. 5514(a)(1)(C) and 12 CFR part 1091, poses risks to consumers. Thus, a student loan servicer choosing to spend significant amounts on an accounting system directed toward the larger-participant test could not be sure it would not be subject to Bureau supervision notwithstanding those expenses. The Bureau therefore believes it is unlikely that any but a very few student loan servicers would undertake such expenditures.

4. Consideration of Alternatives

The Bureau considered different thresholds for larger-participant status in the student loan servicing market. Figure 1 presents projections of the number of borrowers with loans being serviced by each servicer as of December 31, 2012.[138] Since the Bureau does not have specific data about the number of accounts, as defined in the Final Rule, in the discussion that follows the number of borrowers, as reported to SLSA, is treated as a proxy for the number of accounts at a given servicer.[139] These projections may underestimate the actual number of accounts for loans being serviced because they do not account for the possibility of growth in the servicing of private student loans or the possibility

[131] BLS, Occupational Employment Statistics, *available at ftp://ftp.bls.gov/pub/special.requests/oes/oesm11oll.zip*. BLS data for "activities related to credit information" (NAICS code 522300) indicate that the mean hourly wage of a lawyer in that sector is $72.03. Because salary and wages constitute 66.6% of total compensation, the total mean hourly cost for a lawyer is $108 per hour.

[132] The Bureau estimates this figure based on the 2013 average unit cost for loan servicing on Federal loans of $1.68 per month per borrower for for-profit servicers of Federal loans, as reported by the Department of Education. *See* Student Aid Administration Fiscal Year 2013 Request, at AA–15, *available at http://www2.ed.gov/about/overview/budget/budget13/justifications/aa-saadmin.pdf*. The same source reports that not-for-profit servicers' average unit cost is $1.76 per month per borrower. The Bureau assumes, for the estimate, that servicing private student loans generates at least as much revenue per month per borrower as servicing Federal loans, and that a loan is serviced for 12 months per year. Note that since the number of accounts is generally no less than the number of borrowers, this approach may underestimate revenues.

[133] The percentage would be even lower if an entity received revenue from other sources.

[134] The Bureau declines to predict at this time precisely how many examinations it would undertake at each student loan servicer. But for purposes of the following analysis, the Bureau uses one examination every two years. If the Bureau examines each of the seven larger participants of the student loan servicing market once every two years, the expected annual labor cost of supervision per larger participant would be approximately $12,000 (the cost of one full-time compliance officer for twelve weeks, divided by two). This would account for at most 0.06 percent of the receipts of an entity responsible for one million accounts. To put this in perspective, the Bureau estimates that the seven larger participants handle at least 49 million accounts, resulting in at least $984 million in receipts. The expected annual labor cost of supervision, collectively, at these seven larger participants is estimated to be $82,000, which is 0.01 percent of their estimated total receipts. Even if the entity instead used the equivalent of two full-time compliance officers for twelve weeks and 100 hours of attorney time, the expected annual labor cost of supervision, collectively, at these seven larger participants would be an estimated $206,000, which is 0.02 percent of their estimated total receipts.

[135] One commenter recommended that the Bureau minimize the costs of supervision by coordinating with the Department of Education. In fact, in connection with its supervision of student loan servicers, pursuant to its statutory obligation, the Bureau will use, to the fullest extent possible, reports that have been provided to other Federal agencies and share information with the Department of Education regarding complaints. 12 U.S.C. 5514(b)(4); 5535(c).

[136] 2012 SLSA Servicing Volume Survey.

[137] Dep't of Educ., National Student Loan Data System (NSLDS) for Students (2013), *available at https://www.nslds.ed.gov*.

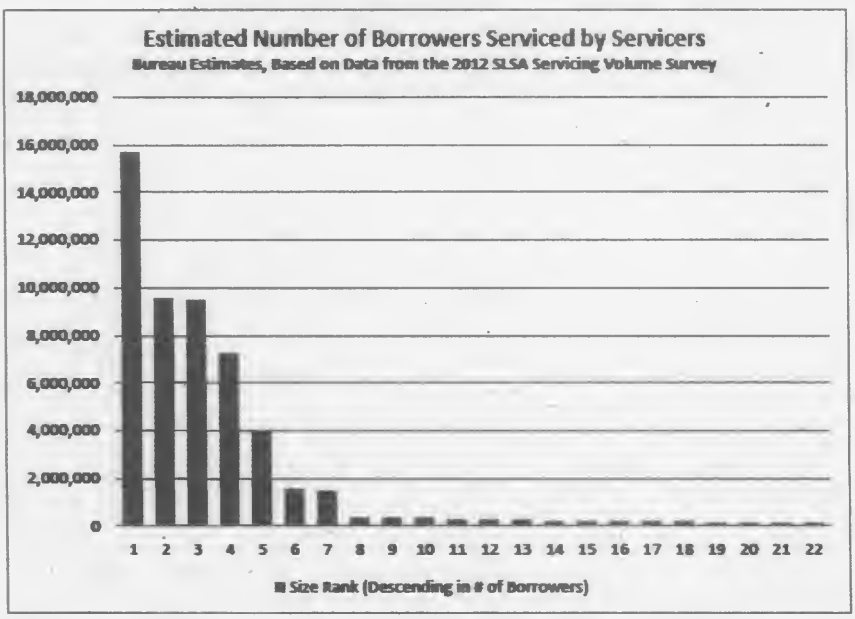
[138] *See* 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

[139] For Federal Direct and Federally-owned FFELP loans, the concept of borrower and account are identical.

of multiple accounts for a given borrower at a servicer. Note that there is a relatively large decline in number of borrowers between the seventh largest servicer, which services the loans of approximately 1.5 million borrowers, and the next largest servicers, each of which services the loans of approximately 300,000 borrowers. This drop is attributable in part to FSA's mechanism for allocating servicing contracts to the TIVAS and to the not-for-profit servicers (NFPs): Each NFP is limited to servicing at most 100,000 Federal accounts at a time.[140]

One possible alternative the Bureau considered was a larger threshold of, for example, three million in account volume. Under such an alternative, the benefits of supervision to both consumers and covered persons would likely be substantially reduced because firms impacting a large number of consumers and/or consumers in important market segments would be omitted. On the other hand, the potential costs to nonbank covered persons would of course be reduced if fewer firms were defined as larger participants and thus fewer were subject to the Bureau's supervision authority on that basis.

Figure 1: Estimated Number of Borrowers Serviced by Servicers[141]



The Bureau also considered various other criteria for assessing larger-participant status, including number of loans and total unpaid principal balances. Calculating either of these metrics might be more involved than calculating total account volume for a given servicer. If so, then a given entity might face greater costs for evaluating or disputing whether it qualified as a larger participant. However, among the participants in the student loan servicing market these metrics correlate strongly with account volume. For each criterion, the Bureau expects that it could choose a suitable threshold for which the set of larger participants, among those entities participating in the market today, would be the same as the seven entities expected to qualify under the Final Rule. Consequently, the costs, benefits, and impacts of supervisory activities should not depend on which criterion the Bureau uses.

C. Potential Specific Impacts of the Final Rule

1. Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets, as Described in Dodd-Frank Act Section 1026

The Final Rule does not apply to depository institutions or credit unions of any size. However, it might, as discussed above, have some impact on depository institutions that hold private student loans or that service private student loans or FFELP loans. The Final Rule might therefore alter market dynamics in a market in which some depository institutions and credit unions with less than $10 billion in assets may be active. To the extent such institutions may have less market power than larger institutions, the change in market dynamics could affect them differently. Although this affects all student loan holders that contract for servicing, loan holders that are depository institutions or credit unions with less than $10 billion in assets may have less negotiating power with respect to the price of servicing than larger institutions, so they may face larger price increases. However, the Bureau notes that asset size alone is not necessarily a good predictor of each institution's susceptibility to any changes in the student loan servicing market that might result from the Final Rule. An individual institution that focused on educational lending might, on its own or together with its affiliates, play a role in the market for originating student loans or for contracting for servicing that was disproportionate to its assets as a share of the overall banking market. And an individual

[140] HCERA/SAFRA—Not-For-Profit (NFP) Servicer Program documentation, as of Sept. 25, 2013, *available at https://www.fbo.gov/spg/ED/FSA/CA/NFP-RFP-2010/listing.html.*

[141] 2012 SLSA Servicing Volume Survey, augmented by CFPB estimates.

institution might have contractual or other relationships with particular servicers that could insulate it from some of the potential impacts of the Final Rule or could make it especially vulnerable to those impacts.

2. Impact of the Provisions on Consumer Access to Credit and on Consumers in Rural Areas

If the costs of increased compliance increased the price of servicing, creditors might consider that increase in the underwriting and loan pricing process. Private student loan creditors might consider adjusting the terms and conditions of loans to pass some or all of the price increase through to consumers. In addition, creditors might be less willing to extend credit to marginal borrowers. Thus, it is possible that consumers' access to credit might decrease as a result of the Final Rule. As noted above, qualifying students are entitled to Federal Direct loans in amounts and on terms specified by statute.[142] An increase in the price of servicing Federal loans is therefore unlikely to reduce consumers' access to such loans.

Since the rule applies uniformly to the loans of a particular type of both rural and non-rural consumers, the rule should not have a unique impact on rural consumers. The Bureau is not aware of any evidence suggesting that rural consumers have been disproportionately harmed by student loan servicers' failure to comply with Federal consumer financial law. The Bureau requested comments that provide information related to how student loan servicing affects rural consumers but did not receive any.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.[143] The RFA defines a "small business" as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.[144]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) of any proposed rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small entity representatives prior to proposing a rule for which an IRFA is required.[145]

The undersigned certified that the Proposed Rule, if adopted, would not have a significant economic impact on a substantial number of small entities and that an initial regulatory flexibility analysis was therefore not required. The Final Student Loan Servicing Rule adopts the Proposed Rule, with some modifications that do not lead to a different conclusion. Therefore, a final regulatory flexibility analysis is not required.

The Final Rule defines a class of student loan servicers as larger participants of the student loan servicing market and thereby authorizes the Bureau to undertake supervisory activities with respect to those servicers. The rule adopts a threshold for larger-participant status of one million in account volume. As estimated above, a student loan servicer with one million accounts receives about $20.2 million in servicing revenue per year. By contrast, under the SBA's criterion at the time of the Proposed Rule, a servicer was generally a small business only if its annual receipts were below $7 million. Thus, larger participants of the proposed student loan servicing market would generally not have been small businesses for purposes of the analysis.[146] Using the SBA's updated criterion of $19 million would not have altered the conclusion because a servicer at the Bureau's threshold would have about $20.2 million in annual servicing revenue.[147] Indeed, using the estimate above that a servicer earns $1.68 per month per account, the Bureau believes that at present none of the larger participants under the Final Rule have annual receipts below $30 million.[148] Moreover, the rule does not itself impose any obligations or standards of conduct on businesses outside the category of larger participants.

For these reasons, the Final Rule will not have a significant impact on a substantial number of small entities.

Additionally, and in any event, the Bureau believes that the Final Rule will not result in a "significant impact" on any small entities that could be affected. As previously noted, when and how often the Bureau will in fact engage in supervisory activity, such as an examination, with respect to a larger participant (and, if so, the frequency and extent of such activity) will depend on a number of considerations, including the Bureau's allocation of resources and the application of the statutory factors set forth in 12 U.S.C. 5514(b)(2). Given the Bureau's finite supervisory resources, and the range of

[142] See 20 U.S.C. 1087e.

[143] 5 U.S.C. 601 *et seq.* The term "'small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes [an alternative definition after notice and comment]." *Id.* at 601(4). The term "'small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes [an alternative definition after notice and comment]." *Id.* at 601(5). The Bureau is not aware of any small governmental units or small not-for-profit organizations to which the Final Rule will apply.

[144] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consultation with the SBA and an opportunity for public comment.

[145] 5 U.S.C. 609.

[146] A business might, hypothetically, be a larger participant of the student loan servicing market yet be a small business for RFA purposes, if the business lost a significant amount of account volume during the second year after qualifying as a larger participant. The Bureau expects such situations, if any, to be quite rare. In addition, if the Bureau aggregates the activities of affiliated companies in part by adding together numbers of accounts, two companies that are small businesses might, together, have an account volume over one million. The Bureau anticipates no more than a very few such cases, if any, in the student loan servicing market.

[147] 13 CFR 121.201 (NAICS code 522390), as amended at 78 FR 37409 (June 20, 2013). Prior to this amendment (and at the time of the NPRM), the small business threshold was $7 million. For the purposes of this analysis, the Bureau assumes that participants in the student loan servicing market will be classified in NAICS code 522390, "other activities related to credit intermediation." NAICS lists "loan servicing" as an index entry corresponding to this code. See Census Bureau, 2012 NAICS Definition, 522390 Other Activities Related to Credit Intermediation, *available at http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=522390&search=2012* NAICS Search. The Bureau recognizes that there may be larger participants of the student loan servicing market that are primarily engaged in other market activities that fall under other NAICS codes. For example, an entity could have just over 1,000,000 student loan servicing accounts while also engaging in other market activities such as those falling under code 522291 (student loan origination), code 561440 (debt collection), or code 56149 (business support). The thresholds for these codes range from $14 million (NAICS code 56149) to $35.5 million (NAICS code 522291). A larger participant with $20.2 million in receipts from student loan servicing ($1.68 per month per account * 1,000,000 accounts) that also has enough receipts from another market activity to make that activity its "primary industry" is likely to have more than $35.5 million in total receipts, which is the highest relevant threshold. See 13 CFR 121.107 (establishing that the SBA uses distribution of receipts, employees, and costs to determine an entity's "primary industry").

[148] If one or more larger participants services loans it holds, such a firm might not receive monthly servicing compensation for such accounts. However, the Bureau is not currently aware of any small businesses that service student loans they originate or hold and that would meet the larger-participant threshold.

industries over which it has supervisory responsibility for consumer financial protection, when and how often a given student loan servicer will be supervised is uncertain. Moreover, when supervisory activity occurs, the costs that result from such activity are expected to be minimal in relation to the overall activities of a student loan servicer.[149]

Finally, a commenter contended that "it is unclear whether the CFPB intends to flow down the requirements of the Proposed Rule to service providers of larger participants." The same commenter also requested that, if the service providers are subject to supervision, the Bureau provide an RFA analysis of the impact of the Final Rule on service providers that are small businesses. Although the Final Rule does not address service providers, 12 U.S.C. 5514(e) authorizes the Bureau to supervise service providers to larger participants. The Final Rule identifies those student loan servicers who are larger participants and are, therefore subject to Bureau supervision. Thus, pursuant to the Bureau's statutory authority, in conjunction with the supervision of a larger participant encompassed by the Final Rule, the Bureau may also supervise any service providers to that larger participant.

Nonetheless, the Final Rule does not address service providers, and effects on service providers therefore need not be discussed for purposes of this RFA analysis. Even if such effects were relevant, however, the Bureau concludes that, to the extent the Final Rule will result in the supervision of service provides to larger participants, this will not have a significant economic impact on a substantial number of small entities. First, the Bureau does not anticipate that the impact of supervisory activity on such service providers would have any greater economic impact than at the larger participants to which they were connected. Given the Bureau's finite supervisory resources, and its discretion in exercising supervisory authority, the impact at a given service provider would probably be much less than at its associated larger participant.

Second, supervision of service providers to larger participants of the student loan servicing market will not have an impact on a substantial number of small entities. The Bureau reaches this conclusion based on the number of small firms in the relevant NAICS codes. Many of these service providers would be considered to be in the industries with NAICS code 552390, "Other activities related to credit intermediation." According to the 2007 Economic Census, more than 5,000 small firms are encompassed by that code,[150] and the number of those firms that are service providers to the seven student loan servicers who are likely to be larger participants will be only a small fraction of that number.

Accordingly, the Bureau adheres to the certification, in the Proposed Rule, that the Final Rule will not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

The Bureau determined that the Proposed Rule would not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Bureau did not receive any comments regarding this conclusion, to which the Bureau adheres. The Bureau concludes that the Final Student Loan Servicing Rule, which adopts the Proposed Rule in relevant respects, also imposes no new information collection requirements subject to the Paperwork Reduction Act.

List of Subjects in 12 CFR Part 1090

Consumer protection, Credit.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends 12 CFR part 1090, subpart B, as follows:

PART 1090—DEFINING LARGER PARTICIPANTS OF CERTAIN CONSUMER FINANCIAL PRODUCT AND SERVICE MARKETS

■ 1. The authority citation for part 1090 continues to read as follows:

Authority: 12 U.S.C. 5514(a)(1)(B); 12 U.S.C. 5514(a)(2); 12 U.S.C. 5514(b)(7)(A); and 12 U.S.C. 5512(b)(1).

Subpart B—Markets

■ 2. Add § 1090.106 to subpart B to read as follows:

§ 1090.106 Student loan servicing market.

(a) *Market-related definitions.* As used in this subpart:

Account volume means the number of accounts with respect to which a nonbank covered person is considered to perform student loan servicing, calculated as follows:

(i) *Number of accounts.* A nonbank covered person has at least one account for each student or prior student with respect to whom the nonbank covered person performs student loan servicing. If a nonbank covered person is receiving separate fees for performing student loan servicing with respect to a given student or prior student, the nonbank covered person has one account for each stream of fees to which the person is entitled.

(ii) *Time of measurement.* The number of accounts is counted as of December 31 of the prior calendar year.

(iii) *Affiliated companies.* (A) The account volume of a nonbank covered person is the sum of the number of accounts of that nonbank covered person and of any affiliated companies of that person.

(B) If two persons become affiliated companies, each person's number of accounts as of the prior calendar year's December 31 is included in the total account volume.

(C) If two affiliated companies cease to be affiliated companies, the number of accounts of each continues to be included in the other's account volume until the succeeding December 31.

Post-secondary education expenses means any of the expenses that are included as part of the cost of attendance of a student as defined in 20 U.S.C. 1087*ll*.

Post-secondary education loan means a loan that is made, insured or guaranteed under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*) or that is extended to a consumer with the expectation that the funds extended will be used in whole or in part to pay post-secondary education expenses. A loan that is extended in order to refinance or consolidate a consumer's existing post-secondary education loans is also a post-secondary education loan. However, no loan under an open-end credit plan (as defined in Regulation Z, 12 CFR 1026.2(a)(20)) or loan that is secured by real property is a post-secondary education loan, regardless of the purpose for the loan.

Student loan servicing means:

(i)(A) Receiving any scheduled periodic payments from a borrower or notification of such payments and

(B) Applying payments to the borrower's account pursuant to the terms of the post-secondary education

[149] As discussed above, the Bureau has estimated that the cost of participating in an examination would be substantially below one percent of annual receipts for a firm near the threshold of one million in account volume.

[150] Census Bureau, 2007 Economic Census, American FactFinder, Finance and Insurance: Subject Series—Estab. and Firm Size: Summary Statistics by Revenue Size of Firms for the United States, *available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_52SSSZ4&prodType=table* (NAICS code 522390).

loan or of the contract governing the servicing;

(ii) During a period when no payment is required on a post-secondary education loan,

(A) Maintaining account records for the loan and

(B) Communicating with the borrower regarding the loan, on behalf of the loan's holder; or

(iii) Interactions with a borrower, including activities to help prevent default on obligations arising from post-secondary education loans, conducted to facilitate the activities described in paragraph (i) or (ii) of this definition.

(b) *Test to define larger participants.* A nonbank covered person that offers or provides student loan servicing is a larger participant of the student loan servicing market if the nonbank covered person's account volume exceeds one million.

Dated: December 3, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–29145 Filed 12–5–13; 8:45 am]

BILLING CODE 4810–AM–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1260

RIN 2590–AA35

Information Sharing Among Federal Home Loan Banks

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: Section 1207 of the Housing and Economic Recovery Act of 2008 (HERA) amended the Federal Home Loan Bank Act (Bank Act) to add a new section 20A, which requires the Federal Housing Finance Agency (FHFA) to make available to each Federal Home Loan Bank (Bank) information relating to the financial condition of all other Banks. Section 20A also requires FHFA to promulgate regulations to facilitate the sharing of such information among the Banks. This final rule implements the provisions of section 20A of the Bank Act.

DATES: The final rule is effective on January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Assistant General Counsel, Office of General Counsel, *Eric.Raudenbush@fhfa.gov,* (202) 649–3084; or Jonathan Curtis, Financial Analyst, Office of Program Support, Division of Bank Regulation, *Jonathan.Curtis@fhfa.gov,* (202) 649–3321 (these are not a toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Federal Home Loan Bank System

The Federal Home Loan Bank System (Bank System) consists of twelve Banks and the Office of Finance (OF). The Banks are wholesale financial institutions organized under the Bank Act.[1] The Banks are cooperatives; only members of a Bank may purchase its capital stock, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[2] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions.[3] Any eligible institution (generally a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock.[4]

B. Banks' Joint and Several Liability and Disclosure Requirements on COs

The Banks fund their operations principally through the issuance of consolidated obligations (COs), which are debt instruments issued on behalf of the Banks by the OF, a joint office of the Banks, pursuant to section 11 of the Bank Act,[5] and part 1270 of the regulations of FHFA.[6] Under these regulations, the COs may be issued only through OF as agent for the Banks, and the Banks are jointly and severally liable for the timely payment of principal and interest on all COs when due.[7] Accordingly, even when COs are issued with one Bank being the primary obligor, the ultimate liability for the timely payment of principal and interest thereon remains with all of the Banks collectively, which creates a need for each Bank to be able to assess the financial condition of the other Banks.

Although the COs themselves are not registered securities under the federal securities laws, the Federal Housing Finance Board (Finance Board)[8] adopted regulations in 2004 requiring each Bank to register a class of its common stock (which is issued only to its member institutions) with the Securities and Exchange Commission (SEC) under section 12(g) of the Securities Exchange Act of 1934 (1934 Act).[9] Each Bank subsequently registered a class of its common stock with the SEC in compliance with that regulation. Separately, HERA included a provision requiring the Banks to register their common stock under section 12(g) of the 1934 Act, and to maintain that registration.[10] Accordingly, each Bank remains subject to the periodic disclosure requirements established under the 1934 Act, as interpreted and administered by the SEC.

C. New Statutory Provision Requiring the Sharing of Bank Information

Section 1207 of HERA added a new section 20A to the Bank Act that requires FHFA to make available to each Bank such reports, records, or other information as may be available, relating to the condition of any other Bank in order to enable each Bank to evaluate the financial condition of the other Banks and the Bank System as a whole.[11] The underlying objective for that requirement is to better enable each Bank to assess the likelihood that it may be required to make payments on behalf of another Bank under its joint and several liability on the COs, as well as to comply with disclosure obligations under the 1934 Act regarding its potential joint and several liability.[12] Section 20A further requires FHFA to promulgate regulations to facilitate the sharing of such financial information among the Banks.[13] Section 20A permits a Bank to request that FHFA determine that particular information that may otherwise be made available is "proprietary" (a term that is not defined in the Bank Act) and that the public interest requires that such information not be shared.[14] Finally, section 20A

[1] *See* 12 U.S.C. 1423, 1432(a).

[2] *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430b.

[3] *See* 12 U.S.C. 1427.

[4] *See* 12 U.S.C. 1424; 12 CFR part 1263.

[5] 12 U.S.C. 1431.

[6] 12 CFR part 1270.

[7] *See* 12 CFR 1270.4(a), 1270.10(a).

[8] The Federal Housing Finance Board was the regulator of the Bank System from 1989 through 2008. HERA, which abolished the Finance Board and established FHFA, provides that all regulations of the Finance Board shall remain in effect and shall be enforceable by the Director of FHFA until modified, terminated, set aside or superseded by the Director. *See* Public Law 110–289, section 1312, 122 Stat. 2798 (2008).

[9] 15 U.S.C. 78*l*(g). *See* 69 FR 38811 (June 29, 2004), *codified at* 12 CFR part 998, *repealed,* 78 FR 15869 (March 13, 2013).

[10] *See* 15 U.S.C. 78oo(b).

[11] *See* 12 U.S.C. 1440a.

[12] *See* 12 U.S.C. 1440a(a).

[13] *See* 12 U.S.C. 1440a(b)(1).

[14] *See* 12 U.S.C. 1440a(b)(2).

provides that it does not affect the obligations of the Banks under the 1934 Act and related regulations of the SEC, and that the sharing of Bank information thereunder shall not cause FHFA to waive any privilege applicable to the shared information.[15]

D. The Proposed Rules

On September 30, 2010, FHFA published a proposed rule to implement section 20A of the Bank Act by adding to its regulations a new part 1260 to govern the sharing of information among the Banks and the OF.[16] Following the close of the 60-day comment period on November 29, 2010, the agency reviewed and considered all of the comments received and also analyzed more closely a number of issues underlying the rule, including the scope of information to be shared and how that scope might evolve over time. Ultimately, FHFA concluded that a number of revisions to the proposed rule were necessary and that those revisions were significant enough to require the publication of a second proposed rule.

On January 29, 2013, FHFA published a second proposed rule that, again, proposed to implement section 20A by adding a new part 1260 to its regulations.[17] As re-proposed, new part 1260 addressed the procedures through which FHFA would share with all of the Banks non-public financial and supervisory information about each individual Bank, including procedures through which a Bank could request that FHFA withhold from distribution qualifying proprietary information, and set forth requirements intended to prevent or limit the disclosure of that shared information to outside parties. However, in contrast to the first proposed rule, the regulatory text of the second proposed rule did not enumerate the specific categories of information that FHFA would distribute under the rule. Instead, it provided that the Director would identify those categories through an order, which could be updated or superseded from time to time as necessary. In the **SUPPLEMENTARY INFORMATION** to the second proposed rule, FHFA identified and described seven categories of information that it expected to make available under the initial distribution order to be issued under a final rule and requested comments on those categories. FHFA also requested comments on one additional category of information that it was considering including in the initial distribution order.

The 60-day comment period for the second proposed rule ended on April 1, 2013. FHFA received two comment letters in response to the proposed rule, both of which were sent by representatives of individual Banks—specifically, the San Francisco and Topeka Banks. Neither Bank's letter expressed general support for, or opposition to, the second proposed rule. Instead, each Bank's letter requested a specific change to the regulatory text. Both Bank's comments are discussed below in the analysis of the final rule text.

II. The Final Rule

In developing the final rule, FHFA considered the suggestions made in the comment letters, but decided not to adopt those suggestions. The agency ultimately decided to adopt a final rule that is substantially similar to the second proposed rule, but that differs from that proposal in two respects. First, while the second proposed rule provided that the categories of information to be distributed would be identified through an order of the Director or his designee, the final rule provides that these categories will be identified in a written notice to be issued by the agency. Second, revisions have been made to the rule text in several sections to address the possibility that FHFA may in the future determine that certain types of information are best shared directly between the Banks, as opposed to being distributed to the Banks by or through FHFA, which was the only method of distribution contemplated under the second proposed rule. These revisions, as well as a few non-substantive changes to the rule text are discussed below.

FHFA has also decided that the information to be distributed initially under the final rule will consist of the eight categories that were described in the Supplementary Information to the second proposed rule. The initial information sharing notice, which sets forth those categories, is also being published by FHFA in this issue of the **Federal Register**. Each of the categories of information enumerated in that notice are to be distributed to the Banks and the OF by FHFA. Although additions to the final rule text address the possibility of direct sharing of information between Banks, no such direct sharing will occur initially.

A. Section 1260.1—Definitions

Section 1260.1 of the final rule sets forth definitions of the terms "proprietary information" and "non-public information" to be used in part 1260. The definition of "proprietary information" is identical to that set forth in § 1260.1 of the second proposed rule. This meaning of that term is discussed below in the context of the substantive portions of the rule.

The term "non-public information" is defined to have the same meaning as that set forth in 12 CFR 1214.1, which generally defines the term to include "information that FHFA has not made public that is created by, obtained by, or communicated to an FHFA employee in connection with the performance of official duties, regardless of who is in possession of the information."[18] It replaces the term "unpublished information," which had been used in the second proposed rule. At the time the second proposed rule was published, the availability and control of that type of information was governed by 12 CFR part 911, which was a regulation of the former Federal Housing Finance Board that continued in effect after that agency was abolished and replaced by FHFA as regulator of the Banks in 2008. Since the publication of the second proposed rule, FHFA has adopted its own regulation, located at 12 CFR part 1214, to address the same subject matter.[19] Although the agency chose to use the term "non-public information," as opposed to "unpublished information," in that rule and defined the term using somewhat different wording than that which was used in part 911, there is no substantive difference in the meaning of the two terms.

[15] *See* 12 U.S.C. 1440a(c), (d).

[16] *See* 75 FR 60347 (Sept. 30, 2010).

[17] *See* 78 FR 6045 (Jan. 29, 2013).

[18] 12 CFR 1214.1. The full definition reads "*Non-public information* means information that FHFA has not made public that is created by, obtained by, or communicated to an FHFA employee in connection with the performance of official duties, regardless of who is in possession of the information. This includes confidential supervisory information as defined above. It does not include information or documents that FHFA has disclosed under the Freedom of Information Act (5 U.S.C. 552; 12 CFR Part 1202), or Privacy Act of 1974 (5 U.S.C. 552a; 12 CFR Part 1204). It also does not include specific information or documents that were previously disclosed to the public at large or information or documents that are customarily furnished to the public at large in the course of the performance of official FHFA duties, including but not limited to: disclosures made by the Director pursuant to the Enterprise Public Use Database Rule (currently located at 24 CFR subpart F, and any FHFA successor rule); the annual report that FHFA submits to Congress pursuant to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), press releases, FHFA blank forms, and materials published in the **Federal Register**."

[19] *See* 78 FR 39957 (July 3, 2013).

B. Section 1260.2—Bank Information To Be Shared

Under § 1260.2 of the second proposed rule, FHFA would have distributed to each Bank and to the OF the categories of information specified in an order to be issued by the Director of FHFA or by an agency official designated by the Director pursuant to an appropriate delegation of authority. Proposed § 1260.2 would have further required that, prior to issuing or amending such a distribution order, FHFA notify each Bank and the OF of the proposed contents of the new or revised order and allow them a reasonable period within which to comment.

In the final rule, § 1260.2 has been revised to incorporate the two changes mentioned above: (1) To provide that the categories of information to be distributed are to be identified by means of a written notice to be issued by FHFA, as opposed to an order of the Director or his designee; and (2) to provide for the possibility that certain types of information may be shared directly between the Banks, as opposed to being distributed only by or through FHFA. In addition, the revised material in § 1260.2 has now been divided into three subsections.

Final § 1260.2(a) provides that "FHFA shall distribute to each Bank and to the Office of Finance, or shall require each Bank to distribute directly to each other Bank and the Office of Finance, such categories of financial and supervisory information regarding each Bank and the Bank system as it determines to be appropriate." Final § 1260.2(b) requires that FHFA prepare and issue to each Bank and the OF a notice setting forth the categories of information that it will distribute, or that the Banks will share directly, under the rule. It also requires that FHFA review the information sharing notice on a periodic basis, and add or delete items as necessary to ensure that the information sharing under part 1260 continues to fulfill the purposes of section 20A of the Bank Act. As was the case with the distribution order contemplated under the second proposed rule, final § 1260.2(b) also requires that, prior to issuing a new or revised information sharing notice, FHFA notify each Bank and the OF of the proposed contents of the new or revised notice and allow them a reasonable period within which to comment. Finally, § 1260.2(c) of the final rule provides that the Director of FHFA or his designee may issue any orders that are necessary to effect the distribution of the information set forth in the information sharing notice and otherwise to carry out the provisions of part 1260.

Shared Information To Be Specified in Notice, Not Order

The distribution order referred to in § 1260.2 of the second proposed rule would not have actually ordered anyone to do anything, but would have merely informed the Banks and the OF of the information that FHFA intended to share and, in some cases, of the time within which a Bank must file a request to hold proprietary information, so in the final rule FHFA has restyled that order as a notice. In some future cases, the agency may find it necessary to issue an order to require the Banks to share certain information directly. Thus, despite the fact that the Director of FHFA always has the power to issue orders to govern matters within his or her authority, § 1260.2(c) has been included to make clear that the Director may issue any orders that are necessary to effect the preparation and distribution of particular items and that these orders are to be separate from the information sharing notice.

Direct Sharing of Information Between Banks

In drafting both the first and second proposed rules, FHFA contemplated that it alone would act as the clearinghouse for all required sharing of information under section 20A of the Bank Act. Accordingly, in the second proposed rule, § 1260.2 referred only to the distribution of information by FHFA, and the rule did not otherwise address the possibility that FHFA might require a Bank to share information directly with the other Banks and the OF. FHFA still anticipates that it will serve as the clearinghouse for most of the information sharing under the final rule, and will do so for all of the categories of information enumerated in the initial information sharing notice. However, in some circumstances, direct sharing of information between the Banks may be the most timely, efficient, or secure approach. Therefore, upon further consideration, FHFA has decided to provide in the final rule for the option of direct sharing so as not to limit the agency's ability to implement the most appropriate method of information sharing in any particular case.

Although the second proposed rule did not address the direct sharing of information between Banks, the rule would not have prohibited such direct sharing. In the Supplementary Information to the second proposed rule, FHFA declined a commenter's request to include in the rule text an explicit provision stating that part 1260 governs the entirety of a Bank's right to receive shared information under section 20A and that no Bank is permitted to receive such information unilaterally from FHFA or another Bank. The agency explained that its regulations already prohibit a Bank from disclosing non-public information without prior written authorization from FHFA and that it wished to preserve its ability to provide written authorization for the disclosure of such information as circumstances warrant. FHFA further explained that there is no basis upon which it may generally prohibit Banks from sharing financial information that does not qualify as non-public information under the regulations, and that it did not want to discourage the voluntary sharing of information among Banks that already occurs.

To be clear, this final rule is intended to govern only mandatory direct sharing of information between Banks as set forth in an information sharing notice issued under § 1260.2 of the rule; voluntary sharing of information between Banks is not subject to the requirements or procedural protections of part 1260.

Types of Information Sharing Addressed by the Rule

In keeping with the apparent intent behind section 20A of the Bank Act, § 1260.2 limits the type of information that may be shared under the provisions of the rule to financial and supervisory information regarding the Banks, either individually or collectively. Even before the enactment of section 20A in 2008, a great deal of financial information about the Banks, both individually and collectively, was already being made available to the public on an ongoing basis both by FHFA and by the Banks themselves (for example, through the Banks' SEC filings). FHFA believes that section 20A was intended primarily to foster the sharing among the Banks of financial and supervisory information that was not already available to them or to the public-at-large under any existing statutory authority. The provision of Section 20A that authorizes FHFA to make such information available to the Banks without negating any privilege that may be attached to it, subject to the required procedural protections for information that a Bank claims to be proprietary, supports that interpretation. Part 1260 is intended to implement section 20A by establishing a process through which each Bank may gain access to financial and supervisory information about the other Banks that is not available to the wider public. Its requirements do not apply to the

distribution of information that has already been made available to the public, or that is available to the public upon request.

Issuance or Revision of an Information Sharing Notice

Section 1260.2(b) requires that, prior to issuing a new or revised information sharing notice, FHFA notify each Bank and the OF of the proposed contents of the notice and allow them a reasonable period within which to comment. The Supplementary Information to the second proposed rule enumerated and discussed the categories of information that FHFA was considering to include in the initial distribution order (as it was then styled) so as to allow the Banks and the OF the fullest opportunity to consider and comment upon them, as well as to provide the proper context in which to assess the rule itself. However, the rule does not require that the notice appear in the **Federal Register** or meet any of the other notice-and-comment requirements associated with a rulemaking under the Administrative Procedure Act, and the agency anticipates that it will typically use a less formal notice-and-comment process prior to issuing a new or revised information sharing notice in the future.

FHFA enumerated and discussed in the second proposed rule seven categories of information it expected to share initially under the rule, and requested comments on whether an eighth category of information should also be included. As discussed below, the information to be shared initially under the rule includes all eight of the categories that were discussed in the second proposed rule, and does not include any categories of information that were not discussed in that rule. Accordingly, FHFA considers the notice and opportunity to comment provided by the second proposed rule to have fulfilled the requirements of § 1260.2(b) and, thus, it is not providing the Banks with any further opportunity to comment on the contents of the initial information sharing notice.

Information To Be Shared Initially Under the Rule

The initial information sharing notice provides for the sharing of the following categories of information under part 1260:

(1) Information submitted by a Bank to FHFA's call report system (CRS) electronic database, excluding Bank membership information; [20]

(2) Information about each Bank, and the Banks collectively, that is presented in FHFA's semi-annual "Profile of the Federal Home Loan Bank System" report prepared by FHFA's Division of Bank Regulation (DBR); [21]

(3) Information about each Bank, and the Banks collectively, that is contained in the weekly report on Bank liquidity prepared by DBR;

(4) Information about each Bank, and the Banks collectively, that is contained in the quarterly report on Bank membership prepared by DBR;

(5) Information about each Bank, and the Banks collectively, that is contained in the weekly report on the Banks' unsecured credit exposure prepared by DBR;

(6) A quarterly statement, prepared by FHFA, indicating whether each Bank has timely filed with FHFA the quarterly liquidity certification required under 12 CFR 1270.10(b)(1);

(7) A statement, to be prepared by FHFA as circumstances warrant, identifying any Bank that has notified FHFA pursuant to 12 CFR 1270.10(b)(2) of any actual or anticipated liquidity problems and describing the nature of the liquidity problems; and

(8) Beginning with the calendar year 2014 Bank examination cycle, information contained in the "Summary and Conclusions" portion of each Bank's report of examination.

Categories (1) through (4) above are already made available to the Banks. Their inclusion in the information sharing notice is intended merely to bring their distribution within the purview of part 1260. Categories (5) through (8) will be distributed for the first time under this final rule and the initial information sharing notice. Each of these categories of information except for the weekly report on the Banks' unsecured credit exposure described in category (5) was discussed in the second proposed rule as a category that was likely to be included in the initial distribution order. The second proposed rule discussed the report on the Banks' unsecured credit exposure (which is currently used only internally at FHFA) as a category of information that FHFA might possibly include in the distribution order and requested comments on whether it would be useful for the Banks to receive the information contained in that report. Although the agency received no comments on that issue, it has determined that regular distribution of the information contained in the report will advance the purposes of section 20A of the Bank Act and, accordingly, has included that category of information in the initial information sharing notice.

In response to the second proposed rule, FHFA received only one comment letter—from the Topeka Bank—on the categories of information proposed to be shared initially. In its comment letter, the Bank opposed FHFA's decision to share only the Summary and Conclusions portion of each Bank's report of examination and stated that the initial distribution order should provide for the sharing of each Bank's entire report of examination, except for the "Management Discussion" portion. The Bank expressed its view that FHFA could best enable each Bank to assess the likelihood that it may be required to make payments on behalf of another Bank under the joint and several liability on the Banks' consolidated obligations by providing the full reports of examination.

The agency has decided against taking this approach. The first proposed rule contemplated that FHFA would routinely distribute each Bank's report of examination in its entirety. In the second proposed rule, FHFA explained that it had carefully weighed the Banks' need to receive information sufficient to assess the financial condition of the other Banks and to make legal disclosures regarding their potential joint and several liability against the possibility that the distribution of full reports of examination could hinder the candid communication between Bank employees and FHFA examiners that is critical to the examination process, and that it planned to distribute only the material that is contained in what is currently referred to as the "Summary and Conclusions" section of each Bank's report of examination under the initial distribution order. This material includes only: (i) The Bank's composite rating and component ratings for the current and prior examinations; (ii) a summary of the basis for the current composite rating (including any component that is a significant factor in the composite rating) and any changes to the composite or component ratings since the last examination; and (iii) the conclusion regarding the overall condition and practices of the Bank and the analysis used to reach that conclusion. The Summary and Conclusions section includes no detailed discussion or analysis of a

[20] The Banks are not permitted to access detailed information about other Banks' members that is contained in the CRS database because FHFA considers this to be proprietary information.

[21] DBR also prepares more detailed semi-annual profiles of the individual Banks which currently are shared only with the subject Bank and not with other Banks or the OF. Because these individual Bank profiles often contain proprietary information regarding a Bank's members, as well as assessments based upon detailed information from the Bank's report of examination, FHFA does not intend to share that information at this time.

Bank's component examination ratings and no discussion or analysis of "matters requiring attention" of the Bank's board of directors.[22]

FHFA agrees that the additional information that a Bank would receive as part of a full report of examination would provide it with more complete information that could be used to assess its exposure to joint and several liability. However, in the agency's assessment, the Summary and Conclusions section of a Bank's report of examination will sufficiently identify any significant issues relating to the Bank's financial condition and performance that might possibly implicate the joint and several liability of the other Banks. The marginal benefit of receiving the more detailed supervisory information that is contained in the remainder of a report of examination is outweighed by the negative effects that the sharing of such information, and the knowledge that such information would be shared, could have on the Bank examination process.

In further support of its position, the Topeka Bank asserted that the detailed information contained in a full report of examination could be used to assess factors and trends that might affect a Bank's funding, and to gain insight into ways of dealing with issues and risks that are common among the Banks. While the sharing of the full reports of examination may in some cases provide those benefits, they are at best only tangentially related to the purpose of information sharing under section 20A, which is to "enable each [Bank] to evaluate the financial condition of . . . the other [Banks] individually and the [Bank] System" as a whole.[23] Accordingly, FHFA does not view this argument as persuasive as to the portions of the reports of examination that should be shared pursuant to part 1260.

C. Section 1260.3—Requests To Withhold Proprietary Information

Section 1260.3 of the final rule implements section 20A(b)(2) of the Bank Act, which permits a Bank to request that the Director of FHFA determine that particular information otherwise subject to distribution under section 20A "is proprietary and that the public interest requires that such information not be shared."[24]

Section 1260.3(a) provides that a Bank may request in writing that FHFA withhold from distribution, or determine that the Bank may withhold from distribution, particular information relating to the Bank on the grounds that it is proprietary information and the public interest requires that it not be shared. Section 1260.3(a) also requires that, in order for such a request to be considered by FHFA, it must identify the particular information the Bank believes should be withheld and provide support for the assertions that it is proprietary information and that withholding the information from the other Banks and the OF is necessary to protect the public interest. Section 1260.1 of the final rule defines the term "proprietary information" to mean "trade secrets, or privileged or confidential commercial or financial information that, if shared among the Banks and the Office of Finance as provided under this part, would likely cause substantial competitive harm to the Bank to which the information pertains." Because, in addition to demonstrating that the information in question qualifies as "proprietary information," a Bank must meet the "public interest" element of the withholding test, it is possible that FHFA may find it necessary to distribute information that qualifies as "proprietary" where the distribution of that information to the Banks and the OF would not be harmful to the public interest.

Substantively, final § 1260.3(a) is identical to the version that appeared in the second proposed rule. However, in this final rule, the wording of § 1260.3(a) has been revised slightly to make clear that a Bank that is required to share particular information directly with other Banks may request permission from FHFA to withhold information that meets the criteria set forth in this subsection from distribution.

Section 1260.3(b) addresses the required timing of requests from the Banks to withhold proprietary information. Paragraph (b)(1) establishes general rules for requests relating to information submitted by a Bank to FHFA (such as call report data), information created by FHFA (such as reports of examination), and information that a Bank is required to share directly with the other Banks and the OF. Paragraph (b)(2) provides an exception to the general rules, by allowing the Director to establish different timeframes for particular categories of information in the information sharing notice issued under § 1260.2(b). For information that a Bank submits to FHFA, subparagraph (b)(1)(i) provides that the agency will consider only requests that are received prior to, or simultaneously with, the Bank's submission of the information to FHFA. For information to be distributed by FHFA, other than that which is submitted to FHFA by the Banks themselves, subparagraph (b)(1)(ii) permits each Bank ten business days after being provided a copy of the information within which to review that information for proprietary material and to deliver to FHFA a request to withhold.

Subparagraphs (b)(1)(i) and (ii) are identical to the versions that appeared in the second proposed rule. Subparagraph (b)(1)(iii) has been added to the final rule to address the timing of requests to withhold information that a Bank is required to distribute directly to the other Banks and the OF. It requires a Bank to file a request to withhold no later than ten business days prior to the date on which the Bank would otherwise be required to distribute the information.

As mentioned, paragraph (b)(2) of § 1260.3 would allow FHFA, as part of a information sharing notice issued under § 1260.2(b), to establish requirements for the timing of requests to withhold for any category of information enumerated in that notice. The default deadlines for submitting a request to withhold that are set forth in § 1260.3(b)(1) may be inappropriate in particular cases, and § 1260.3(b)(2) is intended to preserve FHFA's ability to adjust those deadlines in cases where the facts require a different timetable. It requires that, in establishing any alternate timing requirements, the Director or his designee must consider the volume and complexity of the information to be reviewed, the Bank's existing familiarity with the information, the frequency of submission or distribution of the information, the likelihood that the

[22] During 2013, FHFA has been developing a new FHFA Examination Manual that, when completed, will establish a common examination program for both the Banks and the Enterprises (Fannie Mae and Freddie Mac). As each module of the new FHFA Examination Manual has been finalized, it has superseded the existing Federal Home Loan Bank Examination Manual with respect to the particular subject matter addressed in that module. Because FHFA has not yet finalized a new FHFA Examination Manual module to address the required contents and structure of a report of examination, including the material to be set forth in the Summary and Conclusions section of the report, the old Bank Examination Manual continues to govern those issues. The relevant section of the Bank Examination Manual can be found at *http://www.fhfa.gov/webfiles/2658/5ROE.1.pdf*. When FHFA finalizes a new FHFA Examination Manual module addressing those issues, it will revise the paragraph of the information sharing notice referring to the Summary and Conclusions section of the Banks' reports of examination if necessary so that the text continues to refer to the the specific types of information described above.

[23] *See* 12 U.S.C. 1440a(a).

[24] *See* 12 U.S.C. 1440a(b)(2).

information will contain proprietary information, and the effect that any delay in the distribution of the information would have on the fulfillment of the purposes of section 20A(a) of the Bank Act. The initial information sharing notice contains no special requirements as to the timing of requests to withhold. Therefore, the general requirements of § 1260.3(b)(1) will apply to the timing of requests to withhold proprietary information that falls within the categories of information enumerated in the notice.

Section 1260.3(c) of the final rule requires that, after receiving a written request that meets the form and timing requirements of paragraphs (a) and (b) of § 1260.3, the Director or his designee promptly determine whether to withhold any information from distribution, or permit a Bank to withhold information that is otherwise required to be shared directly, and provides that the determination shall be final. Paragraph (c) also requires that FHFA notify the affected Bank of its determination, and prohibits it from distributing the information that is the subject of the request until it has provided the required notice to the Bank. Substantively, final § 1260.3(c) is identical to the version that appeared in the second proposed rule, but the wording has been revised slightly to make clear that the provision applies to the direct sharing of information among Banks, as well as to the distribution of information by FHFA.

In its comment letter, the San Francisco Bank supported the requirement of § 1260.3(c) that FHFA provide notice to the requesting Bank before it distributes any information that is the subject of a request to withhold. However, the Bank requested that the final rule require specifically that FHFA notify the requesting Bank at least four business days prior to distributing the information. The Bank explained that this would allow the Bank "sufficient time to prepare any disclosures required by the federal securities laws or contractual requirements."

FHFA has decided not to add this, or any specific, requirement as to the timing of the notice to the final rule. The agency is cognizant of the need to allow a Bank sufficient time to take any necessary measures prior to the disclosure of information that is the subject of a request to withhold—indeed, that is a purpose of the notice requirement. In many cases, allowing the affected Bank four days' advance notice will be appropriate. In other cases—for example, if the affected Bank is experiencing severe liquidity problems—the information could be of little or no use if it were to be withheld from distribution for an additional four days. In light of this, FHFA has concluded that the better approach is to address such situations on a case-by-case basis, balancing the extent to which the usefulness of the information would be compromised by delaying its disclosure against the legal or contractual requirements with which the Bank must comply in connection with the disclosure.

D. Section 1260.4—Timing and Form of Information Distribution

Section 1260.4 of the final rule governs the timing and form of the distribution of information under the rule. Section 1260.4(a) provides that FHFA may distribute information to the other Banks and the OF after the expiration of the applicable time period for requesting that FHFA withhold proprietary information, unless the affected Bank has actually submitted such a request. It further provides that, if a Bank has filed a request to withhold information, FHFA may not distribute the information that is the subject of the request until after the Director or his designee has acted on the request and has provided the affected Bank with notice of the decision as required under § 1260.3(c). Subsequently, FHFA may distribute the subject information in conformity with that decision.

Section 1260.4(b) has been added to the final rule to address the timing of the distribution of information that a Bank is required to share directly with the other Banks and the OF. It requires a Bank to distribute the information at the time specified in the information sharing notice unless it has submitted a proper request to withhold within the time period specified under § 1260.3(b)(1)(iii). It further provides that, if a Bank has filed a request to withhold information, it is not required to distribute the information that is the subject of the request until after the Director or his designee has acted on the request and has provided the affected Bank with notice of the decision as required under § 1260.3(c). Subsequently, the Bank must distribute or withhold the subject information in conformity with that decision.

Section 1260.4(c), which was designated as § 1260.4(b) in the second proposed rule, permits FHFA to distribute information, or to require a Bank to distribute information, in either tangible or electronic form, as it deems appropriate in each particular case. The wording of this provision has been revised slightly in the final rule to make clear that it applies to the direct sharing of information between Banks, as well as to the distribution of information by FHFA.

E. Section 1260.5—Control and Disclosure of Shared Information

Section 1260.5 of the final rule sets forth requirements that each Bank must follow with respect to the control of information about other Banks that it receives under the rule. Section 1260.5(a) provides that the sharing of information under part 1260 does not constitute a waiver by FHFA of any privilege, or its right to control, supervise, or impose limitations on the subsequent use and disclosure of any information concerning a Bank. It also provides that, to the extent that any information provided to a Bank or the OF under the rule qualifies as "non-public information" under 12 CFR part 1214 (which is discussed above in the analysis of § 1260.1), that information will continue to qualify as such and will continue to be subject to the restrictions on the disclosure of such information set forth in part 1214.

In addition, § 1260.5(a) provides that a Bank may use and disclose in its SEC disclosure documents non-public information regarding other Banks it receives under the rule, provided that the disclosure is limited to a recital of the factual content of the underlying information and the Bank meets the requirements regarding the disclosure of information in SEC filings that are set out in § 1260.5(b).[25]

Section 1260.5(b) permits a Bank to disclose non-public information received under the rule in its SEC disclosure documents provided that its determination that such disclosure is required under applicable provisions of the federal securities laws has been made in good faith, and the Bank provides to FHFA and to the Bank to which the information pertains prior notice of the content and the anticipated timing of the disclosure.

Section 1260.5(c) provides that a Bank may use non-public information received under the rule only for the purposes described in section 20A(a) of the Bank Act—that is, to evaluate the financial condition of one or more other Banks and to comply with its obligations under the 1934 Act. It also prohibits the disclosure of any non-public information received under part 1260, except as otherwise provided in the rule (for example, in the case of a disclosure made under the federal securities laws pursuant to § 1260.5(a)

[25] This provision parallels the requirements that apply to a Bank's disclosure in SEC filings of information contained in its own report of examination. *See* Federal Housing Finance Board Advisory Bulletin 2006–AB–03 (July 18, 2006).

and (b)). Section 1260.5(c) further requires that each Bank and the OF implement policies and procedures to prevent the improper disclosure of, and to limit the access of its personnel to, such information. These policies and procedures must be no less stringent than those that apply to the entity's own confidential and supervisory information. As with other internal controls, these procedures and their implementation will be subject to FHFA scrutiny as part of the Bank examination process.

In the second proposed rule, the second sentence of § 1260.5(c) provided, "Except as otherwise provided in this part, neither the Office of Finance, nor any Bank, nor any officer, director or employee thereof, may disclose or permit the use or disclosure of any unpublished information regarding another Bank or the Office of Finance, received pursuant to this part, in any manner or for any purpose." In this final rule, the reference in that sentence to "information regarding . . . the Office of Finance, received pursuant to [part 1260]" has been removed and, accordingly, the sentence now refers only to "information regarding another Bank received pursuant to [part 1260]." This change has been made in recognition of the fact that, as was the case with the second proposed rule, the final rule does not provide for any formal sharing of information pertaining to the OF because all twelve Bank presidents are members of the OF's board of directors and, therefore, already have access to its report of examination and other financial information. Section 1260.5(d) permits each Bank's president to share information regarding the OF received in his or her capacity as a member of the OF's board with the boards of directors and appropriate staff of his or her Bank, subject to the restrictions on disclosure and adoption of policies and procedures required under the rule.

III. Consideration of Differences Between the Banks and the Enterprises

Section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 requires the Director of FHFA, when promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises (Fannie Mae and Freddie Mac) as they relate to: The Banks' cooperative ownership structure; the mission of providing liquidity to members; their affordable housing and community development mission; their capital structure; and their joint and several liability on consolidated obligations.[26] The Director also may consider any other differences that are deemed appropriate. In preparing this final rule, FHFA considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the rule is appropriate. No commenters raised any issues relating to this statutory requirement, as it applied to the second proposed rule.

IV. Paperwork Reduction Act

This final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

V. Regulatory Flexibility Act

This final rule applies only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, FHFA certifies that this final rule will not have significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 1260

Confidential business information, Federal home loan banks, Reporting and recordkeeping requirements.

Authority and Issuance

Accordingly, for the reasons stated in the Supplementary Information and under the authority of 12 U.S.C. 4526, the Federal Housing Finance Agency hereby amends chapter XII of title 12 of the Code of Federal Regulations by adding new part 1260 to subchapter D to read as follows:

PART 1260—SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS

Sec.

1260.1 Definitions.
1260.2 Bank information to be shared.
1260.3 Requests to withhold proprietary information.
1260.4 Timing and form of information distribution.
1260.5 Control and disclosure of shared information.

Authority: 12 U.S.C. 1440a, 4511 and 4513.

§ 1260.1 Definitions.

As used in this part:

Non-public information has the meaning set forth in § 1214.1 of this chapter.

Proprietary information means trade secrets, or privileged or confidential commercial or financial information that, if shared among the Banks and the Office of Finance as provided under this part, would likely cause substantial competitive harm to the Bank to which the information pertains.

§ 1260.2 Bank information to be shared.

(a) *General.* In order to enable each Bank to evaluate the financial condition of any one or more of the other Banks and the Bank System, FHFA shall distribute to each Bank and to the Office of Finance, or shall require each Bank to distribute directly to each other Bank and the Office of Finance, such categories of financial and supervisory information regarding each Bank and the Bank system as it determines to be appropriate, subject to the requirements of this part.

(b) *Notice.* FHFA shall prepare and issue to each Bank and the Office of Finance a notice setting forth the categories of information to be distributed, which it shall review from time to time and revise as necessary to ensure that the information distributed remains useful to the Banks in evaluating the financial strength of the other Banks and the Bank System. Prior to issuing a new or revised notice, FHFA shall notify each Bank and the Office of Finance of its proposed contents and allow them a reasonable period within which to comment.

(c) *Director's orders.* The Director or his designee may issue such orders as are necessary to effect the distribution of the information set forth in the notice issued under paragraph (b) of this section and to carry out the provisions of this part.

§ 1260.3 Requests to withhold proprietary information.

(a) *General.* A Bank may request in writing that FHFA withhold from distribution, or determine that the Bank may withhold from distribution, particular information relating to the Bank that may otherwise be subject to distribution under § 1260.2 on the basis that it is proprietary information and the public interest requires that it not be shared. Any such request shall identify the particular information the Bank believes should not be distributed and provide support for the assertions that it is proprietary information and that withholding it from the other Banks and the Office of Finance is necessary to protect the public interest.

(b) *Timing of requests.*—(1) *General.* Unless otherwise specified as described in paragraph (b)(2) of this section, the period within which a Bank may make

[26] *See* 12 U.S.C. 4513(f).

a request to withhold proprietary information under paragraph (a) of this section shall be as follows:

(i) For information that a Bank submits to FHFA, the request shall be delivered to FHFA no later than the time at which the Bank submits the subject information to FHFA.

(ii) For information that FHFA creates (not including compilations of data submitted by the Banks), prior to distributing any information relating to a particular Bank, FHFA shall provide that Bank with a copy of the information to be distributed, after which the Bank shall have ten (10) business days within which to deliver the request to FHFA.

(iii) For information that a Bank is required to distribute directly to the other Banks and the Office of Finance, the request shall be delivered to FHFA no later than ten (10) business days prior to the date on which the Bank would otherwise be required to distribute the information.

(2) *As otherwise specified by FHFA.* Any notice issued by FHFA under § 1260.2(b) may establish requirements for the timing of requests to withhold proprietary information that are different from those specified under paragraph (b)(1) of this section for any category of information to be distributed thereunder. In establishing such requirements, FHFA shall give due regard to the volume and complexity of the information to be reviewed, the Bank's existing familiarity with the information, the frequency of submission or distribution of the information, the likelihood that the information will contain proprietary information, and the effect that any delay in the distribution of the information would have on the fulfillment of the purposes of section 20A(a) of the Bank Act.

(c) *Determination and notice by FHFA.* After receiving a written request that meets the requirements of paragraphs (a) and (b) of this section, the Director or his designee shall promptly determine whether FHFA will, or the Bank may, withhold any information from distribution pursuant to the request, which determination shall be final. FHFA shall promptly notify the affected Bank of that determination and shall not distribute any information that is the subject of the request until it has provided the required notice to the Bank.

§ 1260.4 Timing and form of information distribution.

(a) *Timing of distribution by FHFA.* FHFA may distribute information as provided in the notice issued under § 1260.2(b) after the expiration of the applicable time period specified in § 1260.3(b) unless, within that time period, the affected Bank has filed with FHFA a written request to withhold particular proprietary information that meets the requirements of § 1260.3(a). When a Bank has filed such a request, FHFA shall not distribute the information that is the subject of the request until the Director or his designee has made the determination and provided the notice required by § 1260.3(c) and shall distribute or withhold the subject information in conformity with that determination.

(b) *Timing of distribution by Banks.* A Bank that is required to distribute information directly to the other Banks and the Office of Finance shall distribute that information at the time specified in the notice issued under § 1260.2(b) unless, within the time period specified in § 1260.3(b)(1)(iii), the Bank has submitted to FHFA a request to withhold particular proprietary information that meets the requirements of § 1260.3(a). If the Bank has filed such a request, it need not distribute the information that is the subject of the request until the Director or his designee has made the determination and provided the notice required by § 1260.3(c). Thereafter, the Bank shall distribute or withhold the subject information in conformity with that determination.

(c) *Form.* FHFA may distribute information, or require a Bank to distribute information, under this part in either tangible or electronic form, as it deems appropriate.

§ 1260.5 Control and disclosure of shared information.

(a) *No waiver of privilege.* The release of information under this part does not constitute a waiver by FHFA of any privilege, or of its right to control, supervise or impose limitations on the subsequent use and disclosure of any information concerning a Bank. To the extent that any information provided to a Bank or the Office of Finance pursuant to this part qualifies as non-public information under part 1214 of this chapter, that information shall continue to qualify as such and shall continue to be subject to the restrictions on disclosure set forth in part 1214, provided that a Bank shall not be deemed to have violated any provision of § 1214.3 of this chapter by disclosing in its filings with the SEC non-public information about another Bank that was obtained pursuant to this part if the disclosure is limited to a recital of the relevant factual content of the underlying information and the Bank has provided the notice required by paragraph (b) of this section.

(b) *Disclosures under the Federal securities laws.* If a Bank determines in good faith that it is required by any applicable provision of the 1934 Act or of 17 CFR chapter II to disclose non-public information relating to another Bank that it has received pursuant to this part, it shall provide to FHFA and to the Bank to which the information pertains prior written notice of such determination and of the content and anticipated timing of the disclosure, which notice shall be provided as far in advance of the anticipated disclosure as is feasible under the circumstances.

(c) *Safeguarding of information.* A Bank may use non-public information distributed pursuant to this part only for the purposes described in section 20A(a) of the Bank Act. Except as otherwise provided in this part, neither the Office of Finance, nor any Bank, nor any officer, director or employee thereof, may disclose or permit the use or disclosure of any non-public information regarding another Bank received pursuant to this part in any manner or for any purpose. Each Bank and the Office of Finance shall implement policies and procedures to prevent the improper disclosure of such information and to limit the access of its personnel to such information, which policies and procedures shall be no less stringent than those that apply to the entity's own confidential and supervisory information.

(d) *Information regarding the Office of Finance.* A Bank president that receives any information regarding the Office of Finance in his or her capacity as a member of the board of directors of the Office of Finance may share the information with the board of directors of the Bank at which he or she is employed, as well as with the appropriate officers and employees of the Bank, subject to the limitations of this part.

Dated: November 22, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2013–28824 Filed 12–5–13; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2013–N–16]

12 CFR Part 1260

Information To Be Distributed to the Federal Home Loan Banks and the Office of Finance

AGENCY: Federal Housing Finance Agency.

ACTION: Notification.

SUMMARY: Section 20A of the Federal Home Loan Bank Act (Bank Act), requires the Director of the Federal Housing Finance Agency (FHFA) to make available to the Federal Home Loan Banks (Banks) such reports, records, or other information as may be available, relating to the condition of any Bank in order to enable each Bank to evaluate the financial condition of one or more of the other Banks individually and the Bank System as a whole. FHFA has adopted, and published in this issue of the **Federal Register**, a regulation to implement the statutory information sharing provisions, which will be located at 12 CFR part 1260. As required by § 1260.2(b) of that regulation, FHFA is providing this notification to the Banks and the Bank System's Office of Finance of the categories of information that it will distribute under part 1260 beginning on the effective date noted below.

DATES: *Effective Date:* January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Assistant General Counsel, Office of General Counsel, *Eric.Raudenbush@fhfa.gov*, (202) 649–3084; or Jonathan Curtis, Financial Analyst, Office of Program Support, Division of Bank Regulation, *Jonathan.Curtis@fhfa.gov*, (202) 649–3321 (these are not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION: In order to fulfill the requirements of section 20A of the Bank Act (12 U.S.C. 1440a), and as provided in 12 CFR part 1260, FHFA will distribute or otherwise make available to each Bank and to the Office of Finance on a regular and ongoing basis the following categories of information, as soon as practicable after the materials have been prepared in final form:

1. Information submitted by a Bank to FHFA's call report system (CRS) electronic database, excluding Bank membership information;

2. Information about each Bank, and the Banks collectively, that is presented in FHFA's semi-annual "Profile of the Federal Home Loan Bank System" report prepared by FHFA's Division of Bank Regulation (DBR);

3. Information about each Bank, and the Banks collectively, that is contained in the weekly report on Bank liquidity prepared by DBR;

4. Information about each Bank, and the Banks collectively, that is contained in the quarterly report on Bank membership prepared by DBR;

5. Information about each Bank, and the Banks collectively, that is contained in the weekly report on the Banks' unsecured credit exposure prepared by DBR;

6. A quarterly statement, to be prepared by FHFA, indicating whether each Bank has timely filed with FHFA the quarterly liquidity certification required under 12 CFR 1270.10(b)(1);

7. A statement, to be prepared by FHFA as circumstances warrant, identifying any Bank that has notified FHFA pursuant to 12 CFR 1270.10(b)(2) of any actual or anticipated liquidity problems and describing the nature of the liquidity problems; and

8. Beginning with the calendar year 2014 Bank examination cycle, information contained in the "Summary and Conclusions" portion of each Bank's final report of examination.

Dated: November 22, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2013–28886 Filed 12–5–13; 8:45 am]

BILLING CODE 8070–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1225

[CPSC Docket No. CPSC–2012–0068]

Safety Standard for Hand-Held Infant Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission, CPSC, or we) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be "substantially the same as" applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing a safety standard for hand-held infant carriers in response to the direction under section 104(b) of the CPSIA. The rule would incorporate ASTM F2050–13a by reference, with one modification.

DATES: The rule will become effective on June 6, 2014. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Julio Alvarado, Compliance Officer, Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: *jalvarado@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

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

The term "durable infant or toddler product" is defined in section 104(f)(1) of the CPSIA as a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years. Infant carriers are one of the products specifically identified in section 104(f)(2)(H) as a durable infant or toddler product. The Commission has identified four types of products that could fall within the infant carrier product category, including: Frame backpack carriers, soft infant and toddler carriers, slings, and hand-held infant carriers. This rule addresses hazards associated only with hand-held infant carriers. Hazards associated with other types of carriers would be

addressed in separate rulemaking proceedings.

On December 10, 2012, the Commission issued a notice of proposed rulemaking (NPR) for hand-held infant carriers. 77 FR 73354. The NPR proposed to incorporate by reference the then current voluntary standard, ASTM F2050–12, *Standard Consumer Safety Specification for Hand-Held Infant Carriers*, with certain modifications to strengthen the ASTM standard. One proposed modification provided for a change in the warning label to better address suffocation and restraint-related hazards. The other proposed modification addressed the testing procedures for the carry handle auto-locking requirement and specified using an aluminum cylinder as the surrogate for the occupant of the carrier rather than a CAMI Mark II 6-month infant dummy (CAMI dummy).

Since the Commission published the NPR, ASTM has revised ASTM F2050 twice. On July 1, 2013, ASTM approved an updated version of the voluntary standard, ASTM F2050–13, which includes the warning label modification proposed in the NPR. On September 1, 2013, ASTM approved another revision of the voluntary standard, ASTM F2050–13a, which includes a carry handle auto-locking performance requirement that is different than the requirement proposed in the NPR. As explained in section VII of this preamble, the Commission agrees with the auto-locking requirement in ASTM F2050–13a. The draft final rule incorporates by reference the most recent version of the ASTM standard, ASTM F2050–13a, with one modification—a clarification of the definition of "hand-held infant carrier," to include a specific reference to both "rigid-sided" and "semi-rigid-sided" products.

II. The Product

ASTM F2050–13a defines a "hand held infant carrier" as a "freestanding, rigid-sided product intended to carry an occupant whose torso is completely supported by the product to facilitate transportation by a caregiver by means of hand-holds or handles." The ASTM voluntary standard published in August 2012, for the first time referenced two types of hand-held infant carriers: Hand-held bassinets/cradles and hand-held carrier seats. The current ASTM voluntary standard defines "hand-held carrier seat" as a "hand-held infant carrier having a seat back that is intended to be in a reclined position (more than 10° from horizontal)," and "hand-held bassinet/cradle" is defined as "a freestanding product, with a rest/support surface to facilitate sleep (intended to be flat or up to 10° from horizontal), that sits directly on the floor, without legs or a stand, and has hand-holds or handle(s) intended to allow carrying an occupant whose torso is completely supported by the product." Hand-held carrier seats often are used as infant car seats, or as attachments to strollers or high chairs bases. Some of the requirements in F2050–13a are different for hand-held bassinets/cradles and hand-held infant carriers because the intended position of the occupant (lying supine vs. sitting reclined) and the product designs used to accommodate the occupant can create different hazards.

A Moses basket is a freestanding product with a rest/support surface to facilitate sleep and has hand-holds or handles intended to allow carrying an occupant. Some Moses baskets are rigid-sided, but most have semi rigid sides. In the NPR, the Commission sought comment on whether Moses baskets are or should be covered by this safety standard. The Commission also asked: (1) If Moses baskets should be included in this safety standard, does the present definition cover Moses baskets, and (2) if the present definition does not cover Moses baskets, how should the standard be amended to cover Moses baskets? The Commission received no comments in response to these questions and will clarify the definition of "hand-held infant carrier" in the rule to specify that the definition includes both "rigid-sided" and "semi-rigid-sided" products.

III. Incident Data

The preamble to the NPR summarized incident data involving bassinets and cradles reported to the Commission as of June 8, 2012. 77 FR 73354 (December 10, 2012). The NPR stated that, according to reports to the CPSC, 242 incidents involving hand-held infant carriers occurred between January 1, 2007 and June 7, 2012. Of the 242 incidents, there were 36 fatalities, 60 nonfatal injuries, and 146 incidents where no injury occurred or was reported. Staff attributed the majority of the fatalities to the improper use or nonuse of the carrier's restraint system.

CPSC's Directorate for Epidemiology, Division of Hazard Analysis has updated this information to include hand-held infant carrier-related incident data reported to the Commission from June 8, 2012 through June 21, 2013. A search of the CPSC epidemiological databases showed that there were 10 new incidents related to hand-held infant carriers reported during this time frame. Seven of the 10 were fatal, and three were nonfatal. None of the nonfatal incidents involved injuries. All of the new incidents reportedly occurred in late 2011 and 2012. Reporting is ongoing, however, so the incident totals are subject to change.

A. Fatalities Reported Since the NPR

Most of the more recently reported seven fatalities involved a product-related issue. The ages of the decedents ranged from one month to 15 months. Staff attributes the majority of the fatalities to the improper use or nonuse of the carrier's restraint system. The incident reports indicate the following circumstances in these fatalities:

- Infant was unrestrained and found in a prone position with the seat tipped over;
- infant was unrestrained and found with its face pressed into the side of the seat;
- infant strangled to death when restrained by the shoulder straps only and moved forward in the seat and was caught in the throat by the chest clip that connects the shoulder straps;
- infant was strapped into a hand-held infant carrier that was placed on a bed and overturned;
- infant was reported to have become entrapped in the carrier by other unsupervised children; although information on the exact manner of entrapment was unavailable;
- insufficient information to identify conclusively a hazard pattern but may have been the result of misuse of the product;
- insufficient information to identify hazard pattern.

B. Nonfatal Incidents Reported Since the NPR

There were three hand-held carrier-related nonfatal incidents reported to the Commission from June 8, 2012 through June 21, 2013. All of the incidents occurred in 2012; none of these involved an injury. Two of the incident reports stated that the carrier handle broke. The third report was a complaint about the poor quality and design of a Moses basket carrier.

C. Hazard Pattern Identification

Staff did not identify any new hazard patterns among the 10 incident reports that CPSC staff received since the Commission published the hand-held infant carrier NPR. In order of frequency of incident reports, staff grouped the hazard patterns of the incidents reported since the NPR into the following categories:

1. *Restraint issues:* Three of the incidents—all fatalities—were associated with the incorrect use or nonuse of the harness straps. In two of

these fatal incidents, the decedent was not restrained in the carrier at all. The decedents were found later to have turned over to a prone position, face down on a soft surface. One death resulted when the infant was left in the seat with only the shoulder straps connected, but unrestrained at the crotch strap, which allowed the infant to slide forward in the seat, just enough to get caught at the throat by the chest clip and become strangled.

2. *Handle problems:* Two incident reports state that the handle broke. One of these incidents involved a product that was already recalled for handle problems. There were no injuries reported in these incidents.

3. *Issues with carrier design:* There was one fatality in this category, which resulted when the occupied carrier was left on a soft surface (*i.e.*, a bed), tipped upside down, and trapped the infant. In addition, one noninjury report complained about the poor and unsafe design of a Moses basket carrier.

4. *Hazardous environment:* One fatality resulted from an infant becoming trapped in the hand-held carrier by other unsupervised children. Details of the manner in which the entrapment occurred were unavailable.

5. *Other product-related issue:* One fatality report indicated that misuse of the product may have contributed to the incident; however, not enough information was available for CPSC staff to identify conclusively the hazard pattern involved.

6. *Other/unknown issue:* One fatality was reported with an undetermined official cause of death. There was insufficient evidence of any product involvement or the presence of any hazardous external circumstances.

IV. Overview of ASTM F2050

ASTM F2050, *Standard Consumer Safety Specification for Hand-Held Infant Carriers,* establishes safety performance requirements, test methods, and labeling requirements to minimize the identified hazard patterns associated with the use of hand-held infant carriers. The voluntary standard for hand-held infant carriers was first approved and published in August 2000, as ASTM F2050–00, *Standard Consumer Safety Performance Specification for Hand-Held Infant Carriers.* ASTM has revised the standard six times since then. ASTM F2050–13 was approved on July 1, 2013, and the current version, ASTM F2050–13a, was approved on September 1, 2013. The more significant requirements of ASTM F2050 include:

- Scope—describes the types of products intended to be covered under the standard.
- Testing of the handle auto-locking mechanism—is intended to prevent unintentional rotation of the carrier and resulting expulsion of the child when the caregiver picks up the carrier by the handle and the handle is not in a locked position.
- Testing of the integrity of the handle—is intended to prevent unintentional separation of the handle from the carrier while in use.
- Occupant restraints—are intended to prevent incidents in which improper use of restraints has resulted in the entrapment and strangulation of children.
- Slip-resistance requirement—is intended to prevent the carrier from sliding when placed on a slightly inclined surface.
- Warning label—is intended to address: (1) Improper use of restraints (to prevent strangulation and other injuries), and (2) improper placement of the carrier on an elevated surface (to prevent fall injuries).

The voluntary standard also includes: (1) Torque and tension tests to prevent components from being removed; (2) requirements to prevent entrapment and cuts (minimum and maximum opening size, small parts, hazardous sharp edges or points, and edges that can scissor, shear, or pinch); (3) requirements for the permanency and adhesion of labels; and (4) requirements for instructional literature.

V. The NPR and ASTM 2050–12

The NPR proposed to incorporate by reference ASTM F2050–12 as a consumer product safety standard, with two modifications:

1. Warning Label: The NPR proposed requiring a strangulation warning label to be affixed to the outer surface of the cushion or padding of a hand-held carrier seat in or adjacent to the area where the child's head would rest. Under the proposal, the warning label for hand-held carrier seats that are intended to be used as restraints in motor vehicles would include a pictogram, while the warning label for hand-held carrier seats not intended to be used as restraints in motor vehicles would not include the pictogram because these seats do not have the chest clips depicted in the pictogram.

2. Handle Auto-Lock Test: The NPR proposed a modification of the test method for preventing the carrier from rotating and spilling an unrestrained infant when a caregiver picks up the carrier and the handle is not locked in the carry position. The test method in ASTM F2050–12 required the tester to use a standard CAMI dummy as an infant surrogate. The NPR proposed a change that would require the tester to use an aluminum cylinder designed as a surrogate for a 6-month-old infant, in lieu of the CAMI dummy, because testing had revealed that the CAMI dummy could be wedged into the seat padding or otherwise manipulated, so that the CAMI dummy did not fall out during the lift test when the CAMI dummy otherwise should fall. Furthermore, the Commission was concerned that the ability to pass or fail the test based on friction or placement of the CAMI would affect the consistency and repeatability of the test results.

The NPR also asked for comments regarding whether Moses baskets should be included in this safety standard, and if so, whether we should revise the definition of "hand-held infant carrier" to cover Moses baskets.

VI. ASTM F2050–13a

ASTM approved the current voluntary standard for hand-held infant carriers, ASTM F2050–13a, on September 1, 2013. ASTM balloted the NPR's provisions concerning the warning label requirement in 2013, and the provisions are now included in the latest revision of the voluntary standard, ASTM 2050–13a.

Several comments received in response to the NPR suggested that the aluminum cylinder was not an appropriate surrogate for use in the handle auto-lock test and maintained that other surrogates, including the CAMI dummy, would produce more repeatable and consistent test results if properly placed in the carrier. After considering these comments and the results of additional testing performed since the Commission published the NPR, Commission staff determined that using the CAMI dummy, with certain modifications to the test procedure, would produce more repeatable and consistent test results. ASTM F2050–13a retains the use of the CAMI dummy as the surrogate occupant and clarifies how the dummy should be situated in the seat during testing. The revised requirement also:

- Specifies using webbing instead of hooks for lifting the carrier during the test;
- specifies that a pneumatic cylinder be used to provide the force needed for the lift; and
- narrows the lift speed range.

VII. Responses to Comments

The Commission received five comments on the NPR, including: one

from a consumer's group (Consumers Union); one from the Juvenile Products Manufacturers Association (JPMA); and three from hand-held infant carrier manufacturers. The comments raised several issues, which resulted in ASTM changing the handle auto-lock test procedures and including guidance for the placement of the CAMI dummy in the seat during the handle-auto lock test in ASTM F2050–13a. Several commenters made general statements supporting the overall purpose of the proposed rule. All of the comments can be viewed at: *www.regulations.gov,* by searching under the docket number of the rulemaking, CPSC–2012–0068. Following is a summary of, and responses to, the comments.

Handle Auto-Locking Test—CAMI Dummy v. Aluminum Cylinder

Comment: Two commenters supported the proposal to use the aluminum cylinder surrogate instead of the CAMI dummy during the handle auto-locking test. The other three commenters opposed using the aluminum cylinder surrogate. Specific concerns with the cylinder included: (1) The cylinder is not the same shape as a child and can roll from side to side during testing; (2) the weight distribution and center of gravity of the cylinder are different for a child, and the cylinder can tip forward in an unrealistic manner during testing; and (3) testing with the cylinder can be dangerous because the cylinder can fall out of the carrier during testing and potentially injure a tester. The three commenters who raised concerns about using the cylinder as a surrogate in the handle auto-locking test preferred using the CAMI dummy as the surrogate for this test. One commenter suggested that whichever surrogate was specified, more detail be provided for placing the surrogate into the carrier before the lift test. One commenter suggested that CPSC should allow ASTM additional time to develop a test procedure that will provide more repeatable results.

Response: Since publication of the NPR, Commission staff has reviewed the comments, witnessed additional testing, and participated in discussions at ASTM hand-held infant carrier subcommittee and task group meetings. Based on this additional work, the Commission agrees with the three commenters who stated that using the cylinder during testing would produce unrepeatable results for some carriers. The Commission believes that most of the issues presented by use of the CAMI dummy can be addressed with clarifications and modifications to the ASTM test procedure set forth in ASTM F2050–12 so that the test produces more repeatable and reliable results. ASTM revised the requirement in the most recent version of F2050, and staff believes the revision, as now stated in ASTM F2050–13a, is adequate to address the hazards associated with unlocked carry handles. Therefore, the final rule does not does not require any changes to the carry handle auto-locking requirement but incorporates by reference the latest version of the standard, ASTM F2050–13a.

Fall Hazard Warning

Comment: One commenter recommended that the Commission strengthen the warning regarding the fall hazard to discourage more strongly caregivers placing the carrier on elevated surfaces. The language in ASTM F2050–12 (the version in effect at the time of the NPR) stated: "Fall Hazard: Child's movement can slide carrier. NEVER place carrier near edges of counter tops, tables, or other elevated surfaces."

Response: The Commission agrees with the commenter that the fall hazard warning stated in ASTM F2050–12 was not sufficiently strong. Leaving hand-held carriers on elevated surfaces is a foreseeable behavior, and the warning language should highlight the importance of not leaving the carriers on elevated surfaces. ASTM F2050–13a revises this warning. The warning language in ASTM's '13a version is presented below:

8.3.2.5 Fall Hazard: Child's activity can move carrier. Never place carrier on counter tops, tables, or any other elevated surfaces.

The Commission agrees with the change in the ASTM standard, and thus, no further modifications are necessary in response to this comment.

Location of the Strangulation Warning Label

Comment: One commenter expressed concern that the requirement that the label be placed "in or adjacent to the area where the child's head would rest" does not specify sufficiently the proper placement of the label, and therefore, the label could be obscured when a child is in the seat. The commenter suggested requiring the label to be placed "adjacent to where the infant's head or torso would rest with or without the child installed in the seat." The commenter explained that this change would permit the caregiver to see the warning label at all times and allow the manufacturer the space and flexibility to place the label in a location that is effective, without impacting NHTSA's airbag warning label.

Response: The requirement in ASTM F2050–13a specifying the location for the warning label mirrors NHTSA's airbag warning label requirement. The Commission believes the warning label location requirement clearly describes the proper location of the label and further believes that adopting the commenter's suggestion may create confusion regarding the placement of the label and may reduce the warning's effectiveness if a manufacturer decides to locate the label toward the lower end of the infant carrier. The Commission agrees with the current language in ASTM F2050–13a and believes that the warning label is more likely to be seen if placed on the outer surface of the cushion or padding, in or adjacent to where child's head rests, and also believes that there is sufficient area in that part of the seat to accommodate both NHTSA's and ASTM's labels independently. Therefore, the Commission declines to make the change suggested by the commenter.

Alert Mechanism

Comment: One commenter suggested that the Commission look for feasible means to bolster the protection against the hazards posed by improper use of the harness restraint system, by requiring an alert mechanism that would clearly signal or indicate whether a harness restraint system is properly secured.

Response: Although alerting the user to the existence of improperly secured or unsecured harnesses would be beneficial, the Commission is uncertain how to accomplish this. Visual indicators are unlikely to get the attention of the user, and an auditory signal (similar to vehicle seat belt reminders) would require a power source that would energize the alert mechanism when the carrier is inside and outside of a vehicle. Adding a power source to the child restraint would require a redesign that may fall under NHTSA's jurisdiction.

Effective Date

Comment: One commenter supported the proposed six-month effective date. Another commenter requested an 18-month effective date, assuming that the final rule would reference the use of the cylinder as the surrogate for the carry handle auto-locking test. The commenter seeking an 18-month effective date expressed concern that requiring the cylinder might necessitate substantial design changes.

Response: Because the Commission has determined that the CAMI dummy will be used as a surrogate in the carry handle auto-locking test, the

commenter's basis for requesting an 18-month effective date no longer exists. A six-month effective date should be sufficient for manufacturers of hand-held infant carriers to comply with the rule.

Moses Baskets

We did not receive any comments concerning Moses baskets. Despite the lack of comments, the Commission has determined that a revision to the definition of "hand-held infant carrier" is warranted to clarify that Moses baskets are subject to the standard. The final rule modifies the definition of "hand-held infant carrier" as follows (*underline* represents additional wording): "Hand-held infant carrier—a freestanding, rigid- *or semi-rigid*-sided product intended to carry an occupant whose torso is completely supported by the product to facilitate transportation by a caregiver by means of hand-holds or handles."

VIII. Assessment of Voluntary Standard ASTM F2050–13a and Description of Final Rule

Consistent with section 104(b) of the CPSIA, this rule establishes new 16 CFR part 1225, "Safety Standard for Hand-Held Infant Carriers." The new part incorporates by reference the requirements for hand-held infant carriers in ASTM F2050–13a, with one modification to clarify that semi-rigid sided products, such as Moses baskets, are included in the scope of the rule. The following discussion describes the final rule, the changes, and the additions to the ASTM requirements.

A. Scope (§ 1225.1)

The final rule states that part 1225 establishes a consumer product safety standard for hand-held infant carriers manufactured or imported on or after the date that is six months after the date of publication of a final rule in the **Federal Register**.

B. Incorporation by Reference (§ 1225.2)

Section 1225.2(a) explains that, except as provided in § 1225.2(b), each hand-held infant carrier must comply with all applicable provisions of ASTM F2050–13a, "Standard Consumer Safety Specification for Hand-Held Infant Carriers," which is incorporated by reference. Section 1225.2(a) also provides information on how to obtain a copy of the ASTM standard or to inspect a copy of the standard at the CPSC. The Commission received no comments on this provision in the NPR; but the Commission is changing the language in the incorporation in the final rule to refer to ASTM F2050–13a, the current version of the ASTM standard.

C. Changes to Requirements of ASTM F2050–13a

The final rule modifies the definition of "hand-held infant carrier" to clarify that the definition includes products with semi rigid sides, as well as products that are rigid-sided. ASTM revised the hand-held infant carrier standard in 2012, to include a separate definition for "hand-held bassinets/cradles." A Moses basket meets the definition of a "hand-held bassinet" because a Moses basket is a freestanding product with a rest/support surface that is no more than 10° from horizontal, that sits directly on the floor, without legs or a stand, and has handles or hand-holds intended to allow carrying an occupant whose torso is completely supported by the product. However, because hand-held infant carriers (of which hand-held bassinets/cradles are a subset) are defined in part as "a rigid-sided product" and many Moses baskets have flexible sides, some manufacturers and importers may have interpreted the standard as excluding semi-rigid-sided products such as Moses baskets. Because Moses baskets meet the definition of "hand-held bassinet/cradle," and Moses baskets are not subject to any other durable children's product standard (specifically ASTM F2194–13, Standard Consumer Safety Specification for Bassinets and Cradles), the Commission has determined that Moses baskets are within the scope of the rule. The modification of the definition of "hand-held infant carrier" to include semi rigid-sided products clarifies that Moses baskets are covered by the rule.

IX. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). To allow time for hand-held carriers to come into compliance, the final rule provides that the standard will become effective 6 months after publication in the **Federal Register** for products manufactured or imported after that date.

X. Regulatory Flexibility Act

A. Introduction

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires agencies to consider the impact of rules on small entities, including small businesses. Section 604 of the RFA requires that agencies prepare a final regulatory flexibility analysis when the agency promulgates a final rule, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The final regulatory flexibility analysis must describe the impact of the rule on small entities and identify any alternatives that may reduce the impact. Specifically, the final regulatory analysis must contain:

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

B. The Market

The majority of hand-held infant carriers are produced and/or marketed by juvenile product manufacturers and distributors. A potential exception is the Moses basket, which is often marketed by bedding manufacturers and distributors. The Commission estimates that currently, there are at least 47 suppliers of hand-held infant carriers to the U.S. market. Fifteen are domestic manufacturers, 22 are domestic importers, and 1 is a domestic firm with an unknown supply source. In addition, eight foreign firms distribute products from outside of the United States (four manufacturers, two importers, one retailer, and one firm with an unknown supply source). One firm, about which the staff has little information, sells hand-held infant carriers through an online marketplace. An additional 24 domestic firms supply Moses basket

bedding, along with Moses baskets. Staff does not know the source of the Moses baskets supplied by these 24 firms.

We expect that the products of 29 of the 47 hand-held infant carrier suppliers will be compliant with ASTM F2050–13a (7 are JPMA certified to F2050; 6 claim compliance with F2050; and 16 have ASTM-compliant strollers with hand-held infant carrier attachments). We do not believe that any of the Moses baskets currently on the market comply with the voluntary standard; however, the requirements that apply to Moses baskets involve slip resistance, adding warnings, and instructional literature. Staff believes that the majority of Moses baskets on the market would not require adjustments to meet the slip resistance requirement, and that adding warnings and instructional literature would not be costly.

The product ownership data available is limited to infant car seats, which represented nearly the entire hand-held infant carrier market prior to the publication of ASTM F2050–12, which expanded the scope of the standard to include hand-held bassinets and cradles. According to a 2005 survey conducted by the American Baby Group (*2006 Baby Products Tracking Study*), 68 percent of new mothers own infant car seats. Approximately 25 percent of infant car seats were handed down or purchased secondhand. Thus, about 75 percent of infant car seats were acquired new. This suggests annual sales of about 2.1 million infant car seats (.68 × .75 × 4 million births per year). (U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Health Statistics, National Vital Statistics System, "Births: Final Data for 2010," *National Vital Statistics Reports* Volume 61, Number 1 (August 28, 2012): Table I. Number of births in 2010 is rounded from 3,999,386.) These 2 million infant car seats represent the minimum number of units sold per year that might be affected by the hand-held infant carrier standard. We do not know how many Moses baskets and other bassinet/cradle-style carriers are sold annually.

C. Reason for Agency Action and Legal Basis for Rule

The Danny Keysar Child Product Safety Notification Act, section 104 of the CPSIA, requires the CPSC to promulgate a mandatory standard for hand-held infant carriers that is substantially the same as, or more stringent than, the voluntary standard. CPSC worked closely with ASTM to develop the new requirements and test procedures that have been added to the voluntary standard since 2010. These new requirements address several known hazard patterns and will help to reduce injuries and deaths in hand-held carriers, and they have resulted in the current voluntary standard, F2050–13a, upon which the rule is based.

The final rule modifies the definition of "hand-held infant carrier" in ASTM F2050–13a to clarify that the standard includes products with semi rigid sides, as well as products that are rigid-sided. This modification resulted from the Commission receiving no comments in response to the NPR's question whether Moses baskets should be included within the scope of this rule and the Commission's determination that Moses baskets (which typically have semi rigid as opposed to rigid sides) should be covered by the rule.

D. Requirements of the Rule

The final rule adopts the voluntary ASTM standard for hand-held infant carriers (ASTM F2050–13a), with a modification of the definition of "hand-held infant carrier," as discussed above. Some of the more significant requirements of the current voluntary standard for hand-held infant carriers are listed below:

- Carry handle integrity—a series of endurance and durability tests is intended to prevent rigid, adjustable handles from breaking or unlocking during use.
- Carry handle auto-locking—intended to address incidents that have occurred when the rigid, adjustable handles switched positions unexpectedly.
- Restraints— intended to minimize the fall hazard associated with inclined hand-held carriers, while simultaneously minimizing the potential for injury or death in flat bassinet/cradle products where restraints can pose a strangulation hazard.
- Slip resistance—intended to prevent slipping when the hand-held infant carrier is placed on a slightly inclined surface (10 degrees).
- Marking and labeling requirements—intended to provide tracking information, as well as hazard warnings.

The voluntary standard also includes: (1) Torque and tension tests to prevent components from being removed; (2) requirements for several hand-held infant carrier features to prevent entrapment and cuts (minimum and maximum opening size, coverage of exposed coil springs, small parts, hazardous sharp edges or points, smoothness of wood parts, and edges that can scissor, shear, or pinch); (3) marking and labeling requirements; (4) requirements for the permanency and adhesion of labels; (5) requirements for instructional literature; and (6) toy accessory requirements. ASTM F2050–13a includes no reporting or recordkeeping requirements.

The final rule does not alter ASTM F2050–13a, except to clarify that the definition of "hand-held infant carrier" includes products with semi rigid sides, as well as products that are rigid-sided. We do not expect this modification to the final rule to have a negative economic impact on firms because it is a clarification of the intended scope, rather than a change. In the 2012 version of the hand-held carrier standard (F2050–12), ASTM changed the standard to include a separate definition for "bassinet-style carriers," which may have been interpreted by some manufacturers to include Moses baskets. The Commission proposed the same scope in the NPR but requested comments on including Moses baskets. In the absence of comments, the Commission determined that Moses baskets were intended to and should be included in the scope and that the definition of a "hand-held infant carrier" should be modified to include "semi rigid-sided," as well as "rigid-sided" products, consistent with the scope's intent.

E. Other Federal or State Rules

Two federal rules would interact with the hand-held infant carrier mandatory standard: (1) 16 CFR part 1107, *Testing and Labeling Pertaining to Product Certification* (1107 rule or testing rule); and (2) 16 CFR part 1112, *Requirements Pertaining to Third Party Conformity Assessment Bodies* (1112 rule).

The 1107 rule implementing sections 14(a)(2) and 14(i)(2) of the Consumer Product Safety Act (CPSA), as amended by the CPSIA, became effective on February 13, 2013. Section 14(a)(2) of the CPSA requires every manufacturer of a children's product that is subject to a product safety rule to certify, based on third party testing, that the product complies with all applicable safety rules. Section 14(i)(2) of the CPSA requires the Commission to establish protocols and standards: (i) For ensuring that a children's product is tested periodically and when there has been a material change in the product; (ii) for the testing of representative samples to ensure continued compliance; (iii) for verifying that a product tested by a conformity assessment body complies with applicable safety rules; and (iv) for safeguarding against the exercise of undue influence on a conformity

assessment body by a manufacturer or private labeler.

Because hand-held infant carriers will be subject to a mandatory children's product safety rule, the product will also be subject to the third party testing requirements of section 14(a)(2) of the CPSA and the 1107 rule when the hand-held infant carrier mandatory standard and the notice of requirements (NORs) become effective.

The 1112 rule, which became effective on June 10, 2013; established requirements for the accreditation of third party conformity assessment bodies to test for conformance with a children's product safety rule in accordance with section 14(a)(2) of the CPSA. The final rule also codified all of the NORs that the CPSC had published, to date. However, any new NORs require an amendment to this rule. Therefore, this rule amends 16 CFR part 1112 to establish the requirements for accepting the accreditation of a conformity assessment body to test for compliance with the hand-held infant carrier final rule.

F. Impact of the Rule on Small Business

There are at least 47 firms currently known to be marketing hand-held infant carriers in the United States, as well as 24 firms supplying Moses basket bedding and Moses baskets whose source is unknown. Under U.S. Small Business Administration (SBA) guidelines, a manufacturer of hand-held infant carriers is small if the firm has 500 or fewer employees, and importers and wholesalers are considered small, if they have 100 or fewer employees. Based on these guidelines, about 50 of the firms known to be marketing hand-held infant carriers in the United States are small firms—10 domestic manufacturers, 17 domestic importers, 1 domestic firm with an unknown supply source, and 22 firms supplying Moses basket/bedding suppliers. There may also be additional small hand-held infant carrier suppliers operating in the U.S. market.

Small Manufacturers

Direct Costs From the Rule

The expected impact on small manufacturers of the standard will differ based on whether the firm's hand-held infant carriers already comply with F2050–12. Firms whose hand-held infant carriers meet the requirements of F2050–12 are likely to continue to comply with the voluntary standard as ASTM publishes new versions of the ASTM standard. In addition, firms currently in compliance are likely to meet any new standard within six months after approval because six months is the established amount of time that JPMA allows for products in JPMA's certification program to shift to a new standard. Compliance with the voluntary standard in the six-month time frame is part of an established business practice. Additionally, modifying warning labels and updating instructional literature should not result in significant expenditures for most firms. As a result, the direct impact of the rule on manufacturers whose products are likely to meet the requirements of ASTM F2050–13a (eight of ten small domestic manufacturers) is not likely to be significant. One or more firms might have to modify their carry handles to continue to pass the auto-locking test, but staff believes that a complete product redesign should not be necessary. Thus, for manufacturers whose products are likely to meet the requirements of ASTM F2050–13a (eight of ten firms), staff estimates little or no incremental impact on the costs of producing hand-held infant carriers.

For either or both of the hand-held infant carrier suppliers staff believes do not comply with the current version of the voluntary standard, however, meeting ASTM F2050–13a's requirements could necessitate product redesign. A redesign would be minor if most of the changes involve adding straps and fasteners or using different mesh or fabric; but could be more significant if changes to the frame are required, including changes to the handles. Some firms have estimated product redesigns, including engineering time, prototype development, tooling, and other incidental costs, to cost approximately $500,000. Consequently, the final rule could potentially have a significant direct impact on small manufacturers whose products currently do not conform to the voluntary standard, depending on the scope of the redesign that ultimately is necessary. Where the products need not be completely redesigned, actual costs are likely to be lower than the $500,000 level.

Even though the hand-held infant carriers sold by two firms are neither certified as compliant, nor claim compliance with F2050–12, the products may, in fact, comply with the current standard. Staff has identified many such cases with other products. To the extent that some of these firms may supply compliant hand-held infant carriers and have developed a pattern of compliance with the voluntary standard, the direct impact of the standard will be less significant than described above.

Indirect Costs From Testing and Certification

In addition to the direct impact of the standard described above, the rule will have indirect impacts. These impacts are considered indirect because they do not arise directly as a consequence of the hand-held infant carrier rule's requirements. Nonetheless, they could be significant. Once the rule becomes final and the NOR is in effect, all manufacturers will be subject to the additional costs associated with the third party testing and certification requirements. These costs will include any physical and mechanical test requirements specified in the final rule; lead and phthalates testing is already required, and hence, related costs are not included here.

Based on durable nursery product industry input and confidential business information supplied for the development of the third party testing rule, testing to the ASTM voluntary standard could cost $500–$1,000 per model sample. Testing overseas could potentially reduce some testing costs, but such testing may not always be practical.

On average, each small domestic manufacturer supplies two different models of hand-held infant carriers to the U.S. market annually. Therefore, if third party testing were conducted every year on a single sample for each model, third party testing costs for each manufacturer would be about $1,000–$2,000 annually. Based on a review of firm revenues, the impact of third party testing to ASTM F2050–13a is unlikely to be significant if only one hand-held infant carrier sample per model is necessary to comply with the third party testing requirements. However, if more than one sample would be needed to meet the testing requirements, that third party testing costs potentially could have a significant impact on one or more of the small manufacturers.

Small Importers

As with manufacturers of compliant hand-held infant carriers, we do not believe that the eight small importers of hand-held infant carriers currently in compliance with F2050–12 will experience significant direct impacts as a result of the final rule. In the absence of regulation, these importing firms would likely continue to their established practice of complying with the voluntary standard as the standard evolves.

Importers of hand-held infant carriers would need to find an alternate supply source if their existing supplier does not comply with the requirements of the

rule, which may be the case with all four small importers of hand-held infant carriers, whom we believe do not comply with F2050–12. Some of these importers could react to the rule by discontinuing the import of noncomplying hand-held infant carriers, possibly discontinuing the product line altogether. However, the impact of such a decision could be mitigated by replacing the noncompliant hand-held infant carriers with compliant hand-held infant carriers. Deciding to import an alternative product would be a reasonable and realistic way to offset any lost revenue. However, for some importers, switching suppliers might not be an option.

As is the case with manufacturers, all importers will be subject to third party testing and certification requirements, and consequently, importers will incur costs similar to those for manufacturers if their supplying foreign firm(s) does not perform third party testing. The resulting costs could have a significant impact on a few small importers who must perform the testing themselves, if more than one sample per model is required.

Moses Basket Suppliers

Staff also assessed the potential impact of the rule on firms that supply Moses baskets. There are 22 known small firms supplying Moses baskets to the U.S. market. Most of these firms also supply bedding; some of them manufacture the bedding, and others act as importers. Because a separate definition for "hand-held bassinets" was added to the standard relatively recently in 2012, and some manufacturers may be uncertain whether Moses baskets (a type of hand-held bassinet) are covered by the standard because they are not rigid-sided, Moses baskets currently on the market may not have been designed to comply with this standard.

Many Moses baskets on the market, however, might be able to comply with the standard with minimal modifications. For example, although Moses baskets would not be subject to most of the hand-held carrier standard's performance requirements, Moses baskets would likely have to meet the slip-resistance requirement. Because typical Moses baskets are fabricated from textured materials, we believe that these products likely would not require modifications to meet the slip-resistance requirement (that the product does not slip on surface 10 degrees from horizontal while facing forward, sideways, and to the rear). Therefore, the biggest changes might be to add warnings and instructional literature, actions that the staff expects would not be costly.

Alternatively, Moses basket suppliers could remove themselves from the scope of the final rule by eliminating the handles from their products. Because most Moses baskets come with warnings against carrying an infant in the basket, eliminating handles would conform to those instructions.

All Moses basket manufacturers within the scope of the rule will be subject to third party testing and certification requirements. Importers of Moses baskets could experience testing costs if their supplying firm does not perform third party testing. Because Moses baskets would not be subject to most of the mechanical tests in the standard, we expect that third party testing costs, at most, will be half the amount of other types of hand-held infant carriers, or approximately $250–$500 per model sample. Review of each firm's product line reveals that most firms use only one model of Moses basket for their bedding; although some firms have up to four variations of Moses baskets. The resulting costs are unlikely to have a significant impact on firms that must perform the testing themselves.

G. Alternatives

An alternative to the rule would be to set an effective date later than six months, which is generally considered sufficient time for suppliers to come into compliance with a rule. Setting a later effective date would allow suppliers additional time to develop compliant hand-held infant carriers and spread the associated costs over a longer period of time.

XI. Environmental Considerations

The Commission's regulations address whether we are required to prepare an environmental assessment or an environmental impact statement. These regulations provide a categorical exclusion for certain CPSC actions that normally have "little or no potential for affecting the human environment." Among those actions are rules or safety standards for consumer products. 16 CFR 1021.5(c)(1): The rule falls within the categorical exclusion.

XII. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The preamble to the proposed rule (77 FR at 73363 through 73364) discussed the information collection burden of the proposed rule and specifically requested comments on the accuracy of our estimates. Briefly, sections 8 and 9 of ASTM F2050–13a contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of "collection of information," as defined in 44 U.S.C. 3502(3).

In compliance with the PRA (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this rule to the OMB for review. OMB has assigned control number 3041–0158 to this information collection. The Commission did not receive any comments regarding the information collection burden of this proposal. However, the final rule makes modifications regarding the information collection burden because the number of estimated suppliers subject to the information collection burden is now estimated to be 71 firms, rather than the 43 firms initially estimated in the proposed rule.

Accordingly, the estimated burden of this collection of information is modified as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR Section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1221	71	2	142	1	142

Our estimates are based on the following:

Section 8.1 of ASTM F 2050–13a requires that the name of the manufacturer, distributor, or seller, and either the place of business (city, state, and mailing address, including zip code) or telephone number, or both, be

marked clearly and legibly on each product and its retail package. Section 8.2 of ASTM F 2050–13a requires a code mark or other means that identifies the date (month and year, as a minimum) of manufacture.

There are 71 known entities supplying hand-held infant carriers to the U.S. market. All 71 firms are assumed to use labels already on both their products and their packaging, but they might need to modify existing labels. The estimated time required to make these modifications is about 1 hour per model. Each entity supplies an average of two different models of hand-held infant carriers; therefore, the estimated burden associated with labels is 1 hour per model × 71 entities × 2 models per entity = 142 hours. We estimate the hourly compensation for the time required to create and update labels is $27.44 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," March 2013, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, the estimated annual cost to industry associated with the labeling requirements is $3,896.48 ($27.54 per hour × 142 hours = $3,896.48). There are no operating, maintenance, or capital costs associated with the collection of information.

Section 9.1 of ASTM F2050–12 requires the supply of instructions with the product. Hand-held infant carriers often require installation or assembly, and products sold without such information would not be as attractive to consumers as products supplying this information. Under the OMB's regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the "normal course of their activities" are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are "usual and customary." Therefore, because we are unaware of hand-held infant carriers that generally require installation or some assembly but lack any instructions to the user about such installation or assembly, we estimate that there are no burden hours associated with section 9.1 of ASTM F 2050–12 because any burden associated with supplying instructions with hand-held infant carriers would be "usual and customary" and not within the definition of "burden" under the OMB's regulations.

XIII. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury, unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as "consumer product safety rules," thus implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when the rule becomes effective.

XIV. Certification and Notice of Requirements (NOR)

Section 14(a)(2) of the CPSA requires that children's products subject to a children's product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a)(2). For children's products, such certification must be based on tests on a sufficient number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. As discussed in section I of this preamble, section 104(b)(1)(B) of the CPSIA refers to standards issued under this section as "consumer product safety standards." Accordingly, a safety standard for hand-held infant carriers issued under section 104 of the CPSA is a consumer product safety rule that is subject to the testing and certification requirements of section 14 of the CPSA. Because hand-held infant carriers are children's products, they must be tested by a third party conformity assessment body whose accreditation has been accepted by the CPSC. Notices of requirements (NORs) provide the criteria and process for our acceptance of accreditation of third party conformity assessment bodies.

The Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as part 1112). This rule became effective on June 10, 2013. Part 1112 establishes requirements for accreditation of third party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with Section14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the hand-held infant carrier standard, require the Commission to amend part 1112. Accordingly, this rule amends part 1112 to include the hand-held infant carrier standard in the list with the other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for hand-held infant carriers are required to meet the third party conformity assessment body accreditation requirements in 16 CFR part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR part 1225, *Safety Standard for Hand-Held Infant Carriers* included in the scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch.*

In connection with the part 1112 rulemaking, CPSC staff conducted an analysis of the potential impacts on small entities of the rule establishing accreditation requirements, 78 FR 15836, 15855–58 (March 12, 2013), as required by the Regulatory Flexibility Act and prepared a Final Regulatory Flexibility Analysis (FRFA). Briefly, the FRFA concluded that the requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements are imposed on laboratories that do not intend to provide third party testing services under section 14(a)(2) of the CPSA. The only laboratories that are expected to provide such services are those that anticipate receiving sufficient revenue from providing the mandated testing to justify accepting the requirements as a business decision. Laboratories that do not expect to receive sufficient revenue from these services to justify accepting these requirements would not likely pursue accreditation for this purpose. Similarly, amending the part 1112 rule to include the NOR for the hand-held infant carrier standard would not have a significant adverse impact on small laboratories. Most of these laboratories will have already been accredited to test for conformance to other juvenile product standards, and the only costs to them would be the cost of adding the hand-held infant carrier standard to their scope of accreditation. As a consequence, the Commission certifies

that the NOR for the hand-held infant carrier standard will not have a significant impact on a substantial number of small entities.

To ease the transition to new third party testing requirements for hand-held infant carriers subject to the standard and to avoid a "bottlenecking" of products at laboratories at or near the effective date of required third party testing for hand-held infant carriers, the Commission, under certain circumstances, will accept certifications based on testing that occurred before the effective date for third party testing.

The Commission will accept retrospective testing for 16 CFR part 1225, safety standard for hand-held infant carriers, if the following conditions are met:

- The children's product was tested by a third party conformity assessment body accredited to ISO/IEC 17025:2005(E) by a signatory to the ILAC–MRA at the time of the test. The scope of the third party conformity body accreditation must include testing in accordance with 16 CFR part 1225. For firewalled third party conformity assessment bodies, the firewalled third party conformity assessment body must be one that the Commission, by order, has accredited on or before the time that the children's product was tested, even if the order did not include the tests contained in the safety standard for hand-held infant carriers at the time of initial Commission acceptance. For governmental third party conformity assessment bodies, accreditation of the body must be accepted by the Commission, even if the scope of accreditation did not include the tests contained in the safety standard for hand-held infant carriers at the time of initial CPSC acceptance.
- The test results show compliance with 16 CFR part 1225.
- The hand-held infant carrier was tested on or after the date of publication in the **Federal Register** of the final rule for 16 CFR part 1225 and before June 6, 2014.
- The laboratory's accreditation remains in effect through June 6, 2014.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1225

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, and Toys.

Therefore, the Commission amends Title 16 of the Code of Federal Regulations by amending part 1112 and adding a new part 1225 to read as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

■ 2. Amend § 1112.15 by adding paragraph (b)(34) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * * *

(b)

(34) 16 CFR part 1225, Safety Standard for Hand-Held Infant Carriers.

* * * * *

■ 3. Add part 1225 to read as follows:

PART 1225—SAFETY STANDARD FOR HAND-HELD INFANT CARRIERS

Sec.

1225.1 Scope.

1225.2 Requirements for hand-held infant carriers.

Authority: Pub. L. 110–314, sec. 104, 122 Stat. 3016 (August 14, 2008).

§ 1225.1 Scope.

This part establishes a consumer product safety standard for hand-held infant carriers.

§ 1225.2 Requirements for hand-held infant carriers.

(a) Except as provided in paragraph (b) of this section, each hand-held infant carrier must comply with all applicable provisions of ASTM F 2050–13a, Standard Consumer Safety Specification for Hand-Held Infant Carriers, approved on September 1, 2013. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Instead of complying with section 3.1.3 of ASTM F2050–13a, comply with the following:

(1) 3.1.3 *hand-held infant carrier, n*—a freestanding, rigid- or semirigid-sided product intended to carry an occupant whose torso is completely supported by the product to facilitate transportation by a caregiver by means of hand-holds or handles.

(2) [Reserved]

Dated: December 2, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–29061 Filed 12–5–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM13–8–000; Order No. 788]

Retirement of Requirements in Reliability Standards

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Commission approves the retirement of 34 requirements within 19 Reliability Standards identified by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization. The requirements approved for retirement either: Provide little protection for Bulk-Power System reliability; or are redundant with other aspects of the Reliability Standards. In addition, the Commission withdraws 41 Commission directives that NERC develop modifications to Reliability Standards. This rule is part of the Commission's ongoing effort to review its requirements and reduce unnecessary burdens by eliminating requirements that are not necessary to the performance of the Commission's regulatory responsibilities.

DATES: *Effective Date:* This rule will become effective January 21, 2014.

FOR FURTHER INFORMATION CONTACT: Kevin Ryan (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6840

Michael Gandolfo (Technical Information), Office of Electric Reliability, Division of Reliability Standards and Security, Federal Energy Regulatory Commission 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6817.

SUPPLEMENTARY INFORMATION:

145 FERC ¶ 61,147

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, Cheryl A. LaFleur, and Tony Clark.

Final Rule

(Issued November 21, 2013)

1. Pursuant to section 215(d) of the Federal Power Act (FPA),[1] the Commission approves the retirement of 34 requirements within 19 Reliability Standards identified by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO). The retirement of these provisions meet the benchmarks set forth in the Commission's March 15, 2012 order that requirements proposed for retirement either: (1) Provide little protection for Bulk-Power System reliability or (2) are redundant with other aspects of the Reliability Standards.[2] Consistent with the Commission's proposal in the March 2012 Order, we conclude that the requirements approved for retirement can "be removed from the Reliability Standards with little effect on reliability and an increase in efficiency of the ERO compliance program." [3]

2. In addition, in this Final Rule, we withdraw 41 directives that NERC develop modifications to Reliability Standards.[4] In Order No. 693 and subsequent final rules, the Commission has identified various issues and directed NERC to develop modifications to the Reliability Standards or take other action to address those issues.[5] While NERC has addressed many of these directives, over 150 directives remain outstanding. The withdrawal of these directives will enhance the efficiency of the Reliability Standards development process, with little or no impact on Bulk-Power System reliability.

3. Pursuant to Executive Order 13579, the Commission issued a plan to identify regulations that warrant repeal or modification, or strengthening, complementing, or modernizing where necessary or appropriate.[6] In the Plan, the Commission also stated that it voluntarily and routinely, albeit informally, reviews its regulations to ensure that they achieve their intended purpose and do not impose undue burdens on regulated entities or unnecessary costs on those entities or their customers. The action in this Final Rule is a part of the Commission's ongoing effort to review its requirements and reduce unnecessary burdens by eliminating requirements that are not necessary to the performance of the Commission's regulatory responsibilities.

I. Background

A. Section 215 of the FPA

4. Section 215 of the FPA requires the Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced in the United States by the ERO subject to Commission oversight or by the Commission independently.[7] Pursuant to the requirements of FPA section 215, the Commission established a process to select and certify an ERO[8] and, subsequently, certified NERC as the ERO.[9]

B. March 2012 Order

5. In the March 2012 Order, the Commission accepted, with conditions, NERC's "Find, Fix, Track and Report" (FFT) initiative. The FFT process, *inter alia*, provides NERC and the Regional Entities the flexibility to address lower-risk possible violations through an FFT informational filing as opposed to issuing and filing a Notice of Penalty. In addition, the Commission raised the prospect of revising or removing requirements of Reliability Standards that "provide little protection for Bulk-Power System reliability or may be redundant." [10] Specifically, the Commission stated:

> . . . NERC's FFT initiative is predicated on the view that many violations of requirements currently included in Reliability Standards pose lesser risk to the Bulk-Power System. If so, some current requirements likely provide little protection for Bulk-Power System reliability or may be redundant. The Commission is interested in obtaining views on whether such requirements could be removed from the Reliability Standards with little effect on reliability and an increase in efficiency of the ERO compliance program. If NERC believes that specific Reliability Standards or specific requirements within certain Standards should be revised or removed, we invite NERC to make specific proposals to the Commission identifying the Standards or requirements and setting forth in detail the technical basis for its belief. In addition, or in the alternative, we invite NERC, the Regional Entities and other interested entities to propose appropriate mechanisms to identify and remove from the Commission-approved Reliability Standards unnecessary or redundant requirements.[11]

In response, NERC initiated a review, referred to as the "P 81 project," to identify requirements that could be removed from Reliability Standards without impacting the reliability of the Bulk-Power System.

C. NERC Petition

6. In a February 28, 2013 petition, NERC requested Commission approval of the retirement of 34 requirements within 19 Reliability Standards. According to NERC, the 34 requirements proposed for retirement "are redundant or otherwise unnecessary" and that "violations of these requirements . . . pose a lesser risk to the reliability of the Bulk-Power System." [12] NERC stated that the proposed retirement of the 34 requirements "will allow industry stakeholders to focus their resources appropriately on reliability risks and will increase the efficiency of the ERO compliance program." [13]

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[1] 16 U.S.C. 824*o*(d) (2006).

[2] *See North American Electric Reliability Corp.*, 138 FERC ¶ 61,193, at P 81 (March 2012 Order), *order on reh'g and clarification*, 139 FERC ¶ 61,168 (2012).

[3] *Id.* P 81.

[4] The 41 withdrawn directives are listed in Attachment A to this Final Rule.

[5] *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g*, Order No. 693–A, 120 FERC ¶ 61,053 (2007). *See also Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System*, Order No. 729, 129 FERC ¶ 61,155 (2009), *order on clarification*, Order No. 729–A, 131 FERC ¶ 61,109 (2010), *order on reh'g and reconsideration*, Order No. 729–B, 132 FERC ¶ 61,027 (2010).

[6] Plan for Retrospective Analysis of Existing Rules, Docket No. AD12–6–000 (Nov. 8, 2011). Executive Order 13579 requests that independent agencies issue public plans for periodic retrospective analysis of their existing "significant regulations." Retrospective analysis should identify "significant regulations" that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in order to achieve the agency's regulatory objective.

[7] *See* 16 U.S.C. 824*o*(e)(3).

[8] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[9] *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa Inc.* v. *FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

[10] March 2012 Order, 138 FERC ¶ 61,193 at P 81.

[11] *Id.*

[12] Petition at 2.

[13] *Id.*

7. NERC explained that the "P 81 Team" developed three criteria for its review:

(1) Criterion A: An overarching criteria designed to determine that there is no reliability gap created by the proposed retirement; (2) Criterion B: Consists of seven separate identifying criteria designed to recognize requirements appropriate for retirement (administrative; data collection/data retention; documentation; reporting; periodic updates; commercial or business practice; and redundant); and (3) Criterion C: Consists of seven separate questions designed to assist the P 81 Team in making an informed decision regarding whether requirements are appropriate to propose for retirement.[14]

8. NERC explained that the project team focused on the identification of "lower-level facilitating requirements that are either redundant with other requirements or where evidence retention is burdensome and the requirement is unnecessary" because the reliability goal is achieved through other standards or mechanisms.[15] According to NERC, the proposed retirement of documentation requirements will not create a gap in reliability because "NERC and the Regional Entities can enforce reporting obligations pursuant to section 400 of NERC's Rules of Procedure and Appendix 4C to ensure that necessary data continues to be submitted for compliance and enforcement purposes." [16] NERC asserts that, although the P 81 project proposes to retire requirements associated with data retention or documentation, "the simple fact that a requirement includes a data retention or documentation element *does not* signify that it should be considered for retirement or is otherwise inappropriately designated as a requirement." [17]

9. Based on this approach, NERC identified the following 34 requirements within 19 Reliability Standards for potential retirement:

- BAL–005–0.2b, Requirement R2—Automatic Generation Control
- CIP–003–3, –4, Requirement R1.2—Cyber Security—Security Management Controls [18]
- CIP–003–3, –4, Requirements R3, R3.1, R3.2, and R3.3—Cyber Security—Security Management Controls
- CIP–003–3, –4, Requirement R4.2—Cyber Security—Security Management Controls
- CIP–005–3a, –4a, Requirement R2.6—Cyber Security—Electronic Security Perimeter(s)
- CIP–007–3, –4, Requirement R7.3—Cyber Security—Systems Security Management
- EOP–005–2, Requirement R3.1—System Restoration From Blackstart Services
- FAC–002–1, Requirement R2—Coordination of Plans for New Facilities
- FAC–008–3, Requirements R4 and R5—Facility Ratings
- FAC–010–2.1, Requirement R5—System Operating Limits Methodology for the Planning Horizon
- FAC–011–2.1, Requirement R5—System Operating Limits Methodology for the Operations Horizon
- FAC–013–2, Requirement R3—Assessment of Transfer Capability for the Near-term Transmission Planning Horizon
- INT–007–1, Requirement R1.2—Interchange Confirmation
- IRO–016–1, Requirement R2—Coordination of Real-Time Activities Between Reliability Coordinators
- NUC–001–2, Requirements R9.1, R9.1.1, R9.1.2, R9.1.3, and R1.9.4—Nuclear Plant Interface Coordination
- PRC–010–0, Requirement R2—Assessment of the Design and Effectiveness of UVLS Programs
- PRC–022–1, Requirement R2—Under-Voltage Load Shedding Program Performance
- VAR–001–2, Requirement R5—Voltage and Reactive Control

10. NERC also requested that the Commission approve the implementation plan, provided as Exhibit C to NERC's petition, which provided that the identified requirements will be retired immediately upon Commission approval.

11. NERC stated that it will apply the "concepts" from the P 81 project to improve the drafting of Reliability Standards going forward. Specifically, NERC explained that Reliability Standards development projects "will involve stronger examination for duplication of requirements across the NERC body of Reliability Standards and the technical basis and necessity for each and every requirement will continue to be evaluated." [19] According to NERC, requirements that were proposed and ultimately not included in the immediate filing will be mapped for consideration in future standards projects.

D. Notice of Proposed Rulemaking

12. On June 20, 2013, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve the retirement of the 34 requirements within 19 Reliability Standards, consistent with NERC's petition.[20] In addition, the Commission proposed to withdraw 41 outstanding Commission directives that NERC develop modifications to Reliability Standards.

13. Comments on the NOPR were due by August 27, 2013. Seven entities filed comments, identified in Attachment B to the Final Rule.

II. Discussion

A. Retirement of Requirements

NOPR Proposal

14. In the NOPR, the Commission proposed to approve the retirement of the 34 requirements within 19 Reliability Standards identified by NERC. In the NOPR, for each of the 34 requirements, the Commission provided NERC's rationale supporting retirement, and the Commission's explanation for proposing to approve the retirement.[21]

Comments

15. Commenters unanimously support approval of the NOPR proposal. Trade Associations, CEA and ITC concur that the retirement of the 34 requirements will have little to no effect on reliability. NRECA, ISO/RTO Council, CEA and ITC support continuance of the "P 81" process as a high priority going forward and the identification of additional candidate requirements for retirement or streamlining.

16. ISO/RTO Council comments that, while the criteria used by NERC to identify candidate requirements for retirement are appropriate, additional criteria would ensure that streamlining of the Reliability Standards will continue.

[14] *Id.* at 4. *See also id.* n. 8 (setting forth the seven questions of Criterion C).

[15] *Id.* at 7.

[16] *Id.* at 8 (citing *North American Electric Reliability Corp.*, 141 FERC ¶ 61,241, at P 82 (2012) (approving proposed revisions to NERC's Rules of Procedure)).

[17] *Id.* at 9 (emphasis in original).

[18] NERC explains that although only eight requirements in the Critical Infrastructure Protection (CIP) body of Reliability Standards are proposed for retirement, NERC proposes the retirement of those eight requirements in both CIP versions 3 and 4. Therefore, the total number of CIP requirements proposed for retirement is sixteen.

[19] Petition at 9.

[20] *Electric Reliability Organization Proposal To Retire Requirements in Reliability Standards*, Notice of Proposed Rulemaking, 78 FR 38,851 (June 28, 2013), 143 FERC ¶ 61,251 (2013) (NOPR), *errata*, 78 FR 41,339 (July 10, 2013).

[21] *See* NOPR, 143 FERC ¶ 61,251 at PP 17–83.

Commission Determination

17. Pursuant to section 215 of the FPA, we approve the retirement of the 34 requirements within 19 Reliability Standards identified by NERC as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Likewise, we approve the implementation plan and effective date set forth in NERC's petition.

18. In the March 2012 Order, the Commission explained that "some current requirements likely provide little protection for Bulk-Power System reliability or may be redundant. The Commission is interested in obtaining views on whether such requirements could be removed from the Reliability Standards with little effect on reliability and an increase in efficiency of the ERO compliance program." [22] In general, we conclude that the requirements identified by NERC for retirement satisfy the expectations set forth in the March 2012 Order; namely, the requirements proposed for retirement either: (1) Provide little protection for Bulk-Power System reliability or (2) are redundant with other aspects of the Reliability Standards.[23]

19. We agree with NERC that the elimination of certain requirements that pertain to information collection or documentation will not result in a reliability gap. No commenter disputes NERC's rationale. Section 400 and Appendix 4C (Uniform Compliance Monitoring and Enforcement Program) of the NERC Rules of Procedure provide NERC and the Regional Entities the authority to enforce reporting obligations necessary to support reliability.[24] This authority, used in the appropriate manner, justifies retiring certain documentation-related requirements that provide limited, if any, support for reliability. The retirement of such requirements should enhance the efficiency of the ERO compliance program, as well as the efficiency of individual registered entity compliance programs.

20. We agree with commenters that NERC should continue the process of identifying additional Reliability Standards and requirements as candidates for retirement or streamlining. We support NERC's continuing efforts in this regard. Efficiencies can be gained from further consolidation or retirement of some requirements or components of requirements that are justified based on technical analysis of either existing requirements, new proposed requirements or modifications. Such analyses would take into account the interrelationship between standards and among categories of standards, in order to determine that when retirements or consolidations are made the reliability benefits of the currently effective requirements would be preserved.

21. With regard to ISO/RTO Council's comment, we will not direct NERC to develop additional criteria for identifying candidate requirements for retirement. ISO/RTO Council does not identify any specific concern or defect regarding the criteria applied by NERC.[25] ISO/RTO Council may raise its proposal directly with NERC if it so chooses.

B. Outstanding Directives

NOPR Proposal

22. In the NOPR, the Commission proposed to withdraw 41 outstanding Commission directives that NERC develop modifications to Reliability Standards. Attachment A of the NOPR identified the 41 Commission directives, the source (i.e., Final Rule) of the directive, and a justification for the proposed withdrawal.[26] The Commission explained that it applied the following three criteria in identifying outstanding directives for withdrawal: (1) The reliability concern underlying the outstanding directive has been addressed in some manner, rendering the directive stale; (2) the outstanding directive provides general guidance for standards development rather than a specific directive; and (3) the outstanding directive is redundant with another directive.[27] The Commission stated that each of the 41 outstanding directives identified in Attachment A of the NOPR satisfies one or more of the criteria.

Comments

23. NERC and all other commenters support the withdrawal of the 41 outstanding Commission directives.

24. Trade Associations recommend that the Commission consider alternative criteria for the withdrawal of outstanding directives to more closely align the criteria with those developed by NERC for retirement of Reliability Standard requirements. According to Trade Associations, "simple logic suggests that the basis for retirement of requirements and withdrawal of Commission reliability directives should be consistent, if not uniform." [28]

Commission Determination

25. We find that it is appropriate to withdraw the 41 directives requiring that NERC develop modifications to Reliability Standards. As explained in the NOPR, the withdrawal of the identified directives should result in more efficient use of NERC's and the Commission's resources and reduce unnecessary burdens, without impacting the reliable operation of the Bulk-Power System.[29] All commenters agree with the withdrawal of the 41 directives and the resulting efficiencies. Accordingly, we withdraw the 41 directives requiring that NERC develop modifications to Reliability Standards, identified in Attachment A of the Final Rule.

26. We are not persuaded by Trade Associations' comments that there is a need to more closely align the criteria applied by the Commission in determining whether to withdraw an outstanding reliability directive with those criteria developed by NERC for retirement of Reliability Standard requirements. Unlike the NERC review of Reliability Standard requirements, without precluding possible future Commission action, we have no plans for ongoing review of outstanding Commission reliability directives. We have reviewed the catalogue of outstanding reliability directives and have taken appropriate action in this proceeding. Further, while Trade Associations assert that such convergence of criteria is "logical," we do not believe that the retirement of Reliability Standards requirements and withdrawal of a Commission directive is an apples-to-apples comparison that necessitates the suggested "alignment."

III. Information Collection Statement

27. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.[30] Upon approval of a collection(s) of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing

[22] March 2012 Order, 138 FERC ¶ 61,193 at P 81.

[23] Further, we adopt the rationale for the retirement of each requirement as set forth in the NOPR, 143 FERC ¶ 61,251 at PP 17–83.

[24] See *North American Electric Reliability Corp.*, 141 FERC ¶ 61,241 at P 82.

[25] Moreover, while NERC provided the criteria in the February 2013 petition, NERC also made clear that the criteria were provided only for informational purposes. See NERC Petition at 4.

[26] The same table is provided as Attachment A to the Final Rule. Each directive identified in Attachment A includes a "NERC Reference Number." Commission staff and NERC staff have developed a common approach to identifying and tracking outstanding Commission directives. The NERC Reference Numbers reflect this joint tracking process.

[27] NOPR, 143 FERC ¶ 61,251 at P 86.

[28] Trade Associations Comments at 7.

[29] See NOPR, 143 FERC ¶ 61,251 at PP 85–87.

[30] 5 CFR 1320.11.

requirements of this rule will not be penalized for failing to respond to these collection(s) of information unless the collections of information display a valid OMB control number.

28. The Commission is submitting these revisions to the reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act of 1995.[31] The Commission solicited comments on the need for and the purpose of the information contained in NERC's February 2013 petition and the corresponding burdens to implement NERC's proposed retirement of 34 requirements within 19 Reliability Standards. The Commission received comments generally supporting the efficiency gains and reductions in burden resulting from the retirement of specific requirements, which we address in the Final Rule. However, the Commission did not receive comments on the reporting estimates. The Final Rule approves the retirement of the 34 requirements within 19 Reliability Standards and, in addition, the withdrawal of 41 Commission directives that NERC develop modifications to Reliability Standards.

29. *Public Reporting Burden:* The estimate below for the number of respondents is based on the NERC Compliance Registry as of April 30, 2013.[32] According to the registry, there are 132 balancing authorities (BA), 544 distribution providers (DP), 898 generator owners (GO), 859 generator operators (GOP), 56 interchange authorities (IA), 515 load serving entities (LSE), 80 planning authorities/planning coordinators (PA or PC), 677 purchasing selling entities (PSE), 21 reliability coordinators (RC), 346 transmission owners (TO), 185 transmission operators (TOP), 185 transmission planners (TP), and 93 transmission service providers (TSP).

30. The Commission estimates that the burden will be reduced for each requirement as detailed in the chart below, for a total estimated annual reduction in burden cost of $518,220. The Commission based the burden reduction estimates on staff experience, knowledge, and expertise.

Standard, requirement number, and FERC Collection Number	Type of respondents	Number of respondents[33] [A]	Estimated average reduction in burden hours per respondent per year [B]	Estimated total annual reduction in burden (in hours) [A × B]	Estimated total annual reduction in cost [A × B × $60/hour[34]]
EOP–005–2, R3.1 (FERC–725A)	TOP	185	1	185	$11,100
FAC–008–3, R4 (FERC–725A)	TO, GO	1,151	1	1,151	69,060
FAC–008–3, R5 (FERC–725A)	TO, GO	1,151	1	1,151	69,060
FAC–010–2.1, R5 (FERC–725D)	PA	80	20	1,600	96,000
FAC–011–2, R5 (FERC–725D)	RC	21	20	420	25,200
FAC–013–2, R3 (FERC–725A)	PC	80	8	640	38,400
INT–007–1, R1.2 (FERC–725A)	IA	56	20	1,120	67,200
IRO–016–1, R2 (FERC–725A)	RC	21	20	420	25,200
CIP–003–3, –4, R1.2 (FERC–725B)	RC, BA, IA, TSP, TO, TOP, GO, GOP,LSE.	325	1	325	19,500
CIP–003–3, –4, R3, R3.1, R3.2, R3.3 (FERC–725B).	RC, BA, IA, TSP, TO, TOP, GO, GOP,LSE.	325	1	325	19,500
CIP–005–3, –4, R2.6 (FERC–725B)	RC, BA, IA, TSP, TO, TOP, GO, GOP,LSE.	325	4	1300	78,000
Total				8,637	518,220

31. The above chart does not include BAL–005–0.2b, Requirement R2; CIP–003–3, –4, Requirement R4.2; CIP–007–3, –4, Requirement R7.3; FAC–002–1, Requirement R2; PRC–010–0, Requirement R2; PRC–022–1, Requirement R2; and VAR–001–2, Requirement R5 because those requirements were found redundant with other requirements.[35] Since the action required within them is required elsewhere, there is no change in the overall burden in retiring these requirements. Likewise, NUC–001–2, Requirement R9.1; NUC–001–2, Requirement R9.1.1; NUC–001–2, Requirement R9.1.2; NUC–001–2, Requirement R9.1.3; and NUC–001–2, Requirement R9.1.4 are not included because these requirements require that the applicable entities include "boiler plate" language into their agreements that is normally included in all legal contracts.[36] Since this action will be taken regardless if it is required by a Reliability Standard, there is no reduction in burden.

Titles: FERC–725A, Mandatory Reliability Standards for the Bulk Power System; FERC–725B, Mandatory Reliability Standards for Critical Infrastructure Protection; FERC–725D, Facilities, Design, Connections, and Maintenance Reliability Standards; and FERC–725F, Mandatory Reliability Standards for Nuclear Plant Interface Coordination.

Action: Revisions to Collections of Information.

OMB Control Nos: 1902–0244, 1902–0248, 1902–0247, and 1902–0249.

Respondents: Business or other for-profit, and not-for-profit institutions.

Frequency of Responses: On occasion.

[31] 44 U.S.C. 3507(d).

[32] The estimates for the retired CIP requirements are based on February 28, 2013 registry data in order to provide consistency with burden estimates provided in the Commission's recent CIP version 5 Notice of Proposed Rulemaking in Docket No. RM13–5–000.

[33] This number was calculated by adding all the applicable entities while removing double counting caused by entities registered under multiple functions.

[34] The estimated hourly loaded cost (salary plus benefits) for an engineer is assumed to be $60/hour, based on salaries as reported by the Bureau of Labor Statistics (BLS) (*http://bls.gov/oes/current/naics2_22.htm*). Loaded costs are BLS rates divided by 0.703 and rounded to the nearest dollar (*http://www bls.gov/news.release/ecec.nr0.htm*).

[35] The reporting requirements in these standards are part of the FERC–725A information collection.

[36] The reporting requirements in this standard are part of the FERC–725F information collection.

Necessity of the Information: This proceeding approves the retirement of the 34 requirements within 19 Reliability Standards identified by NERC. The retirements either: (1) Provide little protection for Bulk-Power System reliability or (2) are redundant with other aspects of the Reliability Standards. In addition, we withdraw the 41 Commission directives listed in Attachment A in the interest of enhancing the efficiency of the ERO standard development and compliance programs, as well as the efficiency of individual registered entity compliance programs.

Internal review: The Commission has reviewed NERC's proposal and determined that the action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden reduction estimates associated with the retired information requirements.

32. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov*, phone: (202) 502–8663, fax: (202) 273–0873].

33. Comments concerning the information collections and the associated burden estimates should be sent to the Commission in this docket and to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at: *oira_submission@omb.eop.gov*. Please indicate the OMB Control Numbers and Docket No. RM13–8–000 in your submittal.

IV. Environmental Analysis

34. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[37] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[38] The actions proposed here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

35. The Regulatory Flexibility Act of 1980 (RFA)[39] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business.[40] The Small Business Administration has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[41]

36. The Commission estimates the total reduction in burden for all small entities to be $32,460. The Commission estimates that small planning authorities/planning coordinators will see a reduction of $1,680 per entity per year, greater than for other types of affected small entities.[42] The Commission does not consider a reduction of $1,680 per year to be a significant economic impact. The Commission believes that, in addition to the estimated economic impact, the proposed retirement of the 34 requirements of mandatory Reliability Standards will provide small entities with relief from having to track compliance with these provisions and preparing to show compliance in response to a potential compliance audit by a Regional Entity or other regulator.

37. Based on the above, the Commission certifies that the changes to the Reliability Standards will not have a significant impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Document Availability

38. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

39. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

40. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

VII. Effective Date and Congressional Notification

41. These regulations are effective January 21, 2014. The Commission has determined that, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Note: Attachment A will not appear in the *Code of Federal Regulations.*

Attachment A

Withdrawn Commission Directives

[37] *Regulations Implementing the National Environmental Policy Act*, Order No. 486 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[38] 18 CFR 380.4(a)(2)(ii) (2013).

[39] 5 U.S.C. 601–612.

[40] 13 CFR 121.101.

[41] 13 CFR 121.201, Sector 22, Utilities & n.1.

[42] The burden reduction for planning authorities/planning coordinators is based on the retirement of FAC–010–2.1, Requirement R5 and FAC–013–2, Requirement R3. Based on the NERC Compliance Registry and Energy Information Administration Form EIA–861 data, the Commission estimates that 5 out of the 80 planning authorities/planning coordinators meet the definition of a small entity.

No.	Standard	Order No.	Para	Directive	Justification
Group A—The reliability concern underlying the outstanding directive has been addressed in some manner, rendering the directive stale					
1	BAL–006	693	P 428	"Add measures concerning the accumulation of large inadvertent interchange balances and levels of non-compliance." (NERC Reference No. 10036).	NERC replaced levels of non-compliance with violation severity levels (VSLs). NERC has designated VSLs for BAL–006.
2	EOP–001	693	P 565	"The Commission agrees with ISO–NE that the Reliability Standard should be clarified to indicate that the actual emergency plan elements, and not the "for consideration" elements of Attachment 1, should be the basis for compliance. However, all of the elements should be considered when the emergency plan is put together." (NERC Reference No. 10065).	The VSLs listed in EOP–001–2.1b and the Reliability Standard Audit Worksheet for EOP–001 require evidence of this consideration.
3	INT–004	693	P 843	"Consider adding levels of non-compliance to the standard." (NERC Reference No. 10134).	NERC replaced levels of non-compliance with VSLs. VSLs for INT–004 have been developed and approved by the Commission.
4	INT–005	693	P 848	"Consider adding levels of non-compliance to the standard." (NERC Reference No. 10135).	NERC replaced levels of non-compliance with VSLs. VSLs for INT–005 have been developed and approved by the Commission.
5	MOD–010 through MOD–025.	693	P 1147	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide to the Regional Entity the information related to data gathering, data maintenance, reliability assessments and other process-type functions." (NERC Reference No. 10266).	The concern underlying the directive has been addressed through section 1600 (Requests for Data or Information) of NERC's Rules of Procedure. The Commission approved Section 1600 of NERC's Rules on February 21, 2008.
6	MOD–010	693	P 1152	"Address critical energy infrastructure confidentiality issues as part of the standard development process." (NERC Reference No. 10268).	This directive is no longer necessary in light of section 1500 (Confidential Information) of NERC's Rules of Procedure addressing treatment of confidential information.
7	MOD–010	693	P 1163	"Direct the ERO to develop a Work Plan that will facilitate ongoing collection of the steady-state modeling and simulation data specified in MOD–011–0." (NERC Reference No. 10270).	The concern underlying the directive has been addressed through NERC's Reliability Standards Development Plan: 2013–2015. This plan was provided to the Commission in an informational filing on December 31, 2012. It contains an action plan to merge, upgrade, and expand existing requirements in the modeling data (MOD–010 through MOD-015) and demand data (MOD–016 through MOD–021) Reliability Standards.
8	PRC–017	693	P 1546	"Require documentation identified in Requirement R2 be routinely provided to NERC or the regional entity that includes a requirement that documentation identified in Requirement R2 shall be routinely provided to the ERO." (NERC Reference No. 10363).	Requirement R2 of PRC–017 already requires affected entities to provide documentation of the special protection system program and its implementation to the appropriate Regional Reliability Organization and NERC within 30 calendar days of a request. If either the Regional Entity or NERC determine that they need and will use the information on a regular schedule, they have the authority to establish a schedule under the current requirement.
9	Glossary	693	P 1895	"Modification to the glossary that enhances the definition of "generator operator" to reflect concerns of the commenters ["to include aspects unique to ISOs, RTOs and pooled resource organizations"]." (NERC Reference No. 10005).	The concern underlying the directive has been addressed through the NERC registration process. *See* Order No. 693 at P 145.

No.	Standard	Order No.	Para	Directive	Justification
10	Glossary	693	P 1895	"Modification to the glossary that enhances the definition of "transmission operator" to reflect concerns of the commenters ["to include aspects unique to ISOs, RTOs and pooled resource organizations"]." (NERC Reference No. 10006).	The concern underlying the directive has been addressed through the NERC registration process. *See* Order No. 693 at P 145.
Group B—The outstanding directive provides general guidance for standards development rather than a specific directive					
11	BAL–005	693	P 406	"The Commission understands that it may be technically possible for DSM to meet equivalent requirements as conventional generators and expects the Reliability Standards development process to provide the qualifications they must meet to participate." (NERC Reference No. 10033).	This paragraph is not a directive to change or modify a standard.
12	BAL–006	693	P 438	"Examine the WECC time error correction procedure as a possible guide . . . the Commission asks the ERO, when filing the new Reliability Standard, to explain how the new Reliability Standard satisfies the Commission's concerns." (NERC Reference No. 10037).	This paragraph is not a directive to change or modify a standard.
13	COM–001	693	P 507	"Although we direct that the regional reliability organization should not be the compliance monitor for NERCNet, we leave it to the ERO to determine whether it is the appropriate compliance monitor or if compliance should be monitored by the Regional Entities for NERCNet User Organizations." (NERC Reference No. 10051).	This paragraph is not a directive to change or modify a standard.
14	MOD–001	729	P 20	"We encourage the ERO to consider Midwest ISO's and Entegra's comments when developing other modifications to the MOD Reliablity Standards pursuant to the EROs Reliability Standards development procedure." [See also P 198–199] (NERC Reference No. 10216).	This paragraph is not a directive to change or modify a standard.
15	MOD –001, –004, –008, –028, –029, –030.	729	P 160	"In developing the modifications to the MOD Reliability Standards directed in this Final Rule, the ERO should consider generator nameplate ratings and transmission line ratings including the comments raised by Entegra and ISO/RTO Council." [Also see P 154] (NERC Reference No. 10207).	This paragraph is not a directive to change or modify a standard.
16	MOD–001	729	P 179	"The Commission directs the ERO to consider Entegra's request regarding more frequent updates for constrained facilities through its Reliability Standards development process." (see Order No. 729 at P 177 for Entegra's comments). (NERC Reference No. 10211).	This paragraph is not a directive to change or modify a standard.
17	MOD–028	729	P 231	"The Commission directs the ERO to develop a modification sub-requirement R2.2 pursuant to its Reliability Standards development process to clarify the phrase 'adjacent and beyond Reliability Coordination areas.'" (NERC Reference No. 10219).	This paragraph clarifies the Commission's understanding of the phrase "adjacent and beyond Reliability Coordination area." Since the Commission's understanding of the language is clearly expressed, and the matter has little impact on reliability, there is no reason to go forward with the directive.

No.	Standard	Order No.	Para	Directive	Justification
18	MOD–028	729	P 234	"The Commission agrees that a graduated time frame for reposting could be reasonable in some situations. Accordingly, the ERO should consider this suggestion when making future modifications to the Reliability Standards." (NERC Reference No. 10220).	This paragraph is not a directive to change or modify a standard.
19	MOD–029	729	P 246	"The ERO should consider Puget Sound's concerns on this issue when making future modifications to the Reliability Standards." [See also P 245] (NERC Reference No. 10222).	This paragraph is not a directive to change or modify a standard.
20	MOD–030	729	P 269	"The Commission also directs the ERO to make explicit such [effective date] detail in any future version of this or any other Reliability Standard." (NERC Reference No. 10223).	This paragraph is not a directive to change or modify a standard.
21	MOD–024	693	P 1310	"Similarly, we respond to Constellation that any modification of the Levels of Non-Compliance in this Reliability Standard should be reviewed in the ERO Reliability Standards development process." (NERC Reference No. 10318).	This paragraph is not a directive to change or modify a standard.
22	PER–002	693	P 1375	"Training programs for operations planning and operations support staff must be tailored to the needs of the function, the tasks performed and personnel involved." (NERC Reference No. 10329).	This paragraph is not a directive to change or modify a standard.
23	VAR–001	693	P 1863	"The Commission expects that the appropriate power factor range developed for the interface between the bulk electric system and the load-serving entity from VAR–001–1 would be used as an input to the transmission and operations planning Reliability Standards." (NERC Reference No. 10441).	This paragraph is not a directive to change or modify a standard.
24	VAR–001	693	P 1869	"We recognize that our proposed modification does not identify what definitive requirements the Reliability Standard should use for established limits and sufficient reactive resources." (NERC Reference No. 10434).	This paragraph is not a directive to change or modify a standard.
25	TPL and FAC series	705	P 49	"Direct that any revised TPL Reliability Standards must reflect consistency in the lists of contingencies." (NERC Reference No. 10601).	This paragraph provides guidance on an ongoing implementation issue and is not a directive to change or modify a standard.
	Group C—The outstanding directive is redundant with another directive				
26	MOD–012	693	P 1177	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners, and operators to provide to the Regional Entities the information related to data gathering, data maintenance, reliability assessments and other process type functions." (NERC Reference No. 10275).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.
27	MOD–012	693	P 1177	"Develop a Work Plan and submit a compliance filing that will facilitate ongoing collection of the dynamics system modeling and simulation data." (NERC Reference No. 10279).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
28	MOD–012	693	P 1181	"Direct the ERO to address confidentiality issues and modify the standard as necessary through its Reliability Standards development process." (NERC Reference No. 10277).	This directive is redundant with the directive in paragraph 1152, which has already been addressed and is reflected in section A above.

No.	Standard	Order No.	Para	Directive	Justification
29	MOD–013	693	P 1200	"Direct the ERO to develop a Work Plan that will facilitate ongoing collection of the dynamics system modeling and simulation data specified in MOD–013–1, and submit a compliance filing containing this Work Plan to the Commission." (NERC Reference No. 10283).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
30	MOD–014	693	P 1212	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide the validated models to regional reliability organizations." (NERC Reference No. 10288).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.
31	MOD–014	693	P 1212	"Direct the ERO to develop a Work Plan that will facilitate ongoing validation of steady-state models and submit a compliance filing containing the Work Plan with the Commission." (NERC Reference No. 10289).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
32	MOD–015	693	P 1221	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide to the Regional Entity the validated dynamics system models while MOD–015–0 is being modified." (NERC Reference No. 10291).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.
33	MOD–015	693	P 1221	"Require the ERO to develop a Work Plan that will enable continual validation of dynamics system models and submit a compliance filing with the Commission." (NERC Reference No. 10292).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
34	MOD–017	693	P 1247	"Provide a Work Plan and compliance filing regarding the collection of information specified under standards that are deferred, in this instance, data on the accuracy, error and bias of the forecast." (NERC Reference No.10299).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
35	MOD–018	693	P 1264	"Require the ERO to provide a Work Plan and compliance filing regarding collection of information specified under standards that are deferred, and believe there should be no difficulties complying with this Reliability Standard." (NERC Reference No. 10303).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
36	MOD–019	693	P 1275	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide to the Regional Entity information related to forecasts of interruptible demands and direct control load management." (NERC Reference No. 10305).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.
37	MOD–021	693	1297	"Direct the ERO to provide a Work Plan and compliance filing regarding collection of information specified under related standards that are deferred, and believe there should be no difficulty complying with this Reliability Standard." (NERC Reference No. 10309).	This directive is redundant with the directive in paragraph 1163, which has already been addressed and is reflected in section A above.
38	MOD–021	693	P 1297	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide to the Regional Entity the information required by this Reliability Standard." (NERC Reference No. 10313).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.

No.	Standard	Order No.	Para	Directive	Justification
39	MOD–024	693	P 1308	"In order to continue verifying and reporting gross and net real power generating capability needed for reliability assessment and future plans, we direct the ERO to develop a Work Plan and submit a compliance filing." (NERC Reference No. 10317).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.
40	MOD–024	693	P 1312	"Direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide this information." (NERC Reference No. 10314).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.
41	MOD–025	693	P 1320	"In order to continue verifying and reporting gross and net reactive power generating capability needed for reliability assessment and future plans, we direct the ERO to develop a Work Plan as defined in the Common Issues section." (NERC Reference No. 10321).	This directive is redundant with the directive in paragraph 1147, which has already been addressed and is reflected in section A above.

Note: Attachment B will not appear in the *Code of Federal Regulations.*

Attachment B

Commenters on the Notice of Proposed Rulemaking

The American Public Power Association, Edison Electric Institute, Electricity Consumers Resource Council, Electric Power Supply Association, Large Public Power Council, and Transmission Access Policy Group (collectively, Trade Associations)

Canadian Electricity Association (CEA)

Dominion Resources Services, Inc., on behalf of Virginia Electric and Power Company, doing business as Dominion Virginia Power; Dominion Nuclear Connecticut, Inc.; Dominion Energy Brayton Point, LLC; Dominion Energy Manchester Street, Inc.; Elwood Energy, LLC; Kincaid Generation, LLC; and Fairless Energy, LLC

International Transmission Company d/b/a ITC*Transmission*, Michigan Electric Transmission Company, LLC, ITC Midwest LLC and ITC Great Plains, LLC (ITC)

ISO/RTO Council

National Rural Electric Cooperative Association (NRECA)

North American Electric Reliability Corporation (NERC)

[FR Doc. 2013–28516 Filed 12–5–13; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2011–F–0765]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Acacia (Gum Arabic)

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the food additive regulations to provide for the expanded safe use of acacia (gum arabic) in foods. This action is in response to a petition filed by Nexira.

DATES: This rule is effective December 6, 2013. See section IX of this document for information on filing objections. Submit either electronic or written objections and requests for a hearing by January 6, 2014. The Director of the Office of the Federal Register approves the incorporation by reference of a certain publication listed in the rule as of December 6, 2013.

ADDRESSES: You may submit either electronic or written objections and requests for a hearing identified by Docket No. FDA–2011–F–0765, by any of the following methods:

Electronic Submissions

Submit electronic objections in the following way:

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

Written Submissions

Submit written objections in the following ways:

- *Mail/Hand delivery/Courier (for paper or CD–ROM 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 Agency name and Docket No. FDA–2011–F–0765 for this rulemaking. All objections received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting objections, see the "Objections" heading of the **SUPPLEMENTARY INFORMATION** section.

Docket: For access to the docket to read background documents or objections received, go to *http://www.regulations.gov* and insert the docket number, 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: Ellen Anderson, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1309.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** on December 20, 2011 (76 FR 78866), we announced that Nexira, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001 (petitioner) had filed a food additive petition (FAP 1A4784). The petition proposed to amend the food

additive regulations in § 172.780, *Acacia (gum arabic)* (21 CFR 172.780) to provide for the expanded safe use of acacia (gum arabic) in food. Specifically, the petition proposed to list the use of acacia in § 172.780 as a source of dietary fiber in the existing food categories listed in § 184.1330(c) (21 CFR 184.1330(c)), excluding meat, poultry, and foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 341), and as a source of dietary fiber and as an emulsifier and emulsifier salt, flavoring agent and adjuvant, formulation aid, processing aid, stabilizer and thickener, surface-finishing agent, and texturizer in four additional food categories (i.e., breakfast cereals, certain baked products, grain-based bars, and soups). The petitioner subsequently clarified that it only proposed to list the use of acacia in soups and soup mixes that are not subject to regulation by the U.S. Department of Agriculture (USDA) under the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Under 21 CFR 171.1(c), paragraph H, either a claim of categorical exclusion under 21 CFR 25.30 or § 25.32 (21 CFR 25.32) or an environmental assessment under 21 CFR 25.40 must be submitted in a food additive petition. A claim of categorical exclusion under § 25.32(k), which applies to substances added directly to food that are intended to remain in food through ingestion by consumers and that are not intended to replace macronutrients in food, was initially submitted with the petition. We reviewed the claim of categorical exclusion submitted by the petitioner and stated in the original filing notice (76 FR 78866) our determination that, under § 25.32(k), the proposed action was of a type that does not individually or cumulatively have a significant effect on the human environment, and therefore, neither an environmental assessment nor an environmental impact statement is required. However, upon further review of the petition, we decided that the food additive may replace macronutrients in food and, therefore, the categorical exclusion in § 25.32(k) was not applicable for the proposed action. Accordingly, in an amended filing notice published in the **Federal Register** of September 4, 2012 (77 FR 53801), we announced that the petitioner had submitted an environmental assessment for the petition in lieu of the claim of categorical exclusion, and that we would review the potential environmental impact of the petition. We placed the environmental assessment on display in the Division of Dockets Management for public review and comment.

II. Introduction

A. Identity

Acacia is the dried gummy exudate from the stems and branches of trees of various species of the genus *Acacia,* family Leguminosae. The precise molecular structure of acacia is not known, but it is generally depicted as a group of compacted polysaccharide bundles individually linked to a linear proteinaceous core. The polysaccharide is composed of the following: L-arabinose, D-galactose, L-rhamnose, and D-glucuronic acid and its 4–O methyl derivative. The composition of acacia, with respect to the proportion of sugars and to the amino acids comprising the proteins, varies depending on the species of *Acacia* used to produce the gum.

B. Regulated Food Uses

In the **Federal Register** of September 23, 1974 (39 FR 34203), we published a proposed rule to affirm that the use of acacia as a direct human food ingredient is generally recognized as safe (GRAS), with specific limitations. In the **Federal Register** of December 7, 1976 (41 FR 53608), we issued a final rule based on this proposal, amending the regulations in then 21 CFR part 121 to affirm that acacia as a direct human food ingredient is GRAS with specific limitations. In the **Federal Register** of March 15, 1977 (42 FR 14302 at 14653), acacia was redesignated from § 121.104(g)(19) to part 184 by adding § 184.1330 *Acacia (gum arabic).* To ensure that acacia is not added to the U.S. food supply at levels that could raise safety concerns, we affirmed acacia as GRAS with specific limitations as listed in § 184.1330.

Under § 184.1330, acacia is affirmed as GRAS for use in various specific food categories at levels ranging from 1.3 to 85.0 percent. Use of acacia in all other food categories was limited to not more than 1.0 percent. Under § 184.1(b)(2) (21 CFR 184.1(b)(2)), an ingredient affirmed as GRAS with specific limitations may be used in food only within such limitations, including the category of food, functional use, and level of use. Any addition of acacia to food beyond those limitations set out in § 184.1330 requires either a food additive regulation or an amendment of § 184.1330. Consistent with § 184.1(b)(2), a food additive petition (FAP 1A4730) was filed in the **Federal Register** on February 13, 2003 (68 FR 7381) to amend the food additive regulations in part 172 (21 CFR part 172) to provide for the safe use of acacia as a thickener, emulsifier, or stabilizer in alcoholic beverages at a use level not to exceed 20 percent in the final beverage. In response to this petition, we issued a final rule in the **Federal Register** of February 17, 2005 (70 FR 8032), that added § 172.780 to provide for this use.

III. Evaluation of Safety

Under the general safety standard in section 409 of the FD&C Act (21 U.S.C. 348), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. Our food additive regulations (21 CFR 170.3(i)) define "safe" as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use." To establish with reasonable certainty that a food additive is not harmful under its intended conditions of use, we consider the projected human dietary exposure to the additive, the additive's toxicological data, and other available relevant information (such as published literature).

A. Proposed Uses, Exposure, and Specifications

The petitioner proposes to use acacia as a source of dietary fiber in those food categories and at the use levels listed in § 184.1330(c), excluding meat and poultry and foods for which standards of identity have been issued under section 401 of the FD&C Act. The petitioner also proposes for acacia to be used in several new food categories as described in table 1.[1] We evaluated the exposure to acacia based on 2009 poundage data obtained from the October 2010 Chemical Economics Handbook report on hydrocolloid usage in the United States (Acacia can be classified as a hydrocolloid, which are substances that form a gel with water

[1] During our evaluation of this petition, we consulted with the Food Safety and Inspection Service (FSIS) of the USDA, consistent with 21 CFR 171.1(n) and with a memorandum of understanding (MOU) between the two Agencies for reviewing the safety of substances used in the production of meat and poultry products. Under the MOU, FDA is responsible for reviewing an ingredient's safety, and USDA/FSIS is responsible for evaluating suitability. (MOU 225–00–2000; *see also* 65 FR 51758 at 51759, August 25, 2000). However, during our consultation with FSIS, the petitioner clarified that it did not propose for acacia to be used in meat or poultry products, including soups and soup mixes containing meat or poultry products that are subject to regulation by USDA under the Federal Meat Inspection Act or the Poultry Products Inspection Act.

and are often used as thickeners, stabilizers, or emulsifiers in food applications.) We calculated the per capita exposure of acacia to be 127 milligrams per person per day. Because acacia may be used in a wide variety of foods, the entire U.S. population could consume at least one of the foods containing acacia. Therefore, the use of a per capita exposure assessment is appropriate, as it represents the entire U.S. population (Ref. 1).

TABLE 1—PROPOSED USES OF ACACIA THAT ARE BEYOND THOSE REGULATED UNDER § 184.1330(c)

Food category (percent)	Maximum use level (percent)	Intended use
Breakfast cereals	6	Source of dietary fiber; emulsifier and emulsifier salt; flavoring agent and adjuvant; formulation aid; processing aid; stabilizer and thickener; surface-finishing agent; texturizer.
Cakes, brownies, pastries, biscuits, muffins, and cookies	3	Same as above.
Grain-based bars (e.g., breakfast and snack bars, granola, rice cereal bars).	35	Same as above.
Soups and soup mixes that are not subject to USDA regulation under the Federal Meat Inspection Act or the Poultry Products Inspection Act.	2.5	Same as above.

The current regulation for the use of acacia as a thickener, emulsifier, or stabilizer in alcoholic beverages (§ 172.780) indicates that the additive must meet the specifications in the Food Chemicals Codex, 7th Edition (FCC 7). The most current FCC is the 8th Edition (FCC 8) and given that the specifications for acacia in FCC 8 are identical to those in FCC 7, we are amending § 172.780 by adopting the specifications for acacia in FCC 8 in place of FCC 7.

Additionally, on our own initiative, we are amending § 172.780(b) to update the address at which copies of FCC 8 may be examined. The existing regulation refers to an FDA address at "5100 Paint Branch Pkwy., College Park, MD 20740." However, in 2013, we consolidated our library holdings at our main library at 10903 New Hampshire Ave., Bldg. 2, 3d Floor, Silver Spring, MD 20993. Therefore, we are amending § 172.780(b) to reflect the current FDA address at which copies of FCC 8 may be examined.

B. Safety Assessment

To support the safety of the proposed expanded use of acacia, the petitioner referenced toxicological studies and other relevant information previously reviewed by FDA (70 FR 8032). The petitioner referenced data from a 1973 report on acacia by the Select Committee on GRAS Substances; a 1982 National Toxicology Program report on 2-year carcinogenicity feeding studies; literature searches performed in 1983, 1987, 1988, and 1992; and a 1990 evaluation of acacia by the Joint Food and Agriculture Organization/World Health Organization Expert Committee on Food Additives (JECFA).

Of the publications submitted by the petitioner, only two papers relevant to the safety assessment of acacia had not been previously reviewed by FDA. One publication was an extensive review of the scientific literature available before 2004 and focused on the general safety and allergenicity of acacia as used in cosmetic products. The review concluded that the available safety data for acacia was sufficient to ensure its safe use in cosmetics. The other publication evaluated the digestive tolerance of acacia in humans and its possible role as a prebiotic fiber. The publication claimed high doses of acacia (>50 grams per day (g/d)) are generally well tolerated based on reports of only mild physiologic responses. We reviewed both publications and concur with the conclusions (Ref. 2).

The petitioner also presented a literature review on acacia's potential as an allergen. We had previously reviewed the allergenicity literature through 1992 and concluded there was no strong evidence that acacia is allergenic in food. In reviewing the current petition, we conducted another search of literature spanning from 1992 through 2012. This recent search of the literature did not find any published articles directly addressing the allergenicity or toxicity of acacia that were not included in the petitioner's submission, nor did this search reveal any new toxicological issues pertaining to acacia[2] (Ref. 2).

In our safety evaluations, we have chosen not to establish an acceptable daily intake (ADI) for acacia due to convincing evidence that acacia is non-carcinogenic and poorly absorbed, and that mild physiologic responses were reported in humans only when acacia was ingested at high doses (>50 g/d) (Ref. 2). Furthermore, JECFA has confirmed a "not specified" ADI for acacia when it is used in accordance with good manufacturing practices.

Based on our review of the safety data and estimated dietary exposure to acacia from current and proposed food uses, we conclude that the proposed expanded use of acacia in foods is safe.

IV. Labeling

Under section 403(a) of the FD&C Act (21 U.S.C. 343), a food is misbranded if its labeling is false or misleading in any particular. Section 403(q)(1)(D) of the FD&C Act specifies that certain nutrients and their amounts, including dietary fiber, must be included on the label or in labeling. Similarly, section 403(r) of the FD&C Act lays out the statutory framework for the use of labeling claims that characterize the level of a nutrient in a food (e.g., "high in fiber") or that characterize the relationship of a nutrient to a disease or health-related condition. The petitioner cited reports and published studies to support the recognition of acacia as a source of dietary fiber. We concur that acacia supplies dietary fiber. In accordance with 21 CFR 101.9(g)(2), for food labeling compliance purposes, appropriate methods cited in Official Methods of Analysis of the AOAC International, 15th edition (e.g., AOAC 985.29) would be used for measuring the amount of dietary fiber in a food. Furthermore, if products containing acacia bear any health and/or nutrient content claims on the label or in labeling, such claims must be in compliance with current labeling regulations.

[2] In March 2011, we received a report of a food product containing acacia that tested positive for peanut protein. After ruling out the possibility of cross-contamination in the food production process, FDA investigations concluded that no peanut protein was present and that the positive findings were probably due to the presence of cross-reactive proteins. Although we do not view this as a food safety issue, the possibility for false positives may indicate a problem with the current analytical tests used to monitor allergens in acacia-containing foods.

V. Conclusion

Based on the data and information in the petition and other relevant material, we conclude that the proposed uses of acacia in food are safe. Therefore, we are amending the regulations in part 172 as set forth in this document.

VI. Public Disclosure

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), we will delete from the documents any materials that are not available for public disclosure.

VII. Environmental Impact

We have carefully considered the potential environmental effects of this action. We have concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. Our finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Objections

If you will be adversely affected by one or more provisions of this regulation, you may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

It is only necessary to send one set of documents. Identify documents with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation 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*.

X. Section 301(ll) of the FD&C Act

Our review of this petition was limited to section 409 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, the Food and Drug Administration Amendments Act of 2007, which was signed into law on September 27, 2007, amended the FD&C Act to, among other things, add section 301(ll) of the FD&C Act (21 U.S.C. 331(ll)). Section 301(ll) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exemptions in section 301(ll)(1) to (ll)(4) of the FD&C Act applies. In our review of this petition, we did not consider whether section 301(ll) of the FD&C Act or any of its exemptions apply to food containing this additive. Accordingly, this final rule should not be construed to be a statement that a food containing this additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(ll) of the FD&C Act. Furthermore, this language is included in all food additive final rules and therefore should not be construed to be a statement of the likelihood that section 301(ll) of the FD&C Act applies.

XI. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) 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. Memorandum from D. Doell, Chemistry Review Team, CFSAN, FDA, to E. Anderson, Regulatory Review Team II, CFSAN, FDA, November 20, 2012.
2. Memorandum from T. Thurmond, Toxicology Review Team, CFSAN, FDA, to E. Anderson, Regulatory Team II, CFSAN, FDA, January 17, 2013.

List of Subjects in 21 CFR Part 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

■ 2. In § 172.780, revise paragraphs (b) and (c) to read as follows:

§ 172.780 Acacia (gum arabic).

* * * * *

(b) The ingredient meets the specifications of the Food Chemicals Codex, 8th ed. (2012), p. 516, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from the United States Pharmacopeial Convention, 12601 Twinbrook Pkwy., Rockville, MD 20852 (Internet address: *http://www.usp.org*). Copies may be examined at the Food and Drug Administration's Main Library, 10903 New Hampshire Ave., Bldg. 2, 3d Floor, Silver Spring, MD 20993, 301–796–2039, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

(c) The ingredient is used in food in accordance with good manufacturing practices under the following conditions:

MAXIMUM USAGE LEVELS PERMITTED

Food (as served)	Percent	Function
Beverages, alcoholic	20.0	Thickener, emulsifier, or stabilizer.
Breakfast cereals, § 170.3(n)(4) of this chapter	6.0	Dietary fiber; emulsifier and emulsifier salt; flavoring agent and adjuvant; formulation aid; processing aid; stabilizer and thickener; surface-finishing agent; texturizer.
Cakes, brownies, pastries, biscuits, muffins, and cookies	3.0	Do.
Grain-based bars (e.g., breakfast bars, granola bars, rice cereal bars).	35.0	Do.
Soups and soup mixes, § 170.3(n)(40) of this chapter, except for soups and soup mixes containing meat or poultry that are subject to regulation by the U.S. Department of Agriculture under the Federal Meat Inspection Act or the Poultry Products Inspection Act.	2.5	Do.
Food categories listed in § 184.1330 of this chapter, except for meat, poultry, and foods for which standards of identity established under section 401 of the Federal Food, Drug, and Cosmetic Act preclude the use of acacia.	Levels prescribed in § 184.1330 of this chapter.	Dietary fiber.

Dated: December 2, 2013.

Susan M. Bernard,

Director, Office of Regulations, Policy and Social Sciences, Center for Food Safety and Applied Nutrition.

[FR Doc. 2013–29073 Filed 12–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 3, 100, and 165

[Docket No. USCG–2013–0251]

RIN 1625–ZA32

Reorganization of Sector Baltimore and Hampton Roads; Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Code of Federal Regulations (CFR) to reflect changes it has made to the boundaries of Sector Baltimore's and Sector Hampton Roads' Marine Inspection Zone and Captain of the Port Zones. These conforming amendments are necessary to ensure the CFR accurately reflects these boundary changes that were made November 22, 2013. These amendments are not expected to have a substantive impact on the public.

DATES: This rule is effective December 6, 2013.

ADDRESSES: Materials mentioned in this preamble as being available in the docket are part of docket [USCG–2013–0251] and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket, USCG–2013–0251, online at *http://www.regulations.gov*. The following link will take you directly to the docket: *http://www.regulations.gov/#!docketDetail;D=USCG-2013-0251*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Troy Luna, Fifth Coast Guard District, Coast Guard; telephone 757–398–7766, email *Troy.T.Luna@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

A. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) before this final rule. The Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements under 5 U.S.C. 553(b)(A) because the changes it makes are conforming amendments involving agency organization. The Coast Guard also finds good cause exists under 5 U.S.C. 553(b)(B) for not publishing an NPRM because the changes will have no substantive effect on the public, and notice and comment are therefore unnecessary. For the same reasons, the Coast Guard finds good cause under 5 U.S.C. 553(d)(3) to make the rule effective fewer than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

On November 22, 2013, the Coast Guard reassigned Station Ocean City 1 to Sector Baltimore and redefined the boundary lines separating Sector Baltimore and Sector Hampton Roads. See Operating Facility Change Order (OFCO) No. 024–13 Change One which is available in the docket for this rule. Under 14 U.S.C. 93, the Commandant of the Coast Guard has authority to change the location of Coast Guard shore establishments. The previous organization of Sector Baltimore and Sector Hampton Roads is described and reflected in regulations, which also contain contact details and other references to Sector Baltimore and Hampton Roads. These conforming amendments update those regulations so that they contain current information.

C. Background

During 2011, Sector Baltimore requested that the Coast Guard Fifth District examine the feasibility of shifting Operational Control of Ocean City and Worcester County, Maryland from Sector Hampton Roads to Sector Baltimore. The analysis reviewed potential workload increases to offshore Search and Rescue, and increased activities for Prevention, Response and Logistics Departments at Sector Baltimore.

The Coast Guard has approved the shift of Ocean City and Worcester County, Maryland Operational Control to Sector Baltimore. This move is intended to improve field-level

operations in the region; improve all-hazard response challenges; and provide a single interface point for state and local officials.

D. Discussion of Changes

This rule amends 33 CFR part 3 to reflect the new boundaries of Sector Baltimore and Sector Hampton Roads. The revised § 3.25–10 reflects the updated boundaries of Sector Hampton Roads Marine Inspection Zone and COTP Zone boundary lines resulting from the shift of Ocean City and Worcester County, Maryland to Sector Baltimore. The revised § 3.25–15 reflects the updated boundaries of Sector Baltimore's Marine Inspection Zone and COTP Zone boundary lines resulting in the addition of Ocean City and Worcester County, Maryland.

This rule also amends 33 CFR 100.501, Special Local Regulations; Marine Events in the Fifth Coast Guard District. Specifically, it amends the Table to § 100.501, by moving the Ocean City Maryland Offshore Grand Prix marine event listed in the Coast Guard Sector Hampton Roads—COTP Zone portion of the table to the Coast Guard Sector Baltimore—COTP Zone portion of the table.

Finally, this rule amends 33 CFR 165.506, Safety Zones; Fifth Coast Guard District Fireworks Displays. Specifically, it amends the Table to § 165.506 by moving three safety zone entries—

- North Atlantic Ocean, Ocean City, MD, Safety Zone;
- Isle of Wight Bay, Ocean City, MD, Safety Zone; and
- Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone, from the Coast Guard Sector Hampton Roads—COTP Zone portion of the table to the Coast Guard Sector Baltimore—COTP Zone portion of the table.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Because this rule involves internal agency organization and non-substantive changes, it will not impose any costs on the public.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general NPRM and therefore is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have considered its potential impact on small entities and found that it will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Unfunded Mandates Reform Act

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

7. Taking of Private Property

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

8. Civil Justice Reform

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

9. Protection of Children

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

10. Indian Tribal Governments

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

11. Energy Effects

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

12. Technical Standards

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

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves shifting operational control of Coast Guard activities within Ocean City and Worcester County, Maryland from Sector Hampton Roads to Sector Baltimore. This rule is categorically excluded from further review under paragraph 34(b) of Figure 2–1 of the Commandant Instruction.

List of Subjects

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 100

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

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 3, 100, and 165 as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

■ 1. The authority citation for part 3 is revised to read as follows:

Authority: 14 U.S.C. 92 & 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

■ 2. Revise § 3.25–10 to read as follows:

§ 3.25–10 Sector Hampton Roads Marine Inspection Zone and Captain of the Port Zone.

Sector Hampton Roads' office is located in Portsmouth, VA. The boundaries of Sector Hampton Roads' Marine Inspection and Captain of the Port Zone start at a point on the Virginia-Maryland boundary at a point 38° 01′36″ N latitude, 75°14′34″ W longitude, thence south east to a point 37°19′14″ N latitude, 72°13′13″ W longitude; thence east to the outermost extent of the EEZ at a point 37°19′14″ N latitude, 71°02′54″ W longitude; thence south along the outermost extent of the EEZ to a point 36°33′00″ N latitude, 71°29′34″ W longitude; thence west to the Virginia-North Carolina boundary at a point 36°33′00″ N latitude, 75°52′00″ W longitude; thence west along the Virginia-North Carolina boundary to the intersection of Virginia-North Carolina-Tennessee at a point 36°35′17″ N latitude, 81°40′38″ W longitude; thence north and west along the Virginia-Tennessee boundary to the intersection of Virginia-Tennessee-Kentucky at a point 36°36′03″ N latitude, 83°40′31″ W longitude; thence northeast along the Virginia State boundary to the intersection of the Virginia-West Virginia State boundaries at a point 39°07′57″ N latitude, 77°49′42″ W longitude; thence southwest along the Loudoun County, VA boundary to the intersection with Fauquier County, VA at a point 39°00′50″ N latitude, 77°57′43″ W longitude; thence east along the Loudoun County, VA boundary to the intersection with Prince William County, VA boundary at a point 38°56′33″ N latitude, 77°39′18″ W longitude; thence south along the Prince William and Fauquier County VA boundaries to the intersection of Fauquier, Prince William, and Stafford County, VA at a point 38°33′24″ N latitude, 77°31′54″ W longitude; thence east along the Prince William and Stafford County, VA boundaries to the western bank of the Potomac River at a point 38°30′13″ N latitude, 77°18′00″ W longitude; thence south along the Stafford County, VA boundary to a point 38°22′30″ N latitude, 77°18′14″ W longitude; thence south and east along the boundary between the southern bank of the Potomac River and Stafford, King George, Westmoreland, and Northumberland Counties in Virginia to a point 37°53′11″ N latitude, 76°14′15″ W longitude; thence east along the Maryland-Virginia boundary as it proceeds across the Chesapeake Bay and Delmarva Peninsula to the point of origin at 38°01′36″ N latitude, 75°14′34″ W longitude.

■ 3. Revise § 3.25–15 to read as follows:

§ 3.25–15 Sector Baltimore Marine Inspection Zone and Captain of the Port Zone.

Sector Baltimore's office is located in Baltimore, MD. The boundaries of Sector Baltimore's Marine Inspection Zone and Captain of the Port Zone start at a point 38°01′36″ N latitude, 75°14′34″ W longitude; thence south east to a point 37°19′14″ N latitude, 72°13′13″ W longitude; thence north west to a point at 38°26′25″ N latitude, 74°26′46″ W longitude; thence west to the intersection of the Maryland-Delaware boundary and the coast at a point 38°27′03″ N latitude, 75°02′ 55″ W longitude; thence west to a point 38°27′15″ N latitude, 75°30′00″ W longitude on the Delaware-Maryland boundary; thence proceeding along the Delaware-Maryland boundary west to a point at 38°27′37″ N latitude, 75°41′35″ W longitude; thence proceeding north to the Maryland-Delaware-Pennsylvania boundary at a point 39°43′22″ N latitude, 75°47′17″ W longitude; thence west along the Pennsylvania-Maryland boundary to the Pennsylvania-Maryland-West Virginia boundary at a point 39°43′16″ N latitude, 79°28′36″ W longitude; thence south and east along the Maryland-West Virginia boundary to the intersection of the Maryland-Virginia-West Virginia boundaries at a point 39°19′17″ N latitude, 77°43′08″ W longitude; thence southwest along the Loudoun County, VA boundary to the intersection with Fauquier County, VA at a point 39°00′50″ N latitude, 77°57′43″ W longitude; thence east along the Loudoun County, VA boundary to the intersection with Prince William County, VA boundary at a point 38°56′33″ N latitude, 77°39′18″ W longitude; thence south along the Prince William and Fauquier County VA boundaries to the intersection of Fauquier, Prince William, and Stafford County, VA at a point 38°33′24″ N latitude, 77°31′54″ W longitude; thence south east to a point 38°20′30″ N latitude, 77°18′14″ W longitude; thence south and east along the boundary between the southern bank of the Potomac River and Stafford, King George, Westmoreland, and Northumberland Counties in Virginia to a point 37°53′11″ N latitude, 76°14′15″ W longitude; thence east along the Maryland-Virginia boundary as it proceeds across the Chesapeake Bay and Delmarva Peninsula to the point of origin at 38°01′36″ N latitude, 75°14′34″ W longitude.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

§ 100.501 [Amended]

■ 5. In § 100.501, amend the Table to § 100.501 by:

■ a. Redesignating entry (c.)4 as (b.)21, and
■ b. Redesignating entries (c.)5 through (c.)12, as (c.)4 through (c.)11, respectively.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

§ 165.506 [Amended]

■ 7. In § 165.506, amend the Table to § 165.506 by:
■ a. Redesignating entries (c.)1, (c.)2, and (c.)3, as (b.)23, (b.)24, and (b.)25, respectively, and
■ b. Redesignating entries (c.)4 through (c.)24, as (c.)1 through (c.)21, respectively.

Dated: December 2, 2013.

Katia Cervoni,

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

[FR Doc. 2013–29102 Filed 12–5–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 59

RIN 2900–AO60

Grants to States for Construction or Acquisition of State Homes

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This rule adopts as final, without change, an interim final rule amending the Department of Veterans Affairs (VA) regulations governing prioritization of State applications for VA grants for the construction or acquisition of State home facilities that furnish domiciliary, nursing home, or adult day health care to veterans. As amended, the regulation gives preference to State applications that would use grant funds solely or primarily (under certain circumstances) to remedy cited life or safety deficiencies. This rulemaking also makes certain necessary technical amendments to regulations governing State home grants.

DATES: *Effective Date:* This final rule is effective December 6, 2013.

FOR FURTHER INFORMATION CONTACT: Edward A. Litvin, Director, Capital Asset Management and Support (10NA5), Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8571. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In an interim final rule published in the **Federal Register** on April 10, 2013, at 78 FR 21262, VA amended 38 CFR 59.50, which contains VA's regulations governing applications by States for grant funds to support the acquisition, construction, expansion, remodeling or alteration by States of State home facilities that furnish domiciliary, nursing home, or adult day health care to veterans, as authorized by 38 U.S.C. 8135. The interim final rule changed the way that VA prioritizes the applications for the construction grant funds each fiscal year. As amended, the regulation gives preference to State applications that would use grant funds solely or primarily (under certain circumstances) to remedy cited life or safety deficiencies. This rulemaking also makes certain necessary technical amendments. The interim final rule was effective immediately upon publication and provided a 60-day comment period, which ended on June 10, 2013. VA received no public comments and therefore makes no changes to the regulation.

Based on the rationale set forth in the interim final rule, VA is adopting the interim final rule as a final rule with no changes.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs concluded that there was good cause to publish this rule without prior opportunity for public comment and to publish this rule with an immediate effective date. The Secretary found that it was contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date because this regulation will help VA ensure that veterans' lives and safety are protected in State homes.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only States and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity; competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined not to be a significant regulatory action under

Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm*, by following the link for "VA Regulations Published."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for Construction of State Home Facilities; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.022, Veterans Home Based Primary Care; 64.024, VA Homeless Providers Grant and Per Diem Program; and 64.026, Veterans State Adult Day Health Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on October 31, 2013, for publication.

List of Subjects in 38 CFR Part 59

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: December 2, 2013.

Robert C. McFetridge,

Director of Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

Based on the rationale set forth in the **Federal Register** at 78 FR 21262 on April 10, 2013, VA is adopting the interim final rule as a final rule with no changes.

[FR Doc. 2013–29105 Filed 12–5–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0650; FRL–9903–78–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; State Boards Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the State of Maryland State Implementation Plan (SIP). The SIP revision addresses the State Boards' requirements for all criteria pollutants of the National Ambient Air Quality Standards (NAAQS). EPA is approving this SIP revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on February 4, 2014 without further notice, unless EPA receives adverse written comment by January 6, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments; identified by Docket ID Number EPA–R03–OAR–2013–0650 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2013–0650, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0650. 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, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of

the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp, (215) 814–2191, or by email at *knapp.ruth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 128 of the CAA requires SIPs to comply with the requirements regarding State Boards. Section 110(a)(2)(E)(ii) of the CAA also references these requirements. Section 128(a) of the CAA requires SIPs to contain provisions that: (1) Any board or body which approves permits or enforcement orders under the CAA shall have at least a majority of its members represent the public interest and not derive any significant portion of their income from persons subject to permits or enforcement orders under the CAA; and (2) any potential conflict of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. The requirements of section 128(a)(1) are not applicable to Maryland because it does not have any board or body which approves air quality permits or enforcement orders. The requirements of section 128(a)(2), however, are applicable because the heads of Maryland Department of the Environment (MDE) and the Maryland Public Service Commission (PSC), or their designees, approve permits or enforcement orders within Maryland.

II. Summary of SIP Revision

On August 14, 2013, the State of Maryland, through MDE, submitted a SIP revision (#13–03B) that addresses the requirements of sections 128 and 110(a)(2)(E)(ii) for all criteria pollutants of the NAAQS in relation to State Boards. This submission was part of a larger SIP revision submitted on the same date. However, EPA will take separate rulemaking action on the remainder of that revision. Maryland's statutory provisions governing the relevant section 128 requirements are found in the Annotated Code of Maryland Title 15 (Public Ethics). The Secretary of MDE and the state employees subordinate to the position, as well as the state employees at the PSC, are subject to the requirements of Title 15. In order to meet the requirements of CAA Sections 128 and 110(a)(2)(E)(ii), Maryland is seeking to incorporate into the SIP the relevant provisions of Title 15, including certain portions of: Subtitle 1, sections 15–102 and 15–103; and, subtitle 6, sections 15–601, 15–602, 15–607, and 15–608. The State effective dates for these subsections of Title 15 are listed in the table in 40 CFR 52.1070(c) and are the "last amended" dates for the statutory sections, which include these subsections, according to Michie's Annotated Code of Maryland.

III. EPA's Analysis of Maryland's SIP Revision

Sections 128 and 110(a)(2)(E)(ii) require that each state's SIP demonstrates how state boards, bodies or heads of executive agencies which approve CAA permits or enforcement orders disclose any potential conflicts of interest. The Secretary of MDE or his designee approves all CAA permits and enforcement orders in Maryland with the exception of pre-construction permits for electric generating stations that receive a Certificate of Public Convenience and Necessity (CPCN) from the PSC. MDE is an executive agency that acts through its Secretary or a delegated subordinate state employee. The PSC also acts through its Commissioners or delegated subordinates to approve permits. MDE submitted relevant provisions of the Annotated Code of Maryland, Title 15 for inclusion into the SIP as required by sections 128 and 110(a)(2)(E)(ii). Title 15 applies to state employees and requires them to disclose relevant financial information. This SIP revision reflects the existing law and demonstrates that Maryland complies with the requirements of sections 128 and 110(a)(2)(E)(ii) of the CAA through the Maryland Title 15 requirements for adequate disclosure of potential conflicts of interest.

IV. Final Action

EPA is approving the Maryland SIP revision that addresses the requirements of sections 128 and 110(a)(2)(E)(ii) of the CAA for all criteria pollutants of the NAAQS. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 4, 2014 without further notice unless EPA receives adverse comment by January 6, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action, approving the Maryland SIP revision for purposes of meeting sections 128 and 110(a)(2)(E)(ii) requirements for all criteria pollutants of the NAAQS in relation to State Boards, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 14, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by adding six entries under a new heading "State Government Article of the Annotated Code of Maryland" at the end of the table.

The added text reads as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
* *	*	*	*	* *

Annotated Code of Maryland citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
* *	*	*	*	* *
State Government Article of the Annotated Code of Maryland				
Section 15–102(a)(1), (a)(2)(bb), (a)(2)(ff), and (a)(2)(ll).	Definitions	10/1/12	12/6/13 *[Insert page number where the document begins]*.	Added; addresses CAA section 128.
Section 15–103(a), (b)(1) and (b)(2), and (f).	Designation of Individuals as public officials.	10/1/95	12/6/13 *[Insert page number where the document begins]*.	Added; addresses CAA section 128.
Section 15–601(a)	Individuals required to file statement.	10/1/04	12/6/13 *[Insert page number where the document begins]*.	Added; addresses CAA section 128.
Section 15–602(a)(1) through (a)(5).	Financial disclosure statement—Filing requirements.	10/1/08	12/6/13 *[Insert page number where the document begins]*.	Added; addresses CAA section 128.
Section 15–607(a) through (j)	Content of statements	10/1/04	12/6/13 *[Insert page number where the document begins]*.	Added; addresses CAA section 128.
Section 15–608(a) through (c)	Interests attributable to individual filing statement.	10/1/95	12/6/13 *[Insert page number where the document begins]*.	Added; addresses CAA section 128.

* * * * *

[FR Doc. 2013–28956 Filed 12–5–13; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2011–0728, FRL–9903–58–Region 8]

Disapproval, Approval and Promulgation of Air Quality Implementation Plan Revisions; Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards; Prevention of Significant Deterioration; Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is partially approving and partially disapproving the State Implementation Plan (SIP) submissions from the State of Wyoming to demonstrate that the SIP meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for fine particulate matter ($PM_{2.5}$) on July 18, 1997 and on October 17, 2006. The CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIPs to ensure that they meet infrastructure requirements. The State of Wyoming provided infrastructure submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS on March 26, 2008 and August 19, 2011, respectively. EPA is also approving revisions to Wyoming's Prevention of Significant Deterioration (PSD) program that incorporate necessary provisions from EPA's 2010 $PM_{2.5}$ Increment Rule.

DATES: This final rule is effective January 6, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2011–0728. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kathy Ayala, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6142, *ayala.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials *CBI* mean or refer to confidential business information.

(iii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iv) The initials *NAAQS* mean or refer to national ambient air quality standards.

(v) The initials *NSR* mean or refer to new source review.

(vi) The initials *PM* mean or refer to particulate matter.

(vii) The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers (fine particulate matter).

(viii) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(ix) The initials *SIP* mean or refer to State Implementation Plan.

Table of Contents

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I. Background

Infrastructure requirements for SIPs are provided in sections 110(a)(l) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPR), published on September 6, 2013 (78 FR 54828).

In the NPR, EPA proposed to approve Wyoming's March 26, 2008 and August 19, 2011 submissions for the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$ NAAQS: (A), (B), (C) with respect to minor New Source Review (NSR) and PSD requirements, (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M). We also proposed to approve revisions to the Wyoming Air Quality Standards and Regulations (WAQSR), Chapter 6, Section 4, as submitted on May 24, 2012, which incorporate the requirements of the 2010 $PM_{2.5}$ Increment Rule; specifically, revisions to: Chapter 6, Section 4 (a) Definitions of "Baseline area," "Major source baseline date," and "Minor source baseline date"; Chapter 6, Section 4(b)(i)(A)(I) Table 1; Chapter 6, Section 4(b)(viii); and Section 14. The reasons for our approval are provided in detail in the NPR. We have also separately completed our proposed action of June 24, 2013, 78 FR 37752, approving Wyoming's March 8, 2013 submittal to regulate greenhouse gases under Wyoming's PSD program and concurrently rescinding our corresponding federal implementation plan. With these updates to the State's approved PSD program, Wyoming's infrastructure submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS are approvable with respect to the PSD requirements in infrastructure elements (C) and (J).

For reasons explained in the NPR, EPA proposed to disapprove Wyoming's March 26, 2008 and August 19, 2011 submittals for the section 110(a)(2)(E)(ii) infrastructure element, related to CAA section 128, State Boards, for the 1997 and 2006 $PM_{2.5}$ NAAQS. EPA is taking no action at this time on infrastructure element (D)(i), which concerns interstate transport of pollutants, for the 2006 $PM_{2.5}$ NAAQS.

II. Response to Comments

We received one set of comments from the Wyoming Department of Environmental Quality (DEQ). DEQ supported our proposed approval of Wyoming's infrastructure submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS for elements (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M). However, DEQ took issue with certain aspects of our action.

Comment: DEQ states that EPA, in our proposal notice, summarized, and in some cases incorrectly stated, the references within the infrastructure SIP submittals to various regulatory and non-regulatory provisions. DEQ asked that EPA "correct the citations" in the summaries "to ensure accuracy and maintain consistency" between EPA's notices and Wyoming's submittals.

Response: EPA disagrees with certain portions of this comment. In our proposal notice, the summaries of the state's submittals were merely meant to be descriptive in general terms. For the

most part, these summaries accurately stated that the infrastructure SIP submittals cited provisions "included" in various chapters of the WAQSR. By this, we meant the submittals had cited certain provisions included within the chapters; we did not mean that the submittals cited the entire chapter. The summaries did not identify any particular provisions with those Chapters as legally relevant. Instead, our separate analysis for each element explained which provisions were relevant in meeting requirements of specific elements. EPA notes that the infrastructure SIP submittals (which are included in the docket for this rulemaking) speak for themselves and EPA does not need to reproduce them verbatim (or the exact citations within them).

EPA does agree that, in a few instances, DEQ correctly notes that EPA erred in its summary. For element (B), DEQ is correct that the submittals did not cite any provisions within Chapter 1 of the WAQSR. For element (F), the proposal notice omitted a comma, making it appear that the submittals cited 1979 versions of certain provisions in Chapters 6 and 7, instead of the current versions. For element (H), although EPA did not include in our summary all the provisions cited in the submittals, EPA did reference the cited provisions in our analysis. For the public notification requirements in element (J), DEQ is correct that the submittals described a document as "non-regulatory." For element (K), EPA agrees that DEQ's description of the submittal is correct. None of these minor corrections to our summaries in any way changes or modifies EPA's analysis of how the submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS substantively met infrastructure requirements. As a result, these minor corrections do not change our proposed action on the submittals.

Comment: DEQ requested that EPA add approval language specifically citing elements (E)(i) and (E)(iii) in our final rule.

Response: EPA has examined the proposal to be sure that we adequately addressed these elements in our proposal. Although we did not specifically cite elements (E)(i) and (E)(iii) in our paragraph analyzing Wyoming's submittal, the paragraph introducing our description and analysis of Wyoming's submittal cited (and in fact quoted) those two elements. In context, the introductory paragraph makes clear that the description and analysis address elements (E)(i) and (E)(iii). Furthermore, in section VI of our proposal notice, we specifically stated that we proposed to approve the infrastructure SIP submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS for (among others) elements (E)(i) and (E)(iii). Finally, to ensure that our approval of these elements is clear, the notice for this final action specifically states that we are approving the submittals for (among others) elements (E)(i) and (E)(iii).

Comment: DEQ requested that EPA remove our discussion of the State's minor NSR program from the final approval of the infrastructure SIP submissions. DEQ stated that the minor NSR program in WAQSR Chapter 6, Section 2 is an approved program and is not at issue in an infrastructure SIP action. DEQ stated that the reference to WAQSR Chapter 6, Section 2 is outside the scope of EPA's action on the submissions.

Response: EPA disagrees with this comment. First, we note that DEQ, in both of its infrastructure submissions, specifically cited WAQSR Chapter 6, Section 2 as part of how the Wyoming SIP addresses infrastructure element (C). It is appropriate for EPA, in acting on an infrastructure SIP submission, to assess the State's own description of how the State's SIP meets infrastructure requirements, and as we next explain, it was appropriate for the State in addressing element (C) to cite the minor NSR program.

Second, in this action on Wyoming's infrastructure submittals for the 1997 and 2006 $PM_{2.5}$ NAAQS, EPA appropriately assessed whether Wyoming's approved minor NSR program addressed regulation of $PM_{2.5}$ for sources subject to the program. EPA's position is that an infrastructure SIP submittal should demonstrate that the state has a minor NSR program to regulate the construction of new or modified stationary sources that can address the new or revised NAAQS that triggered the State's obligation to submit an infrastructure SIP. This position follows from the language of sections 110(a)(1) and (a)(2).

Section 110(a)(1) of the Act requires states, within three years of EPA's promulgation of a new or revised NAAQS, to submit "a plan which provides for implementation, maintenance, and enforcement" of the standards. This plan, which EPA refers to as an "infrastructure SIP," must at a minimum satisfy the applicable requirements set out in the elements in section 110(a)(2) of the Act.

In particular, element 110(a)(2)(C) requires, among other things, that SIPs include "regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that [the NAAQS] are achieved." The program for regulation of modification of stationary sources is known as "minor NSR," and the requirements for minor NSR programs are contained in Subpart I of Part 51 in Title 40 of the Code of Federal Regulations (CFR). Given the language of element 110(a)(2)(C), it is necessary to conclude that an infrastructure SIP submittal must address the triggering new or revised NAAQS.

Comment: DEQ noted that EPA had not acted on Wyoming's May 11, 2011 submittal, which (among other things) added Section 13 to Chapter 6 of the WAQSR. DEQ stated it was concerned about "future inconsistency in the GHG PSD permitting regulations." DEQ also stated, "The State of Wyoming will experience additional harm if a construction ban goes into effect on January 20, 2014 without EPA approval of the May 11, 2011 SIP."

Response: EPA disagrees with the concerns expressed by DEQ. First, EPA has already approved the portion of the May 11, 2011 submittal that revised the State's PSD program. See 76 FR 44265 (July 25, 2011). The remaining portion of the May 11, 2011 submittal added two new sections to Wyoming's permitting rules. Section 13, entitled "Nonattainment permit requirements," incorporates by reference federal rules at 40 CFR 51.165. Section 14, entitled "Incorporation by reference," establishes the date of incorporation by reference of federal rules and provides information on how the public can inspect or obtain copies of the Code of Federal Regulations. In this action, we are approving a subsequent revision of Section 14 that supersedes the version of Section 14 in the May 11, 2011 submittal. Thus, the only remaining portion of the May 11, 2011 submittal that remains to be acted upon is the addition of Section 13, which addresses nonattainment NSR requirements.

First, DEQ has not identified how nonattainment NSR requirements are relevant to EPA's action on an infrastructure SIP submittal. As stated in our proposal notice (and not disputed by DEQ), nonattainment area plan requirements under part D of title I of the Act, including the requirement in 110(a)(2)(C) for a permit program as required by part D of title I (i.e., nonattainment NSR), are not governed by the three year submission deadline in section 110(a)(1). Instead, nonattainment NSR requirements are due at the same time as other nonattainment area plan requirements are due under the Act. As a result, nonattainment NSR requirements are outside the scope of this action on

Wyoming's infrastructure SIP submittals.

Second, it does not appear that our action on Wyoming's infrastructure SIP submittals and on Wyoming's adoption of the $PM_{2.5}$ increments could result in an inconsistency in GHG PSD permitting. We have separately completed our proposed approval of Wyoming's March 8, 2013 GHG PSD submittal. With respect to Section 13 of Chapter 6, DEQ did not identify any specific dependency between it and the March 8, 2013 GHG PSD submittal or the May 24, 2012 $PM_{2.5}$ increment submittal that would cause any future inconsistency in GHG permitting. In addition, the March 8, 2013 GHG PSD submittal did not include Section 13, so it appears to EPA that the two are independent.

Third, DEQ has not identified any reason why EPA's inaction on the Section 13 portion of the May 11, 2011 submittal would cause a construction ban to take effect on January 20, 2014. We note that, on May 21, 2012, EPA designated the Upper Green River Basin Area in Wyoming as marginal nonattainment for the 2008 ozone standard, effective July 20, 2012. See 77 FR 30517–30518. Although DEQ does not explain how it derived its January 20, 2014 date, that date is 18 months after the effective date of the designation of the Upper Green River Basin Area.

Under 40 CFR 52.24(k), after designation of a nonattainment area and prior to EPA's approval of a nonattainment NSR program that meets the requirements of part D of title I of the CAA, the Emission Offset Interpretative Ruling, 40 CFR part 51, appendix S governs permits to construct. As stated in EPA's June 6, 2013 proposed rule for implementation of the 2008 ozone standards, 78 FR 34200–201, in EPA's 2005 promulgation of the phase 2 implementation rule for the 1997 ozone NAAQS, "the EPA revised section 52.24(k) to eliminate language stating that if a nonattainment area did not have an approved nonattainment NSR program within 18 months after designation, a construction ban would apply." The June 6, 2013 proposal explains that the DC Circuit Court of Appeal's decision in *NRDC* v. *EPA*, 571 F.3d 1245 (D.C. Cir. 2009) left this revision of § 52.24(k) undisturbed, except with respect to the availability of waivers under section VI of Appendix S after the 18-month period has expired. Thus, DEQ's concerns about a construction ban are unnecessary, as Appendix S to 40 CFR part 51 (with the exception of waivers under section VI of Appendix S after January 20, 2014) governs construction permits within the Upper Green River Basin Area until EPA approves a SIP revision containing a nonattainment NSR program that meets the requirements of part D of title I of the Act, specifically requirements contained in 40 CFR 51.165.

III. Final Action

EPA is approving Wyoming's March 26, 2008 and August 19, 2011 submittals for the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$ NAAQS: (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M). EPA is also approving revisions to WAQSR Chapter 6, Section 4, as submitted on May 24, 2012, which incorporate the requirements of the 2010 $PM_{2.5}$ Increment Rule; specifically, revisions to: Chapter 6, Section 4(a) Definitions of "Baseline area", "Major source baseline date", and "Minor source baseline date"; Chapter 6, Section 4(b)(i)(A)(I) Table 1, Chapter 6, Section 4(b)(viii), and Section 14.

EPA is disapproving Wyoming's March 26, 2008 and August 19, 2011 submittals for the section 110(a)(2)(E)(ii) infrastructure element, related to CAA section 128, State Boards, for the 1997 and 2006 $PM_{2.5}$ NAAQS. Finally, EPA is taking no action on infrastructure element (D)(i) for the 2006 $PM_{2.5}$ NAAQS.

IV. Statutory and Executive Orders Review

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed,

and shall not postpone the effectiveness of such rule or action. This action 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: November 15, 2013.

Judith Wong,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart ZZ—Wyoming

■ 2. Section 52.2620 is amended by:

■ a. The table in paragraph (c)(1):

■ i Under Chapter 6, revise the entry for Section 4.

■ ii. Under Chapter 6, add the entry for Section 14.

■ b. The table in paragraph (e), add the entries XXI and XXII at the end of the table.

The amendments read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(1) * * *

State citation	Title/subject	State adopted and effective date	EPA approval date and citation [1]	Explanations
*	*	*	*	*
Chapter 6				
*	*	*	*	*
Section 4	Prevention of significant deterioration.	1/13/2012, 3/28/2012	12/6/13 [insert **Federal Register** page number where document begins].	
Section 14	Incorporation by reference	1/13/2012, 3/28/2012	12/6/13 [insert **Federal Register** page number where document begins].	
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision that is listed in this table, consult the **Federal Register** cited in this column for that particular provision.

* * * * * (e) * * *

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/adopted date	EPA approval date and citation[3]	Explanations
*	*	*	*	*
XXI. Section 110(a)(2) Infrastructure Requirements for the 1997 $PM_{2.5}$ NAAQS.	Statewide	3/26/2008	12/6/13 [insert **Federal Register** page number where document begins].	Element (E)(ii) is disapproved.
XXII. Section 110(a)(2) Infrastructure Requirements for the 2006 $PM_{2.5}$ NAAQS.	Statewide	8/19/2011	12/6/13 [insert **Federal Register** page number where document begins].	Element (E)(ii) is disapproved.

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2013–28949 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2003–0010; FRL–9903–47–Region–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Omaha Lead Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 7 announces the deletion of 1,154 residential parcel(s) identified June 4, 2013 **Federal Register** (FR) Notice of Intent to Partially Delete (NOIPD) of the Omaha Lead Superfund Site (Site) located in Omaha, Nebraska from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to the soil of 1,154 residential parcels identified in the June 4, 2013 FR NOIPD. The remaining residential parcels with soil lead levels at or above 400 parts per million (ppm) will remain on the NPL and are not being considered for deletion as part of this action. The EPA and the State of Nebraska, through the Nebraska Department of Environmental Quality, have determined that all appropriate response actions under CERCLA have been completed. However, the deletion of these parcels does not preclude future actions under Superfund.

DATES: This action is effective December 6, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–2003–0010. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are:

EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, open from 8 a.m. to 4 p.m.

EPA Public Information Center (north) 3040 Lake Street, Omaha, NE 68111, open from 8 a.m. to 4 p.m. Call (402) 991–9583 to ensure that staff are available; EPA Public Information Center (south) 4909 S. 25th Street, Omaha, NE 68107, open from 8 a.m. to 4 p.m. Call (402) 731–3045 to ensure that staff are available; W. Dale Clark Library, 215 S. 15th Street, Omaha, NE 68102.

FOR FURTHER INFORMATION CONTACT: Pauletta France-Isetts, Remedial Project Manager, U.S. Environmental Protection Agency, Region 7, 8400 Underground Drive, Pillar 253, Kansas City, Missouri 64161, (913) 551–7701, email: *france-isetts.pauletta@epa.gov*.

SUPPLEMENTARY INFORMATION: The portion of the site to be deleted from the NPL is: 1,154 residential parcels located within the Final Focus Area of the Omaha Lead Site, Omaha, Nebraska. A Notice of Intent for Partial Deletion for this Site was published in the **Federal Register** on June 4, 2013. Parcel addresses are included as part of docket EPA–HQ–1990–0010, which can be accessed through the *http://www.regulations.gov* Web site.

The closing date for comments on the Notice of Intent for Partial Deletion was July 5, 2013. No public comments were received. EPA still believes the partial deletion action is appropriate.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion of a site from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of portions of a site from the NPL does not affect responsible party liability, in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 28, 2013.

Karl Brooks,

Regional Administrator, Region 7.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300— NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by revising the entry under Omaha Lead Site, Omaha, Nebraska to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes [a]
* * * * *	* * * * *	* * * * *	* * * * *
NE	Omaha Lead	Omaha/Douglas	P
* * * * *	* * * * *	* * * * *	* * * * *

[a] * * *

P = Sites with partial deletion(s).

[FR Doc. 2013–28814 Filed 12–5–13; 8:45 am]
BILLING CODE P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 201, 204, 212, 216, 225, 227, and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: *Effective* December 6, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Revises the section heading at 201.603 for consistency with the FAR.

2. Corrects 204.7207(a) to conform to the FAR by changing "clause" to "provision."

3. Corrects typographical error at 203.906(1).

4. Removes 212.301(f)(xlii) as a result of changes under DFARS final rule 2013–D037, published on November 18, 2013.

5. Corrects cross-reference at 216.405–2–71(b) as a result of changes under DFARS final rule 2013–D037, published on November 18, 2013.

6. Corrects e-CFR by removing subsections 225.370–1 through 225.370–6.

7. Corrects the hyperlink at 225.7401(b).

8. Removes table of contents heading at 227.7203–7.

9. Correct office designation at 252.225–7004 and 252.225–7006.

List of Subjects in 48 CFR Parts 201, 204, 212, 216, 225, 227, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR Parts 201, 204, 212, 216, 225, 227, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 201, 204, 212, 216, 225, 227, and 252 continues to read as follows:

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

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.603 [Amended]

■ 2. Section heading at 201.603 is amended by removing "termination of appointment" and adding "termination of appointment for contracting officers" in its place.

203.906 [Amended]

■ 3. Section 203.906(1) is amended by removing "203.903;" and adding "203.903" in its place.

PART 204—ADMINISTRATIVE MATTERS

204.7207 [Amended]

■ 4. Section 204.7207 paragraph (a) is amended by removing the word "clause" and adding the word "provision" in its place.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 5. Section 212.301 is amended by removing paragraph (f)(xlii) and redesignating (f)(xliii) through (lxviii) as (f)(xlii) through (lxvii).

PART 216—TYPES OF CONTRACTS

216.405–2–71 [Amended]

■ 6. Section 216.405–2–71 paragraph (b) is amended by removing "252.225–7039" and adding "FAR 52.225–26" in its place.

PART 225—FOREIGN ACQUISITION

225.370–1 through 225.370–6 [Removed]

■ 7. Remove sections 225.370–1 through 225.370–6.

225.7401 [Amended]

■ 8. Section 225.7401 paragraph (b) is amended by removing "*http://www.per.hqusareur.army.mil/cpd/docper/GermanyDefault.aspx*" and adding "*http://www.eur.army.mil/g1/content/CPD/docper.html*" in its place.

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.7203–7 [Removed]

■ 9. Remove reserved section 227.7203–7.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7004 [Amended]

■ 10. Section 252.225–7004 paragraph (c)(5) is amended by removing "OUSD(AT&L)DPAP(CPIC)," and adding "OUSD(AT&L) DPAP/CPIC," in its place.

252.225–7006 [Amended].

■ 11. Section 252.225–7006 paragraph (d) is amended by removing "OUSD(AT&L)DPAP(CPIC)" and adding "OUSD(AT&L) DPAP/CPIC" in its place.

[FR Doc. 2013–29146 Filed 12–5–13; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750–AH84

Defense Federal Acquisition Regulation Supplement: Preparation of Letter of Offer and Acceptance (DFARS Case 2012–D048)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address the contracting officer role in assisting the DoD implementing agency in preparation of the letter of offer and acceptance for a foreign military sales program that will require an acquisition.

DATES: *Effective* December 6, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the Federal Register at 78 FR 28793 on May 16, 2013, to address the contracting officer role in assisting the DoD implementing agency in preparation of

the letter of offer and acceptance for a foreign military sales program that will require an acquisition. No respondents submitted public comments in response to the proposed rule. There are no changes from the proposed rule in the final rule.

II. Executive Orders 12866 and 13563

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

III. Regulatory Flexibility Act

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

This action is necessary because the directions to the contracting officer at PGI 225.7302 may have impact on prospective contractors, and therefore require relocation to the DFARS. The objective of this rule is to provide direction to the contracting officer on actions required to work with the prospective contractor to assist the DoD implementing activity in preparing the letter of offer and acceptance for a foreign military sales program that requires an acquisition.

There were no comments in response to the initial regulatory flexibility analysis. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments.

The rule will apply to approximately 380 small entities, based on the FPDS data for FY 2011 of the number of noncompetitive contract awards to small business entities that exceed $10,000 and use FMS funds.

There is no required reporting or recordkeeping. The rule requires the contracting officer to communicate with a prospective FMS contractor in order to assist the DoD implementing agency in preparation of the letter of offer and acceptance. The contracting officer may request information on price, delivery, and other relevant factors, and provide information to the prospective contractor with regard to the FMS customer.

DoD does not expect the rule will have a significant economic impact on a significant number of small entities. No significant alternatives were identified that would accomplish the objectives of the rule.

IV. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 225

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR Part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR Part 225 continues to read as follows:

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

■ 2. Section 225.7302 is revised to read as follows:

225.7302 Preparation of letter of offer and acceptance.

For FMS programs that will require an acquisition, the contracting officer shall assist the DoD implementing agency responsible for preparing the Letter of Offer and Acceptance (LOA) by—

(1) Working with prospective contractors to—

(i) Identify, in advance of the LOA, any unusual provisions or deviations (such as those requirements for Pseudo LOAs identified at PGI 225.7301);

(ii) Advise the contractor if the DoD implementing agency expands, modifies, or does not accept any key elements of the prospective contractor's proposal;

(iii) Identify any logistics support necessary to perform the contract (such as those requirements identified at PGI 225.7301); and

(iv) For noncompetitive acquisitions over $10,000, ask the prospective contractor for information on price, delivery, and other relevant factors. The request for information shall identify the fact that the information is for a potential foreign military sale and shall identify the foreign customer; and

(2) Working with the DoD implementing agency responsible for preparing the LOA, as specified in PGI 225.7302.

[FR Doc. 2013–29153 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 231

RIN 0750–AH76

Defense Federal Acquisition Regulation Supplement: Unallowable Fringe Benefit Costs (DFARS Case 2012–D038)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to explicitly state that fringe benefit costs that are contrary to law, employer-employee agreement, or an established policy of the contractor are unallowable.

DATES: *Effective* December 6, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Williams, telephone 571–372–6092.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 78 FR 13606 on February 28, 2013, to revise the DFARS at 231.205–6 to implement the Director of Defense Pricing policy memo "Unallowable Costs for Ineligible Dependent Health Care Benefits", dated February 17, 2012. This rule adds paragraph 231.205–6(m)(1) to explicitly state that fringe benefit costs that are contrary to law, employer-employee agreement, or an established policy of the contractor are unallowable.

II. Discussion and Analysis of Public Comments

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

A. Summary of Significant Changes from the Proposed Rule

After consideration of a public comment, DoD determined that the reference to "incurred or estimated" within the DFARS text should be deleted.

B. Analysis of Public Comments

Two respondents submitted comments on the proposed rule.

1. Policy Memo Disagreement

Comment: One respondent disagreed with the conclusions of the Director of Defense Pricing policy memorandum. However, the respondent agreed that contractors should monitor healthcare dependent eligibility to ensure only proper healthcare charges are included as an element of fringe benefit costs.

Response: The memorandum emphasizes and clarifies existing policies but does not create new policies. These existing policies make fringe benefit costs unallowable when such costs are unreasonable or conflict with law, employer-employee agreement, or an established policy of the contractor. DoD shares the respondent's belief that contractors should have adequate internal controls to ensure improper healthcare charges are excluded from fringe benefit costs. The rule encourages contractors to adopt reasonable internal controls to eliminate costs that are already unallowable.

2. Broadening the Category of Fringe Benefits

Comment: One respondent took exception to the rule addressing the broad category of fringe benefits when the Director of Defense Pricing policy memorandum only addresses the cost of health care benefits for ineligible dependents.

Response: The policy at FAR 31.205–6(m) states, in part, that fringe benefit costs are allowable to the extent they are required by law, employer-employee agreement, or an established policy of the contractor. The DFARS policy memo addressed only the area that has experienced recent problems. Reasonable internal controls can significantly reduce the amount of ineligible dependent healthcare claims that are already unallowable if they fail to meet the conditions in FAR 31.205–6(m). The same logic applies to all fringe benefits.

3. Immaterial and No-Impact

Comment: One respondent asserted that industry-wide ineligible dependent costs are immaterial, and thus have no impact on contract billing or pricing. The respondent suggested that DoD should review the DCAA findings in its policy memo 09–PSP–016(R), dated August 4, 2009, before proceeding with further rulemaking.

Response: Research indicates the rate of ineligible dependent claims can represent as much as 3 percent or more of total healthcare costs. The overall cost for ineligible dependent claims, which are often fraudulent, can be significant for large contractors that spend millions of dollars for dependent healthcare. Programs to reduce ineligible dependent healthcare claims have been shown to benefit both the contractor and its customers. Penalties may be assessed if unallowable dependent healthcare costs are contained in a final indirect cost rate proposal, or a final statement of costs incurred, or estimated to be incurred, under a fixed-price incentive contract.

4. Cost Accounting Standard

Comment: One respondent asserted that the treatment of ineligible fringe benefit costs as expressly unallowable does not comport with Cost Accounting Standard (CAS) 405 and its preambles. In the preamble of the original publication of CAS 405, the CAS Board explained its use of the term "expressly" in the definition of "expressly unallowable cost" as ". . . that which is in direct and unmistakable terms." The respondent believed that "fringe benefit costs . . . contrary to law, employer-employee agreement, or an established policy of the contractor" are not direct and unmistakable costs.

Response: The rule makes fringe benefit costs expressly unallowable when such costs are contrary to law, employer-employee agreement, or an established policy of the contractor. The Director of Defense Pricing Policy determined these conditions are direct and unmistakable.

5. Overlapping Protection

Comment: One respondent asserted that the rule is unnecessary since the FAR cost principles already protect the Government. Contractors are currently required to exclude fringe benefit costs that do not meet the requirements for reasonableness per FAR 31.201–3.

Response: The results of the DCAA audits have made it clear that coverage is not sufficiently clear. The intent of the rule is to make fringe benefit costs expressly unallowable when such costs conflict with law, employer-employee agreement, or an established policy of the contractor. Unallowable fringe benefit costs, such as ineligible dependent healthcare claims, unnecessarily increase the cost of Government contracts. Because contractors are already required to exclude unallowable costs from final indirect cost rate proposals or a final statement or cost incurred, penalties will only accrue to contractors that fail to comply with rules that already exist.

6. Relationship to the Application of Penalties

Comment: One respondent was concerned that the proposed rule does not conform to the FAR as it relates to the application of penalties. The respondent indicated that FAR 42.709–1 is limited to applying penalties only to unallowable costs included in an indirect cost proposal. The respondent further stated that there is no language in FAR 42.709–1 about "estimated" costs and because of this the respondent asserted that the reference to estimated costs in the proposed rule must be deleted.

Response: While subsection FAR 42.709–1 does not expressly use the term "estimated", this subsection does state that the penalties discussed in the subsection "apply to contracts covered by this section." FAR 42.709, entitled "Scope," specifically covers the assessment of penalties for including unallowable indirect costs in indirect cost rate proposals, or the "final statement of costs incurred or estimated to be incurred . . ." (emphasis added). Nevertheless, DoD has deleted the phrase "incurred or estimated" from DFARS 231.205–6(m)(1).

7. Test of Reasonableness

Comment: One respondent suggested that the costs should be judged by the test of reasonableness and not treated as unallowable with the associated penalties. The proposed rule would make these costs unallowable, thus forcing companies to expend disproportionate sums to ensure no claims for costs include ineligible health care costs in order to avoid the penalties. According to the respondent, this would force companies to behave differently than companies in the commercial marketplace or the U.S. Government in managing these costs.

Response: Ineligible fringe benefit costs are already unallowable under existing regulations. Thus, the test for reasonableness does not apply because an unallowable cost cannot, by definition be reasonable. Per FAR 31.205–6(m), fringe benefit costs are only allowable to the extent they are reasonable and are required by law, employer-employee agreement, or an established policy of the contractor. The DFARS rule only makes expressly unallowable fringe benefit costs that contractors are already required to exclude from forward pricing rates, incurred cost proposals, and billings. Research indicates nearly 70 percent of commercial companies have implemented procedures to detect and eliminate ineligible dependent health

care claims in order to reduce costs and remain competitive. Therefore, the effect of the rule is to make the DFARS consistent with current commercial practice.

8. Internal Controls

Comment: One respondent asserted that, if a company's internal controls are found to be unreasonable, the Government can cite the contractor for a business system deficiency and disallow cost. Dependent healthcare costs are allowable until eligibility ceases, so the Government should focus on the reasonableness of the company's internal controls (i.e., reasonableness test) versus the allowability test. A company should not be required to pay penalties if it has adequate internal controls to prevent charging the Government for ineligible dependent healthcare costs or recover and credit those costs back to the Government when they are charged.

Response: The rule makes ineligible dependent healthcare costs expressly unallowable, and subject to penalties, when such costs are contained in a final indirect cost rate proposal or a final statement of costs incurred, or estimated to be incurred, under a fixed-price incentive contract. Penalties may be waived in accordance with FAR 42.709–5(c).

9. Exceeding the Actual Costs of Ineligible Benefits

Comment: One respondent asserted that the costs of internal controls should not exceed the actual costs of the ineligible benefits. Treating the costs for ineligible dependent healthcare costs as unallowable is likely to force companies to spend more money than they would otherwise, in order to avoid the penalties associated with unallowable costs. The result will be increased allowable costs to the Government in exchange for little or no value.

Response: Research indicates the cost of ineligible dependent health care claims often far exceeds the cost of dependent verification programs. DoD was unable to find any studies or other evidence indicating that the cost to detect ineligible claims is higher than the cost savings.

10. Possible Disfavor for Those Who Are Fully or Partially Subject to CAS

Comment: One respondent asserted that the proposed rule has the effect of discriminating against companies that are fully or partially subject to CAS. The respondent asserted that, for those fully subject to CAS and those partially subject to CAS, the potential risk for liability for claiming unallowable costs is significant, while companies that are not subject to CAS have no such liability and do not face the possibility of False Claims Act prosecutions, Civil False Claims Act damages, qui tam lawsuits or debarment/suspension. A rule that allows companies subject to CAS to use a reasonable method for dealing with these costs will reduce the cost to the companies and reasonably protect the government from paying for the costs of ineligible dependent healthcare costs.

Response: The rule and, thus, the potential liability to incur penalties, apply equally to all contractors regardless of whether they are subject to CAS. Therefore, the rule does not discriminate against companies that are fully or partially subject to CAS. Additionally, the assertion that companies not subject to CAS do not face the possibility of False Claims Act prosecutions, Civil False Claims Act damages, qui tam lawsuits or debarment/suspension is inaccurate.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows: This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) at 231.205–6 to explicitly state that fringe benefit costs incurred or estimated that are contrary to law, employer-employee agreement, or an established policy of the contractor are unallowable. After consideration of a public comment, DoD determined that the reference to "incurred or estimated" within the DFARS proposed rule text should be deleted.

The objective of this final rule is to explicitly state that fringe benefit costs incurred or estimated that are contrary to law, employer-employee agreement, or an established policy of the contractor are unallowable. Although fringe benefit costs that do not meet these criteria are not allowable, the Federal Acquisition Regulation (FAR) does not make them expressly unallowable. Specifying these fringe benefit costs are expressly unallowable in the DFARS makes the penalties at FAR 42.709–1 applicable if a contractor includes such unallowable fringe benefit costs in a final indirect cost rate proposal or in the final statement of costs incurred under a fixed-price incentive contract.

No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

DoD does not expect this final rule to 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., because this rule merely provides clarification of existing policies by expressly stating that fringe benefit costs incurred or estimated that are contrary to law, employer-employee agreement, or an established policy of the contractor are unallowable.

The final rule imposes no reporting, recordkeeping, or other information collection requirements.

There are no known significant alternatives to the rule. The impact of this rule on small business is not expected to be significant.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 231

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 231 is amended as follows:

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 231 continues to read as follows:

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

■ 2. Section 231.205–6 is amended by adding paragraph (m)(1) to read as follows:

231.205–6 Compensation for personal services.

* * * * *

(m)(1) Fringe benefit costs that are contrary to law, employer-employee agreement, or an established policy of the contractor are unallowable.

[FR Doc. 2013–29151 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC976

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Central Regulatory Area of the Gulf of Alaska Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from catcher vessels using trawl gear to catcher/processors using trawl gear in the Central Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to allow the 2013 total allowable catch of Pacific cod in the Central Regulatory Area of the GOA to be harvested.

DATES: Effective December 3, 2013, through 2400 hours, Alaska local time (A.l.t.), December 31, 2013.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Gulf of Alaska exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2013 Pacific cod total allowable catch specified for catcher vessels using trawl gear in the Central Regulatory Area of the GOA is 15,065 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013). The Administrator, Alaska Region (Regional Administrator) has determined that catcher vessels using trawl gear will not be able to harvest 1,000 mt of the 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(12)(i)(B). In accordance with § 679.20(a)(12)(ii)(B), the Regional Administrator has also determined that catcher/processors using trawl gear currently have the capacity to harvest this excess allocation and reallocates 1,000 mt to catcher/processors using trawl gear.

The harvest specifications for Pacific cod in the Central Regulatory Area of the GOA included in the final 2013 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) is revised as follows: 14,065 mt for catcher vessels using trawl gear, and 2,521 mt to catcher/processors using trawl gear.

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 reallocation of Pacific cod specified from catcher vessels using trawl gear to catcher/processors using trawl gear. Since the fishery is currently ongoing, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 2, 2013.

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: December 3, 2013.

Sean F. Corson,

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

[FR Doc. 2013–29165 Filed 12–3–13; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC975

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Western Regulatory Area of the Gulf of Alaska Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from catcher vessels using trawl gear to catcher vessels using hook-and-line gear and vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to allow the 2013 total allowable catch of Pacific cod in the Western Regulatory Area of the GOA to be harvested.

DATES: Effective December 3, 2013, through 2400 hours, Alaska local time (A.l.t.), December 31, 2013.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Gulf of Alaska exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2013 Pacific cod total allowable catch specified for catcher vessels using

trawl gear in the Western Regulatory Area of the GOA is 7,941 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013). The Administrator, Alaska Region (Regional Administrator) has determined that catcher vessels using trawl gear will not be able to harvest 2,100 mt of the 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(12)(i)(A). In accordance with § 679.20(a)(12)(ii)(B), the Regional Administrator has also determined that catcher vessels using hook-and-line gear and vessels using pot gear currently have the capacity to harvest this excess allocation and reallocates 100 mt to catcher vessels using hook-and-line gear and 2,000 mt to vessels using pot gear.

The harvest specifications for Pacific cod in the Western Regulatory Area of the GOA included in the final 2013 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) is revised as follows: 5,841 mt for catcher vessels using trawl gear, 490 mt for vessels using hook-and-line gear, and 9,859 mt for vessels using pot gear.

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 reallocation of Pacific cod specified from catcher vessels using trawl gear to vessels using hook-and-line gear and vessels using pot gear. Since the fishery is currently ongoing, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 2, 2013.

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: December 3, 2013.

Sean F. Corson,

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

[FR Doc. 2013–29164 Filed 12–3–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 235
Friday, December 6, 2013

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2012–0052]

RIN 3150–AJ12

List of Approved Spent Fuel Storage Casks: HI–STORM 100 Cask System; Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Cask System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 9 to Certificate of Compliance (CoC) No. 1014. Amendment No. 9 broadens the subgrade requirements for the HI–STORM 100U part of the HI–STORM 100 Cask System and updates the thermal model and methodology for the HI–TRAC transfer cask from a two dimensional thermal-hydraulic model to a more accurate three dimensional model. The amendment also makes editorial corrections.

DATES: Submit comments by January 6, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to: *http://www.regulations.gov* and search for Docket ID NRC–2012–0052. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at: 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6103, email: *Naiem.Tanious@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0052 when contacting the NRC about the availability of information for this proposed rule. You may access publicly available information related to this proposed rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to: *http://www.regulations.gov* and search for Docket ID NRC–2012–0052.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at: *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at: 1–800–397–4209, 301–415–4737, or by email to: *pdr.resource@nrc.gov.* An electronic copy of the proposed CoC, including Appendices A and B of the Technical Specifications (TS), Appendix A—100U and Appendix B—100U of the TS, and the preliminary Safety Evaluation Report are available in ADAMS under Package Accession No. ML120530246. The ADAMS Accession No. for the HI–STORM 100 Cask System Amendment No. 9, dated June 20, 2013, is ML120530271.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0052 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Procedural Background

This proposed rule is limited to the changes contained in Amendment No. 9 to CoC No. 1014 and does not include other aspects of the HI–STORM 100 Cask System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on February 19, 2014. However, if the NRC receives significant adverse comments on this proposed rule by January 6, 2014, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these

proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

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

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

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

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

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

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

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TS.

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

III. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal Agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR).

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act sec. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Protection Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. Nuclear Waste Policy Act 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K is also issued under sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170).

Amendment Number 9 Effective Date: February 19, 2014.

SAR Submitted by: Holtec International, Inc.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 2nd day of December, 2013.

For the Nuclear Regulatory Commission.

Michael R. Johnson,

Acting Executive Director for Operations.

[FR Doc. 2013–29160 Filed 12–5–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1023; Directorate Identifier 2013–NM–042–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 84–19–01, which applies to certain The Boeing Company Model 747–100, 747–200B, 747–200F series airplanes. AD 84–19–01 requires repetitive inspections for cracking of certain tension ties, and repair and certain modifications if necessary. Since we issued AD 84–19–01, the upper deck tension ties have been identified as structure that is susceptible to widespread fatigue damage (WFD), and additional action is necessary for certain airplanes to adequately address the identified unsafe condition on the fleet. This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. For certain airplanes, this proposed AD would add

inspections for cracking of the tension tie at body station (BS) 760 or 780, corrective action if necessary, and eventual modification of the tension ties. For all airplanes, this proposed AD would require repetitive post-modification inspections for cracking of the tension tie at BS 760 or 780, and corrective action if necessary. We are proposing this AD to detect and correct tension tie cracking, which could eventually result in in-flight depressurization of the airplane and the inability to withstand current regulatory failsafe loads.

DATES: We must receive comments on this proposed AD by January 21, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Roger Caldwell, Aerospace Engineer, Denver Aircraft Certification Office, FAA, 26805 East 68th Avenue, Denver, CO 80249; phone: 303–342–1086; fax: 303–342–1088; email: *roger.caldwell@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2013–1023; Directorate Identifier 2013–NM–042–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On September 4, 1984, we issued AD 84–19–01, Amendment 39–4913 (49 FR 35365, September 17, 1984), for certain Boeing Model 747–100, 747–200B, and 747–200F series airplanes. AD 84–19–01 requires repetitive inspections for cracking of certain tension ties, and repair and certain modifications if necessary. AD 84–19–01 resulted from a crack in the body station 760 tension tie as a result of bending due to cabin pressurization. We issued AD 84–19–01 to detect and correct tension tie cracking, which could eventually result in in-flight depressurization of the airplane and the inability to withstand current regulatory failsafe loads.

Actions Since AD 84–19–01, Amendment 39–4913 (49 FR 35365, September 17, 1984), Was Issued

As described in FAA Advisory Circular 120–104 (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/120-104.pdf*), several programs have been developed to support initiatives that will ensure the continued airworthiness of aging airplane structure. The last element of those initiatives is the requirement to establish a limit of validity (LOV) of the engineering data that support the structural maintenance program under 14 CFR 26.21. This proposed AD is the result of an assessment of the previously established programs by design approval holder during the process of establishing the LOV for Model 747–100, 747–200B, and 747–200F series airplanes. The actions specified in this proposed AD are necessary to complete certain programs to ensure the continued airworthiness of aging airplane structure and to support an airplane reaching its LOV.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–1023.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

Although this proposed AD does not explicitly restate the requirements of AD 84–19–01, Amendment 39–4913 (49 FR 35365, September 17, 1984), this proposed AD would retain all of the requirements of AD 84–19–01. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraphs (g) and (i) of this proposed AD. Paragraph (h) of this proposed AD would mandate the previously optional modification of the tension ties. This proposed AD would require accomplishing the actions specified in the service information identified previously, except as discussed under "Differences Between the Proposed AD and the Service Information."

This proposed AD would require that requests for approval of alternative methods of compliance (AMOCs) be directed to the Seattle Aircraft Certification Office.

The phrase "corrective actions" might be used in this proposed AD. "Corrective actions" correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between the Proposed AD and the Service Information

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and

that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Explanation of Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 24 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of U.S. airplanes	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255 per inspection cycle.	$0	$255 per inspection cycle.	Up to 24	$6,120 per inspection cycle.
Modification	32 work-hours × $85 per hour = $2,720	$672	$3,392	Up to 24	$81,408.

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 84–19–01, Amendment 39–4913 (49 FR 35365, September 17, 1984), and adding the following new AD:

The Boeing Company: Docket No. FAA–2013–1023; Directorate Identifier 2013–NM–042–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by January 21, 2014.

(b) Affected ADs

This AD supersedes AD 84–19–01, Amendment 39–4913 (49 FR 35365, September 17, 1984).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–200B, and 747–200F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracking in the body station (BS) 760 tension tie as a result of bending due to cabin pressurization. We are issuing this AD to detect and correct tension tie cracking, which could result in in-flight depressurization of the airplane and the inability to withstand current regulatory failsafe loads.

(f) Compliance

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

(g) Repetitive Inspections: Unmodified Airplanes

For airplanes that have not been modified as specified in Boeing Service Bulletin 747–53–2088: At the applicable time specified in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(1) of this AD, do detailed (close visual) and surface high frequency eddy current inspections for cracking of the tension tie at BS 760 or 780, as applicable, and do all applicable corrective actions, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable time specified in Table 1 or Table 2 of paragraph 1.E., "Compliance," of Boeing

Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, until accomplishment of the requirements of paragraph (h) of this AD.

(h) Modification

For airplanes that have not been modified as specified in Boeing Service Bulletin 747–53–2088: At the applicable time specified in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(1) of this AD, modify the tension ties, including doing an open-hole high frequency eddy current inspection for cracks, as applicable, and all applicable corrective actions, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(2) of this AD. All applicable corrective actions must be done before further flight. This modification terminates the repetitive inspection requirements of paragraph (g) of this AD.

(i) Post-Modification Repetitive Inspections

For airplanes that have been modified as specified in Boeing Service Bulletin 747–53–2088: At the applicable time in Table 2 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, do a detailed inspection for cracking of the tension tie at BS 760 or 780, and do all applicable corrective actions, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, except as required by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at the applicable time in Table 2 specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013. Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, notes that additional post-modification inspections are specified in Boeing Service Bulletin 747–53A2502; those post-modification inspections are required by AD 2006–01–07, Amendment 39–14446 (71 FR 1947; January 12, 2006).

(j) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, specifies a compliance time "after the Revision 4 date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2088, Revision 4, dated January 11, 2013, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the actions specified in this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2088, Revision 3, dated September 8, 1994.

(l) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 84–19–01, Amendment 39–4913 (49 FR 35365, September 17, 1984), are approved as AMOCs for the corresponding requirements of paragraph (g) (the retained detailed inspections) and paragraph (i) of this AD, but not as AMOCs for the high frequency eddy current inspections required by paragraph (g) of this AD.

(n) Related Information

(1) For more information about this AD, contact Roger Caldwell, Aerospace Engineer, Denver Aircraft Certification Office, FAA, 26805 East 68th Avenue, Denver, CO 80249; phone: 303–342–1086; fax: 303–342–1088; email: *Roger.Caldwell@faa.gov.*

(2) For information about AMOCs, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on November 29, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–29128 Filed 12–5–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0978; Directorate Identifier 2013–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 767–400ER series airplanes. This proposed AD was prompted by reports of turbine wheel bursts in the air driven pump (ADP) turbine gearbox assembly (TGA), which resulted in the release of high energy fragments. This proposed AD would require replacing the existing ADP TGA with an improved ADP TGA. We are proposing this AD to prevent fragments from an uncontained turbine wheel burst penetrating the fuselage and striking passengers, or penetrating the wing-to-body fairing and striking ground handling or maintenance personnel, causing serious injury.

DATES: We must receive comments on this proposed AD by January 21, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207;

telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kenneth Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6468; fax: 425–917–6190; email: *kenneth.frey@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2013–0978; Directorate Identifier 2013–NM–120–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received reports of uncontained failures of the turbine wheel in the ADP TGA assembly. Flightcrews noticed a reduction in center hydraulic system pressure and upon landing, found damage to the ADP TGA assembly, the left, aft, wing-to-body fairing, and to the airplane skin. Boeing's analysis determined that the existing ADP TGA assembly design cannot adequately contain fragments caused by a turbine wheel burst. Fragments from an uncontained turbine wheel burst could penetrate the fuselage and strike passengers, or penetrate the wing-to-body fairing and strike ground handling or maintenance personnel, causing serious injury.

Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 767–29–0113, dated May 29, 2013. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0978.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously.

Costs of Compliance

We estimate that this proposed AD affects 37 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	7 work-hours × $85 per hour = $595	$114,705	$115,300	$4,266,100

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0978; Directorate Identifier 2013–NM–120–AD.

(a) Comments Due Date

We must receive comments by January 21, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767–29–0113, dated May 29, 2013.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 29, Hydraulic Power.

(e) Unsafe Condition

This AD was prompted by reports of turbine wheel bursts in the air driven pump (ADP) turbine gearbox assembly (TGA), which resulted in the release of high energy fragments. We are issuing this AD to prevent fragments from an uncontained turbine wheel burst penetrating the fuselage and striking passengers, or penetrating the wing-to-body fairing and striking ground handling or maintenance personnel, causing serious injury.

(f) Compliance

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

(g) Replacement of Turbine Gearbox Assembly

Except as required by paragraph (i) of this AD: At the time specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 767–29–0113, dated May 29, 2013, replace the existing ADP TGA having part number N012000000 or N012000000–1 with an improved ADP TGA having part number N012000000–2 or N012000000–3, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–29–0113, dated May 29, 2013.

Note 1 to paragraph (g) of this AD: Guidance on modifying an existing ADP TGA so it can be re-identified as part number N012000000–2 or N012000000–3 can be found in Fairchild Controls Service Bulletin N012000000–29–03, Revision 2, dated January 29, 2013.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install an ADP TGA having part number N012000000 or N012000000–1 on any airplane.

(i) Exception to Service Information Specifications

Where Boeing Special Attention Service Bulletin 767–29–0113, dated May 29, 2013, specifies a compliance time "after the original issue date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(k) Related Information

(1) For more information about this AD, contact Kenneth Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6468; fax: 425–917–6190; email: *kenneth.frey@faa.gov.*

(2) For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

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

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–29136 Filed 12–5–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1024; Directorate Identifier 2013–NM–140–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. This proposed AD was prompted by reports of a fractured wing-to-fuselage strut attachment joint bolt. This proposed AD would require doing a torque check of all wing-to-fuselage strut attachment joint bolts, and repairing or replacing if necessary. For certain airplanes this proposed AD would require a detailed inspection for corrosion, damage, and wear of each wing-to-fuselage strut attachment joint bolt and associated hardware, and replacing if necessary; and a borescope inspection for corrosion and damage of the bore hole and barrel nut threads, and repairing or replacing if necessary. We are proposing this AD to detect and correct fractured bolts, which could result in reduced structural integrity of the wing-to-fuselage strut attachment joint and subsequent loss of the wing.

DATES: We must receive comments on this proposed AD by January 21, 2014.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email

thd.qseries@aero.bombardier.com; Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jeffrey Zimmer, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7306; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2013–1024; Directorate Identifier 2013–NM–140–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–17R1, dated June 27, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> There have been two in-service reports of a wing-to-fuselage strut attachment joint bolt found fractured during routine maintenance. Laboratory examination of one fractured bolt revealed that the fracture was attributed to stress corrosion cracking.
>
> Failure of the bolts could compromise the structural integrity of the wing-to-fuselage strut attachment joint and could lead to a subsequent loss of the wing.
>
> This [Canadian] AD mandates the inspection and rectification, as required, of the wing-to-fuselage strut attachment joint bolts and associated hardware.
>
> * * * * *
>
> Required actions include doing a torque check of wing-to-fuselage strut attachment joint bolts, and repairing or replacing if necessary. For certain airplanes, required actions include a detailed inspection for corrosion, damage (including but not limited to scratching, cracking, pitting, cross threads, etc.), and wear of each wing-to-fuselage strut attachment joint bolt and associated hardware, and replacement if necessary; and a borescope inspection for corrosion and damage of the bore hole and barrel nut threads, and repair or replacement if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1024.

Relevant Service Information

Bombardier has issued Service Bulletin 8–57–47, Revision A, dated May 29, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

In many FAA transport ADs, when the service information specifies to contact the manufacturer for further instructions if certain discrepancies are found, we typically include in the AD a requirement to accomplish the action using a method approved by either the FAA or the State of Design Authority (or its delegated agent).

We have recently been notified that certain laws in other countries do not allow such delegation of authority, but some countries do recognize design approval organizations. In addition, we have become aware that some U.S. operators have used repair instructions that were previously approved by a State of Design Authority or a Design Approval Holder (DAH) as a method of compliance with this provision in FAA ADs. Frequently, in these cases, the previously approved repair instructions come from the airplane structural repair manual or the DAH repair approval statements that were not specifically developed to address the unsafe condition corrected by the AD. Using repair instructions that were not specifically approved for a particular AD creates the potential for doing repairs that were not developed to address the unsafe condition identified by the MCAI AD, the FAA AD, or the applicable service information, which could result in the unsafe condition not being fully corrected.

To prevent the use of repairs that were not specifically developed to correct the unsafe condition, this proposed AD would require that the repair approval specifically refer to the FAA AD. This change is intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we use the phrase "its delegated agent, or by the DAH with State of Design Authority design organization approval, as applicable" in this proposed AD to refer to a DAH authorized to approve required repairs for this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 94 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD.

We also estimate that it would take about 107 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $5,476 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,369,674, or $14,571 per product.

We have received no definitive data that would enable us to provide a cost estimate for the repairs or replacements specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2013–1024; Directorate Identifier 2013–NM–140–AD.

(a) Comments Due Date

We must receive comments by January 21, 2014.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

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

(e) Reason

This AD was prompted by reports of a fractured wing-to-fuselage strut attachment joint bolt. We are issuing this AD to detect and correct fractured bolts, which could result in reduced structural integrity of the wing-to-fuselage strut attachment joint and subsequent loss of the wing.

(f) Compliance

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

(g) Torque Check

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Do a torque check of the wing-to-fuselage strut attachment joint bolts, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013.

(1) For airplanes that have accumulated fewer than 40,000 total flight cycles, and have less than 15 years in service since new, as of the effective date of this AD: Do the torque check before the accumulation of 42,000 total flight cycles, or within 16 years in service since new, whichever occurs first.

(2) For airplanes that have accumulated 40,000 total flight cycles or more, or have 15 years or more in service since new, as of the effective date of this AD: Do the torque check within 2,000 flight cycles or 12 months after the effective date of this AD, whichever occurs first.

(h) Inspection and Corrective Actions

(1) If only one bolt fails the torque check, before further flight, replace the bolt, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013; and before further flight do the actions specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD.

(2) If more than one bolt fails the torque check, before further flight, repair, using a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent or by the Design Approval Holder with the TCCA design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD.

(3) If all bolts pass the torque check, before further flight, do the actions specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD, as applicable.

(i) Do a detailed inspection for corrosion, damage (including but not limited to scratching, cracking, pitting, and cross threads, etc.), and wear, of each wing-to-fuselage strut attachment joint bolt and associated hardware, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013. If any bolt or hardware has corrosion, damage, or wear, before further flight, replace the affected part, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013.

(ii) Do a borescope inspection for corrosion and damage (including but not limited to scratching, cracking, pitting, and cross threads, etc.) of the bore hole and barrel nut threads, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013, except as provided by paragraph (i) of this AD.

(A) If any corrosion or damage is found in the barrel nut threads, before further flight, replace the barrel nut, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013, except as provided by paragraph (i) of this AD.

(B) If any corrosion or damage is found in the bore of the hole, before further flight, repair, using a method approved by the Manager, New York ACO, FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent or by the Design Approval Holder with the TCCA design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD.

(i) Exception to Service Information

Where Bombardier Service Bulletin 8–57–47, Revision A, dated May 29, 2013, specifies to contact the manufacturer for repair information, this AD requires repairing before further flight using a method approved by the Manager, New York ACO, FAA; or TCCA (or its delegated agent, or by the Design Approval Holder with TCCA design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 8–57–47, dated March 16, 2012.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO, ANE–170, FAA, has the authority to approve

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

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

(l) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–17R1, dated June 27, 2013, for related information, which can be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1024.

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

Issued in Renton, Washington, on November 29, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–29134 Filed 12–5–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0683; Airspace Docket No. 13–ANE–1]

Proposed Amendment of Class E Airspace; Morrisville, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Morrisville, VT, as the Morrisville-Stowe Non-Directional Beacon (NDB) has been decommissioned, requiring airspace redesign at Morrisville-Stowe State Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport.

DATES: Comments must be received on or before January 21, 2014.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2013–0683; Airspace Docket No. 13–ANE–1, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0683; Airspace Docket No. 13–ANE–1) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2013–0683; Airspace Docket No. 13–ANE–1." The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

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

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface at Morrisville-Stowe State Airport, Morrisville, VT.

Airspace reconfiguration to within a 14-mile radius of the airport is necessary due to the decommissioning of the Morrisville-Stowe NDB, and for continued safety and management of IFR operations at the airport. The geographic coordinates of Morrisville-Stowe State Airport would be adjusted to coincide with the FAAs aeronautical database.

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

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Morrisville-Stowe State Airport, Morrisville, VT.

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

Lists of Subjects in 14 CFR Part 71:

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005. Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

ANE VT E5 Morrisville, VT [Amended]

Morrisville-Stowe State Airport, VT
(Lat. 44°32′05″ N., long. 72°36′50″ W.)

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Morrisville-Stowe State Airport.

Issued in College Park, Georgia, on November 19, 2013.

Kip B. Johns,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–28670 Filed 12–5–13; 8:45 am]

BILLING CODE 4910–13–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

22 CFR Part 707

[No. PA–2013]

Privacy Act

AGENCY: Overseas Private Investment Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes revisions to the Overseas Private Investment Corporation's ("OPIC") Privacy Act ("PA") regulations by making substantive and administrative changes. These revisions are intended to supersede OPIC's current PA regulations, located at this Part. The proposed rule updates the agency's address, makes administrative changes to reflect OPIC's cost, and organizes the regulations to more closely match those of other agencies for ease of reference.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before January 6, 2014. Comments will be available for public review.

ADDRESSES: You may submit comments, identified by Docket Number PA–2013, by one of the following methods:

- *Email: foia@opic.gov.* Include docket number PA–2013 in the subject line of the message.
- *Mail:* Nichole Cadiente, Administrative Counsel, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527. Include docket number PA–2013 on both the envelope and the letter.

FOR FURTHER INFORMATION CONTACT: Nichole Cadiente, Administrative Counsel, (202) 336–8400, or *foia@opic.gov.*

SUPPLEMENTARY INFORMATION: The revision of Part 707 incorporates changes to the language and structure of the regulations. Requesters are now provided more detail on the types of identity verification that may suffice for PA requests.

In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the head of OPIC has certified that this proposed rule, as promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule implements the PA, a statute concerning access to and corrections to records about an individual, and does not economically impact Federal Government relations with the private sector. Further, under the PA, agencies may recover only the direct costs of duplicating the records processes for requesters. Based on OPIC's experience, these fees are nominal.

Executive Order 12866

OPIC is exempted from the requirements of this Executive Order

per the Office of Management and Budget's October 12, 1993 memorandum. Accordingly, OMB did not review this proposed rule. However this rule was generally composed with the principles stated in section 1(b) of the Executive Order in mind.

Unfunded Mandates Reform Act of 1995 (2 U.S.C. 202–05)

This proposed rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.)

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United State based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 22 CFR Part 70

Administrative practice and procedure, Privacy.

For the reasons stated in the preamble the Overseas Private Investment Corporation proposes to revise 22 CFR Part 707 as follows:

PART 707—ACCESS TO AND SAFEGUARDING OF PERSONAL INFORMATION IN RECORDS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

Subpart A—General.

§ 707.11 Scope and purpose.
§ 707.12 Definitions.
§ 707.13 Preservation of records.

Subpart B—Requests for access to records; amendment of records, accounting of disclosures. Notice of court ordered disclosures.

§ 707.21 Requests for access to or copies of records.
§ 707.22 Requests to permit access of records to an individual other than the individual to whom to record pertains.
§ 707.23 Requests for amendment of records.
§ 707.24 Requests for an accounting of record disclosures.
§ 707.25 Appeals.
§ 707.26 Notification of court-ordered disclosures.
§ 707.27 Fees.

Subpart C—Exceptions.

§ 707.31 Specific exemptions.
§ 707.32 Special exemption.
§ 707.33 Other rights and services.

Authority: 5 U.S.C. 552a(f); Foreign Assistance Act of 1961 (22 U.S.C. 2191)F.

Subpart A General

§ 707.11 Scope and purpose.

This part applies to all records in systems of records maintained by OPIC that are retrievable by an individual's name or personal identifier. The rules in this part describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, or request an accounting of disclosures of records by OPIC. These rules should be read in conjunction with the Privacy Act of 1974, 5 U.S.C. 552a, which provides additional information about records maintained on individuals.

§ 707.12 Definitions.

As used in this part:

(a) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) *Maintain* includes maintain, collect, use, or disseminate;

(c) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph;

(d) *System of records* mean a group of any records under the control of OPIC from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(e) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. § 8;

(f) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 707.13 Preservation of records.

OPIC preserves all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 14 of the National Archives and Records Administration. Records that are identified as responsive to a request will not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the Privacy Act.

Subpart B Requests for access to records; amendment of records, accounting of disclosures. Notice of court ordered disclosures

§ 707.21 Requests for access to or copies of records.

(a) *How to submit.* An individual may request access to or copies of records maintained by OPIC that are retrieved by an individual's personal identifier. To make a request for records a requester must submit a written request to the Vice President of Human Resources Management either by mail or delivery to Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527 or electronic mail to *Privacy@opic.gov*. The envelope or subject line should read "Privacy Act Request" to ensure proper routing. Access to records maintained by OPIC will be provided only by appointment. No officer or employee of OPIC shall provide an individual with any records under this part until a written request as described in paragraph (b) of this section is provided and the identity of the individual is verified as described in paragraph (c).

(b) *Information to include.* All requests under this section must:

(1) Be in writing and be signed by the requester. Unless the requester is a current officer or employee of OPIC, the letter must also be duly acknowledged before a notary public or other authorized public official or signed under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization;

(2) Provide information sufficient to verify the identity of the requester, including the requester's full name, current address, date of birth, place of birth, or the system of record identification name or number. Also include a clearly legible copy of a valid form of identification. If the request is being made by a parent or guardian on behalf of another, also include the same information for the individual who is the subject of the request along with a

court order, birth certificate, or similar document proving the guardianship. OPIC will review the sufficiency of identity evidence under paragraph (c) of this section;

(3) Provide information sufficient to accurately identify the records or information so that OPIC staff can locate the records with a reasonable amount of effort. At minimum this should include the full name, the system of record identification name, or the system identification number for the individual who is the subject of the records. Provision of a social security number is optional. If possible, also include a description of the records as well as providing a record creation time range and the name of the systems that should be searched. A description of OPIC's system of records can be located in the "Privacy Act Compilation" published by the National Archives and Records Administration's Office of the Federal Register. Each system of records is also published in the **Federal Register**;

(4) Specify whether the individual wishes access to or copies of the information pertaining to him. If access is requested, provide at least one preferred date and hour for which an appointment is requested during regular business hours as provided in paragraph (a). OPIC encourages appointments to be made at least one week in advance and for a requester to provide at least three preferred appointment times; and

(5) Include an agreement to pay fees or an agreement to pay fees up to a specified amount under § 707.27. A request that does not include an agreement to pay fees will be considered an agreement to pay fees up to $25.00.

(c) *Verification of identity.* Prior to providing any requested information about an individual, the Vice President of Human Resources Management shall verify the identity of the individual. If the requester is acting as the guardian of the individual who is the subject of the records, the Vice President of Human Resources Management will also verify the identity of the individual who is the subject of the records, the relationship between the requester and the subject individual, and that the requester is acting on behalf of the subject individual. In order to verify identity, the Vice President of Human Resources Management shall require the individual to provide reasonable proof of identity such as a valid driver's license, identification card, passport, employee identification card, or any other identifying information. The Vice President of Human Resources Management shall deny any request where she determines, at her sole discretion, that the evidence offered to verify the identity of an individual is insufficient to conclusively establish the identity of the individual.

(d) *Release of records.* Originals and record copies will not be released from the files of OPIC. Individuals will not be permitted to disturb any record files or to remove records from designated place of examination. If copies were requested in the request letter, copies will be furnished upon payment of the fees prescribed in § 707.27.

(e) *Denial of request.* If the Vice President of Human Resources Management declines any request submitted under this section, the denial will be made in writing and contain a brief description of the denial. Denials include a determination that an individual has not provided adequate evidence to verify identity under paragraph (c) of this section, a determination that the record cannot be located, and a withholding of a record in whole or in part. In the event of a denial, the requester may file a written appeal within thirty days of the date of notification, following the procedures in § 707.25.

§ 707.22 Requests to permit access of records to an individual other than the individual to whom the record pertains.

(a) Access by an authorized individual. An individual requester who wishes to be accompanied by another individual when reviewing records pertaining to the requester must provide OPIC with a signed, written statement authorizing discussion of the information contained in the records in the presence of the accompanying individual. Both parties will be required to verify their identity under § 707.21(c) before access is granted.

(b) Release to an authorized individual. An individual requester who wishes to have copies of records pertaining to the requester released to another individual must provide OPIC with a written statement authorizing release of the information contained in the records to the other individual. The identity of the individual to whom the record pertains must be verified under § 707.21(c) before release is authorized.

(c) Access or release to parent or guardian. Guardians will be provided access or copies under the provisions of § 707.21.

§ 707.23 Requests for amendment of records.

(a) *How to submit.* Unless a record is not subject to amendment, per paragraphs (g) and (h), an individual may request an amendment of a record to correct information the individual believes is not accurate, relevant, timely, or complete. The request must be in writing, labeled "Privacy Act Request," and should be addressed to the Vice President of Human Resources Management. The request may either be mailed to OPIC or delivered to the receptionist at 1100 New York Avenue NW., Washington, DC 20527, during regular business hours, between 8:45 a.m. and 5:30 p.m., Monday through Friday, excluding public holidays. The request will be considered received when actually delivered to or, if mailed, when it is actually received by the Vice President of Human Resources Management.

(b) Information to include. All requests under this section must:

(1) Be in writing and be signed by the requester. Unless the requester is a current officer or employee of OPIC, the letter must also be duly acknowledged before a notary public or other authorized public official or signed under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization;

(2) Provide information sufficient to verify the identity of the requester, including the requester's full name, current address, date of birth, place of birth, or the system of record identification name or number. Also include a clearly legible copy of a valid form of identification. If the request is being made by a parent or guardian on behalf of another, also include the same information for the individual who is the subject of the request along with a court order, birth certificate, or similar document proving the guardianship. OPIC will review the sufficiency of identity evidence under paragraph (c) of this section;

(3) Provide information sufficient to accurately identify each record so that OPIC staff can locate the record and information with a reasonable amount of effort. At minimum this should include the full name, the system of record identification name, or the system record identification number for the individual who is the subject of the records and the name for each system that you believe the record is located in. Provision of a social security number is optional. If possible, you should also include a description of the records and provide a record creation time range. A description of OPIC's systems of records can be located in the "Privacy Act Compilation" published by the National Archives and Records Administration's Office of the Federal Register. Each system of records is also published in the **Federal Register**;

(4) Specify the correction requested; and

(5) Detail the basis for the requester's belief that the records and information are not accurate, relevant, timely, or complete. This includes providing substantial and reliable evidence sufficient to permit OPIC to determine whether an amendment is in order.

Any request that Vice President of Human Resources Management determines does not describe records or information in enough detail to permit the staff to promptly locate the records; does not describe the correction requested in enough detail to permit the staff to make a correction; or does not reasonably specify the amendment requested or its basis will be returned without prejudice to the requester and treated as not received.

(c) *Verification of identity.* Prior to amending information about an individual, the Vice President of Human Resources Management shall verify the identity of the requesting individual. If the requester is acting as the guardian of the individual who is the subject of the records, the Vice President of Human Resources Management will also verify the identity of the individual who is the subject of the records, the relationship between the requester and the subject individual, and that the requester is acting on behalf of the subject individual. In order to verify identity, the Vice President of Human Resources Management shall require the individual to provide reasonable proof of identity such as a valid driver's license, identification card, passport, employee identification card, or any other identifying information. The Vice President of Human Resources Management shall deny any request where she determines, at her sole discretion, that the evidence offered to verify the identity of an individual is insufficient to conclusively establish the identity of the individual.

(d) *Acknowledgment of request.* If a request will take longer than ten (10) business days to process, OPIC will send the requester an acknowledgment letter.

(e) *Determination.* The Vice President of Human Resources Management will provide a determination on a request under this section within thirty (30) days from receipt.

(1) *Amendment.* The Vice President of Human Resources Management will notify the requester in writing if the amendment is made and provide the individual an opportunity to request a copy of the amended record.

(2) *Denial.* The Vice President of Human Resources Management will notify the requester in writing if she denies any portion of a request made under this section. The denial will include a brief explanation of the reason for the refusal and the right of the individual to file an appeal within thirty (30) days, following the procedures in § 707.25. In the event an appeal is denied, a requester may file a statement of disagreement with OPIC as described in § 707.25(c).

(f) *Notification of amendment.* Within thirty (30) days of the amendment or correction of a record or the filing of a statement of disagreement, OPIC will notify all persons, organizations, or agencies to which it previously disclosed the record, if an accounting of that disclosure was made. If an individual has filed a statement of disagreement, OPIC will attach a copy of it to the disputed record whenever the record is disclosed in the future and may also attach a concise statement of its reasons for denying the request to amend or correct.

(g) *Records not subject to amendment.* The following records are not subject to amendment:

(1) Transcripts of testimony given under oath or written statements made under oath;

(2) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings;

(3) Presentence records that originated with the courts; and

(4) Records in systems of records that have been exempted from amendment and correction under the Privacy Act, 5 U.S.C. 552a(j) or (k) or by notice published in the **Federal Register.**

(h) *No amendment permitted.* No part of these rules shall be construed to permit:

(1) The alteration of evidence presented in the course of judicial, quasi-judicial, or quasi-legislative proceedings;

(2) Collateral attack upon any matter which has been the subject of judicial or quasi-judicial action; or

(3) An amendment or correction which would be in violation of an existing statute, executive order, or regulation.

§ 707.24 Requests for an accounting of record disclosures.

(a) *How to submit.* Unless an accounting of disclosures is not required to be kept under paragraph (e) of this section, an individual may request an accounting of all disclosures OPIC has made of a record, maintained in a system of records and about the individual, to another person, organization, or agency. The request must be in writing, labeled "Privacy Act Request," and should be addressed to the Vice President of Human Resources Management. The request may either be mailed to OPIC or delivered to the receptionist at 1100 New York Avenue NW., Washington, DC 20527, during regular business hours, between 8:45 a.m. and 5:30 p.m., Monday through Friday, excluding public holidays. The request will be considered received when actually delivered to or, if mailed, when it is actually received by the Vice President of Human Resources Management.

(b) *Information to include.* All requests under this section must:

(1) Be in writing and be signed by the requester. Unless the requester is a current officer or employee of OPIC, the letter must also be duly acknowledged before a notary public or other authorized public official or signed under 28 USC 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization;

(2) Provide information sufficient to verify the identity of the requester, including the requester's full name, current address, date of birth, place of birth, or the system of record identification name or number. Also include a clearly legible copy of a valid form of identification. If the request is being made by a parent or guardian on behalf of another, also include the same information for the individual who is the subject of the request along with a court order, birth certificate, or similar document proving the guardianship. OPIC will review the sufficiency of identity evidence under paragraph (c) of this section;

(3) Provide information sufficient to accurately identify the records or information so that OPIC staff can locate the records with a reasonable amount of effort. At minimum this should include the full name, the system of record identification name, or the system record identification number for the individual who is the subject of the records and the name for each system that you believe the record is located in. Provision of a social security number is optional. If possible, you should also include a description of the records and provide a time range. A description of OPIC's system of records can be located in the "Privacy Act Compilation" published by the National Archives and Records Administration's Office of the Federal Register. Each system of records is also published in the **Federal Register**;

(4) Include an agreement to pay fees or an agreement to pay fees up to a specified amount under § 707.27. A request that does not include an agreement to pay fees will be considered an agreement to pay fees up to $25.00.

(c) *Verification of identity.* Prior to providing any requested information about an individual, the Vice President of Human Resources Management shall verify the identity of the requesting individual. If the requester is acting as the guardian of the individual who is the subject of the records, the Vice President of Human Resources Management will also verify the identity of the individual who is the subject of the records, the relationship between the requester and the subject individual, and that the requester is acting on behalf of the subject individual. In order to verify identity, the Vice President of Human Resources Management shall require the individual to provide reasonable proof of identity such as a valid driver's license, identification card, passport, employee identification card, or any other identifying information. The Vice President of Human Resources Management shall deny any request where she determines, at her sole discretion, that the evidence offered to verify the identity of an individual is insufficient to conclusively establish the identity of the individual.

(d) Determination. The Vice President of Human Resources Management will provide a requester with one of the following:

(1) *Provision of accounting of disclosures.* If the request is granted, the Vice President of Human Resources Management will provide the individual with an accounting containing the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made.

(2) *Denial.* The Vice President of Human Resources Management will notify the individual in writing if she denies any portion of a request made under this section. The denial will include a brief explanation of the reason for the refusal and the right of the individual to request a review thereof under the provisions of § 707.25.

(e) *Disclosures where an accounting of disclosures is not required.*

OPIC need not provide an accounting of disclosures where:

(1) The disclosures are of the type for which accountings are not kept. For example, disclosures made to employees within the agency; or

(2) The disclosure was made in response to a written request from a law enforcement agency for authorized law enforcement purposes.

§ 707.25 Appeals.

An individual may appeal a denial made under § 707.21–707.23 within thirty (30) days of the notification of such denial.

(a) *How to submit.* The appeal must be in writing, labeled "Privacy Act Appeal," and should be addressed to the Executive Vice President. The request may either be mailed to OPIC or delivered to the receptionist at 1100 New York Avenue NW., Washington, DC 20527, during regular business hours, between 8:45 a.m. and 5:30 p.m., Monday through Friday, excluding public holidays.

(b) *Information to include.* All requests under this section must:

(1) Be in writing and be signed by the requester;

(2) Be clearly labeled "PRIVACY ACT APPEAL" on both the letter and the envelope;

(3) Clearly reference the determination being appealed; and

(4) Provide support for your information, including documentation provided in the initial determination and any additional information.

(b) *Appeal determination.* The Executive Vice President will advise the individual of OPIC's determination within thirty (30) business days. If the Executive Vice President is unable to provide a determination within thirty business days, the individual will be advised in writing of the reason before the expiry of the thirty business days.

(1) *Overturn initial determination.* If the Executive Vice President grants the appeal and overturns the initial determination in whole or part, the individual will be notified in writing and the requested action taken promptly along with any other steps OPIC would have taken had the initial determination come to the same result as the appeal.

(2) *Uphold initial determination.* If the Executive Vice President denies the appeal and upholds the initial determination in whole or in part, the individual will be notified in writing and provided with an explanation. In cases where a denial of amendment or correction is upheld, the individual will also be notified of the ability to file a statement of disagreement under paragraph (c) of this section.

(c) *Statement of disagreement.* If an individual is denied a request to amend a record in whole or in part and that denial is upheld on appeal, the individual may file a statement of disagreement. Statements of disagreement must be concise, clearly identify each part of any record that is disputed, and should be no longer than one typed page for each fact disputed. The statement of disagreement will be placed in the system of records that contains the disputed record and the record will be marked to indicate that a statement of disagreement has been filed. The statement of disagreement will be attached to any future releases of the disputed record and may be accompanied by a concise statement from OPIC explaining its denial.

§ 707.26 Notification of court-ordered disclosures.

(a) Except in cases under subparagraph (c) of this section, when a record pertaining to an individual is required to be disclosed by court order, OPIC will make reasonable efforts to provide notice of this to the individual. If OPIC cannot locate the individual, notice will be deemed sufficient for this part if it is mailed to the individual's last known address. The notice will contain a copy of the order and a description of the information disclosed.

(b) Notice will be given within a reasonable time after OPIC's receipt of the order, unless the order is not a matter of public record. In those cases, the notice will be given only after the order becomes public.

(c) Notice is not required if disclosure is made from an exempt system of records.

§ 707.27 Fees.

(1) The fees to be charged for making copies of any records provided to an individual under this part are fifteen (15) cents per page. No fees will be charged for search or review.

(2) At its discretion, OPIC may grant a request for special services such as mailing copies by means other than first class mail or providing document certification. All special services provided to the requester will be provided at cost.

(3) OPIC considers any request under the Privacy Act to be an authorization to incur up to $25.00 in fees unless a request states otherwise.

(4) OPIC may condition access to records or copies of records upon full payment of any fees due.

(5) All payments under this part must be in the form of a check or bank draft denominated in U.S. currency. Checks should be made payable to the order of the United States Treasury and mailed or hand delivered to OPIC at 1100 New York Avenue NW., Washington DC 20527.

Subpart C Exceptions

§ 707.31 Specific exemptions.

The provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) shall not apply to any system of records maintained by OPIC that is—

(a) Subject to the provisions of 5 U.S.C. 552(b)(1);

(b) Composed of Investigatory material compiled for law enforcement purposes other than those specified in 5 U.S.C. 552a (j)(2);

(c) Required by statute to be maintained and used solely as statistical records;

(d) Composed of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that OPIC may determine, in its sole discretion, that the disclosure of such material would reveal the identity of the source who, subsequent to September 27, 1975, furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to such date, under an implied promise to such effect; and

(e) Composed of testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service and OPIC determines, in its sole discretion, that disclosure of such materials would compromise the fairness of the testing or examination process.

§ 707.32 Special Exemption.

Nothing in this part shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 707.33. Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Dated: November 22, 2013.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2013–28915 Filed 12–5–13; 8:45 am]

BILLING CODE 3195–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–110732–13]

RIN 1545–BL52

Guidance Regarding Dispositions of Tangible Depreciable Property; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of a notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations regarding dispositions of property subject to depreciation under section 168 of the Internal Revenue Code.

DATES: The public hearing originally scheduled for December 19, 2013 at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 317–6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking, a notice of public hearing, and partial withdrawal of previously proposed regulations that appeared in the **Federal Register** on September 19, 2013 (78 FR 57547) announced that a public hearing was scheduled for December 19, 2013, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the public hearing is under section 168 of the Internal Revenue Code.

The public comment period for these regulations expired on November 18, 2013. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Monday, December 2, 2013, no one has requested to speak. Therefore, the public hearing scheduled for December 19, 2013, is cancelled.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2013–29175 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7 and 75

RIN 1219–AB79

Refuge Alternatives for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for information; extension of comment period.

SUMMARY: In response to requests from interested parties, the Mine Safety and Health Administration (MSHA) is extending the comment period on the Agency's Request for Information (RFI) on Refuge Alternatives for Underground Coal Mines. This extension gives interested parties additional time to review new information on refuge alternatives.

DATES: The comment period for the RFI published August 8, 2013 (78 FR 48593), extended September 23, 2013 (78 FR 58264), is further extended. Comments must be received by midnight Eastern Daylight Savings Time on June 2, 2014.

ADDRESSES: Submit comments and supporting documentation by any of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for Docket Number MSHA–2013–0033.
- *Electronic mail: zzMSHA-comments@dol.gov.* Include "RIN 1219–AB79" in the subject line of the message.
- *Mail:* Send comments to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.
- *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 21st floor.

Instructions: Clearly identify all submissions with "RIN 1219–AB79". Because comments will not be edited to remove any identifying or contact information, MSHA cautions the commenter against including information in the submission that should not be publicly disclosed.

FOR FURTHER INFORMATION CONTACT: George F. Triebsch, Director, Office of Standards, Regulations, and Variances, MSHA, at *triebsch.george@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On August 8, 2013 (78 FR 48593), MSHA published a Request for Information on Refuge Alternatives for Underground Coal Mines. The RFI comment period was originally scheduled to close on October 7, 2013. In response to requests, MSHA extended the comment period to December 6, 2013 (78 FR 58264) to allow interested parties time to review National Institute for Occupational Safety and Health (NIOSH) studies that bear on certain issues raised in the RFI.

MSHA has received a subsequent request to further extend the comment period to allow time for NIOSH to finalize the studies and to provide a period for review. In response to this request, MSHA is extending the comment period to June 2, 2014.

Dated: December 4, 2013.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2013–29306 Filed 12–4–13; 4:15 pm]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0650; FRL–9903–77–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; State Boards Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of addressing the State Boards' requirements for all criteria pollutants of the National Ambient Air Quality Standards (NAAQS). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 6, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0650 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email:* fernandez.cristina@epa.gov.

C. *Mail:* EPA–R03–OAR–2013–0650, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0650. 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, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp, (215) 814–2191, or by email at *knapp.ruth@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: November 14, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–28955 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 212, and 232

RIN 0750–AI13

Defense Federal Acquisition Regulation Supplement: Application of Certain Clauses to Acquisitions of Commercial Items (DFARS Case 2013–D035)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the applicability of two clauses to acquisitions of commercial items.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before February 4, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2013–D035, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2013–D035" under the heading "Enter keyword or

ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2013–D035." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2013–D035" on your attached document.

- *Email: dfars@mail.mil.* Include DFARS Case 2013–D035 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Susan C. Williams, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov*, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Susan C. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6092; facsimile 571–372–6101.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise DFARS part 212, Acquisition of Commercial Items, to clarify the applicability of DFARS 252.211–7008, Use of Government-Assigned Serial Numbers, and DFARS 252.232–7006, Wide Area WorkFlow Payment Instructions, to acquisitions of commercial items by adding them to the list at 212.301(f) and revising the clause prescriptions to require their inclusion in solicitations and contracts for acquisitions of commercial items using FAR part 12 procedures.

DFARS 252.211–7008 is not listed for use in commercial acquisitions at 212.301(f); nor does the clause prescription at 211.274–6(c) address applicability to commercial item acquisitions. DFARS 252.211–7008 is prescribed for use in solicitations and contracts that include the clause at DFARS 252.211–7003, Item Identification and Valuation, and that also require the contractor to mark major end items (211.274–6(c)). DFARS 252.211–7003 is required to be included in solicitations and contracts for commercial items (see DFARS 212.301(f) and 211.274–6(a)(1)).

DFARS 252.232–7006 is prescribed for use when DFARS 252.232–7003 is used, unless the circumstances of 232.7003(b) or (c) apply (232.7004(b)). DFARS 252.232–7003 is required to be included in solicitations and contracts for commercial items except under limited circumstances provided in 232.7002(a)(see DFARS 212.301(f) and 232.7004(a)).

II. Executive Orders 12866 and 13563

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

III. Regulatory Flexibility Act

DoD does not expect this proposed rule to 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.*, because this rule merely provides explicit clarification of the applicability of DFARS 252.211–7008, Use of Government-Assigned Serial Numbers, and DFARS 252.232–7006, Wide Area WorkFlow Payment Instructions, to acquisitions of commercial items. Nevertheless, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DFARS part 212, Acquisition of Commercial Items, is being revised to clarify the applicability of DFARS 252.211–7008, Use of Government-Assigned Serial Numbers, and DFARS 252.232–7006, Wide Area WorkFlow Payment Instructions, to acquisitions of commercial items by adding them to the list at 212.301(f) and revising the clause prescriptions to specifically include them in solicitations and contracts for acquisitions using FAR part 12 procedures.

According to the Federal Procurement Data System, in Fiscal Year 2012, DoD made approximately 95,000 contract awards (not including modifications and orders) that exceeded the micro-purchase threshold, using FAR part 12 procedures, of which approximately 60,000 (63%) were awarded to about 35,000 unique small business entities. This rule is likely to have a slightly positive impact because the additional clarity will help contracting officers and small businesses to better understand DoD's requirements. This rule does not add any information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. Also, no alternatives were identified that will accomplish the objectives of the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2013–D35), in correspondence.

IV. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 211, 212, and 232

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211, 212, and 232 are proposed to be amended as follows:

■ 1. The authority citation for parts 211, 212, and 232 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

■ 2. In section 211.274–6, paragraph (c) introductory text is revised to read as follows:

211.274–6 Contract clauses.

* * * * *

(c) Use the clause at 252.211–7008, Use of Government-Assigned Serial Numbers, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that–

* * * * *

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Amend section 212.301 by—
■ a. Redesignating—
■ i. Paragraphs (f)(l) through (lxviii) as (f)(lii) through (lxx);
■ ii. Paragraphs (f)(xii) through (xlix) as (f)(xiii) through (l).
■ b. Adding new paragraphs (f)(xii) and (li).

The additions read as follows:

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

(f) * * *

(xii) Use the clause at 252.211–7008, Use of Government-Assigned Serial Numbers, as prescribed in 211.274–6(c).

* * * * *

(li) Use the clause at 252.232–7006, Wide Area WorkFlow Payment Instructions, as prescribed in 232.7004(b).

* * * * *

PART 232—CONTRACT FINANCING

■ 4. In section 232.7004, revise the section heading and paragraph (b) to read as follows:

232.7004 Contract clauses.

* * * * *

(b) Use the clause at 252.232–7006, Wide Area WorkFlow Payment Instructions, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when 252.232–7003 is used and neither 232.7003(b) nor (c) apply. See PGI 232.7004 for instructions on completing the clause.

[FR Doc. 2013–29156 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750–AI11

Defense Federal Acquisition Regulation Supplement: Domestically Nonavailable Articles—Elimination of DoD-Unique List (DFARS Case 2013–D020)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to remove the DoD-unique list of nonavailable articles because these items have been found to be either available domestically or are not used by DoD.

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before February 4, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2013–D020, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2013–D020" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2013–D020." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2013–D020" on your attached document.
- *Email: dfars@mail.mil.* Include DFARS Case 2013–D020 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Lee Renna, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov*, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Lee Renna, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6095; facsimile 571–372–6101.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to remove section 225.104 in its entirety, because the articles currently listed no longer qualify as an exception to the Buy American statute (41 U.S.C. section 8302(a)), on the basis of their nonavailability.

II. Discussion and Analysis

DoD has determined that domestic aluminum-clad steel wire available in the United States meets the two-part test used at FAR 25.101(a) to define a domestic end product, i.e., this item is known to be manufactured in the United States and the cost of the domestic components in this item exceed 50 percent of the sum total cost of the components of the product. In addition, the domestic sources that supply this item are capable of meeting 50 percent or more of the total U.S. Government and nongovernment demand, as required by FAR 25.103(1).

Sperm oil is not used by DoD. Sperm oil is obtained from sperm whales, which are listed in 50 CFR section 17.11 as an endangered species; therefore, in accordance with the Endangered Species Act of 1973 (16 U.S.C. sections 1531–1544), it is unlawful to engage in any activity that could bring harm to these animals. It is possible to obtain "pre-Act" sperm oil, i.e., sperm oil, including derivatives thereof, which was lawfully held within the United States on or before December 28, 1973; however, as previously stated, DoD does not use this product in any application.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to 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., because the rule is removing the DoD-unique list of nonavailable articles that have been found to be either available domestically or are not used by DoD. Of the two items on the list, aluminum-clad steel is produced and available in the United States, and DoD does not use sperm oil. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

(1) The removal of the nonavailability exception to the Buy American statute for aluminum-clad steel wire will neither increase nor decrease small businesses' participation in future procurements, particularly with regard to set-asides under the Small Business Program. This conclusion is primarily attributed to the application of the nonmanufacturer rule. Under the nonmanufacturer rule, any small business concern proposing to furnish a product that it did not itself manufacture must furnish the product of a domestic small business manufacturer. However, in industries where the Small Business Administration (SBA) has determined there are no domestic small business manufacturers, SBA may issue a waiver to the nonmanufacturer rule to permit small businesses to provide any firm's product (see FAR 19.102(f)(7)). Reinstatement of the Buy American statute restrictions has no effect on the application of the nonmanufacturer rule.

(2) With respect to the procurement of sperm oil, DoD does not use this product in any application. As such, a discussion of future procurement opportunities for this substance is no longer relevant.

This rule does not add any new information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that will accomplish the objectives of the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2013–D020), in correspondence.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 225

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is proposed to be amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

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

225.104 [Removed]

■ 2. Remove section 225.104.

[FR Doc. 2013–29154 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 235 and 252

RIN 0750–AI10

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Research and Development Contracting (DFARS Case 2013–D026)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to create an overarching prescription for the research and development-related clause with an alternate. The rule also proposes to add a separate prescription for the basic clause and for the alternate, and to include in the regulation the full text of the alternate clause.

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before February 4, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2013–D026, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2013–D026" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2013–D026." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2013–D026" on your attached document.
- *Email: dfars@mail.mil.* Include DFARS Case 2013–D026 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: (Ms. Annette Gray, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6093; facsimile 571–372–6101.

SUPPLEMENTARY INFORMATION:

I. Background

In order to facilitate use of automated contract writing systems, DoD is processing multiple cases, by DFARS part, to modify the naming convention for clauses with alternates, revise the clause prescriptions and clause prefaces, and provide each alternate clause in full text in the regulation.

The inclusion of the full text of the alternate clause in the regulation should make the terms of the alternate clearer to contractors and to DoD contracting officers. The current convention for alternate clauses is to show only the paragraphs that differ from from the basic clause. Placing the alternate clause in full text in the regulation will clarify paragraph substitutions. As a result, inapplicable paragraphs from the basic clause that are superseded by the alternate will not be included in solicitations or contracts, reducing the potential for confusion.

II. Discussion and Analysis

This proposed rule addresses clause 252.235–7003, Frequency Authorization, and its alternate. The rule does not revise the prescriptions in any substantive way or change the applicability of the basic clause or the alternate. The rule proposes to make the following changes:

- Amend section 235.072, Additional Contract Clauses, to reflect the restructuring of 252.235–7003, Frequency Authorization, into basic and alternate clauses with corresponding distinctive clause prescriptions for each clause. The new basic clause title is "Frequency Authorization—Basic". Similarly, the title of the alternate

clause is "Frequency Authorization—Alternate". The specific prescriptions for the basic clause and the alternate clause address the requirements for their individual use to enable proper selection of either the basic clause or the alternate clause as appropriate.

• Revise clause 252.235–7003 to reflect the inclusion of the full text of the alternate clause in addition to the full text of the basic clause. The preface for clause 252.235–7003 is revised to add paragraph (a) for the basic clause, which refers to the prescription at 235.072(b)(1) for use of the basic clause. Likewise, the paragraph (b) preface has been added to refer to the prescription for the alternate clause and also expanded to address the difference between the alternate clause and the basic clause. The preface at paragraph (b) for the alternate clause reads as follows: "(b) Frequency Authorization—Alternate. For the specific prescription for use of the alternate, see 235.072(b)(2). The alternate uses a different paragraph (c) than the basic clause." The proposed changes will increase the clarity and ease of use of the basic clause and alternate clause, but will not revise the applicability of the clauses in any way. The text of the alternate clause will no longer consist solely of paragraph (c), and instead will include the entire text of 252.235–7003 (basic clause) along with paragraph (c) substituted for the corresponding paragraph of the basic clause.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to 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.*, because it merely revises the prescriptions and reformats a clause with an alternate. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The purpose of this case is to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to create prescriptions for the basic and alternate versions of DFARS clause 252.235–7003, Frequency Authorization, and to include the full text of the clause alternate.

The use of stand-alone basic and alternate clauses and tailored prescriptions for the basic and alternate versions of the DFARS clause will facilitate use of automated contract writing systems. The prior convention required the prescription for the basic clause to address all the possibilities covered by the alternate, and then the prescription for the alternate addressed only those differences for the use of that particular alternate. This rule will revise the prescriptions so that the regulation will contain the full text of the basic and alternate clause and each will stand on its own. The prescriptions will not be revised in any way to change the applicability.

Additionally, the inclusion of the full text of the alternate clause should make the terms of the alternate clause clearer to offerors and contractors, as well as to DoD contracting officers. Instead of the current convention for the alternate to show only paragraphs that differ from the basic clause, this rule proposes to include the full text of each version of the clause in the regulation. This will assist in making the terms of the clauses clearer, because all paragraph substitutions will be identified. Inapplicable paragraphs from the basic version of the clause that are superseded by the alternate will not be included in solicitations or contracts and this should prevent confusion.

Potential offerors, including small businesses, may be affected by this rule by seeing an unfamiliar format for clause alternates in solicitations and contracts issued by DoD contracting activities. According to the Federal Procurement Data System, in Fiscal Year 2012, DoD made approximately 270,000 contract awards (not including modifications and orders) that exceeded the micro-purchase threshold, of which approximately 180,000 (67%) were awarded to about 35,000 unique small business entities. It is unknown how many of these contracts were awarded that included an alternate to a DFARS provision or clause. Nothing substantive will change in solicitations or contracts for potential offerors, and only the appearance of how clause alternates are presented in the solicitations and contracts will be changed. This rule may result in potential offerors, including small businesses, expending more time to become familiar with and to understand the new format of the clause alternates in full text contained in contracts issued by any DoD contracting activity. The rule also anticipates saving contractors time by making all paragraph substitutions from the basic version of the clause and not requiring the contractors to read inapplicable paragraphs contained in the basic version of the clause where the alternate is also included in the solicitation and contract. The overall burden caused by this rule is expected to be negligible and will not be any greater on small businesses than it is on large businesses.

This rule does not add any new information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that will accomplish the objectives of the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2013–D026), in correspondence.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 235 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 235 and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 235 and 252 continues to read as follows:

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

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

■ 2. Section 235.072 paragraph (b) is revised to read as follows: 235.

235.072 Additional contract clauses.

* * * * *

(b) Use the basic or the alternate of the clause at 252.235–7003, Frequency

Authorization, in solicitations and contracts for developing, producing, constructing, testing, or operating a device requiring a frequency authorization.

(1) Use the clause Frequency Authorization–Basic if agency procedures do not authorize the use of DD Form 1494, Application for Equipment Frequency Allocation, to obtain radio frequency authorization.

(2) Use the clause Frequency Authorization–Alternate if agency procedures authorize the use of DD Form 1494, Application for Equipment Frequency Allocation, to obtain frequency authorization.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 252.235–7003 is revised to read as follows:

252.235–7003 Frequency authorization.

As prescribed in 235.072(b), use one of the following clauses:

(a) *Frequency Authorization—Basic.* For the specific prescription for use of the basic clause, see 235.072(b)(1).

FREQUENCY AUTHORIZATION—BASIC (DATE)

(a) The Contractor shall obtain authorization for radio frequencies required in support of this contract.

(b) For any experimental, developmental, or operational equipment for which the appropriate frequency allocation has not been made, the Contractor shall provide the technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phase of contract performance.

(c) The Contracting Officer shall furnish the procedures for obtaining radio frequency authorization.

(d) The Contractor shall include this clause, including this paragraph (d), in all subcontracts requiring the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.

(End of clause)

(b) *Frequency Authorization—Alternate.* For the specific prescription for use of the alternate, see 235.072(b)(2). The alternate uses a different paragraph (c) than the basic clause.

FREQUENCY AUTHORIZATION–ALTERNATE (DATE)

(a) The Contractor shall obtain authorization for radio frequencies required in support of this contract.

(b) For any experimental, developmental, or operational equipment for which the appropriate frequency allocation has not been made, the Contractor shall provide the technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phase of contract performance.

(c) The contractor shall use DD Form 1494, Application for Equipment Frequency Allocation, to obtain radio frequency authorization.

(d) The Contractor shall include this clause, including this paragraph (d), in all subcontracts requiring the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.

(End of clause)

[FR Doc. 2013–29155 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 131017871–3871–01]

RIN 0648–BD72

List of Fisheries for 2014

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

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2014, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2014 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. The fishery classifications and list of marine mammal stocks incidentally injured or killed described on the Final LOF for 2013 remain in effect until the effective date of the Final LOF for 2014.

DATES: Comments must be received by January 6, 2014.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA–NMFS–2013–0148" by any of the following methods:

(1) *Electronic Submissions:* Submit all electronic comments through the Federal eRulemaking portal: *http://www.regulations.gov* (follow instructions for submitting comments).

(2) *Mail:* Submit written comments to Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and email the Office of Information and Regulatory Affairs at *ORIA_submissions@omb.eop.gov.*

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Lisa White, Office of Protected Resources, 301–427–8494; Allison Rosner, Northeast Region, 978–281–9328; Jessica Powell, Southeast Region, 727–824–5312; Elizabeth Petras, West Coast Region (CA), 562–980–3238; Brent Norberg, West Coast Region (WA/OR); 206–526–6550; Kim Rivera, Alaska Region, 907–586–7424; Nancy Young, Pacific Islands Region, 808–944–2282. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the List of Fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental mortality and serious injury of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the LOF determines

whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SARs) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(1)(C)).

How does NMFS determine in which category a fishery is placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock will be placed in Category III (unless those fisheries interact with other stock(s) in which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2, Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (i.e., frequent incidental mortalities and serious injuries of marine mammals).

Tier 2, Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (i.e., occasional incidental mortalities and serious injuries of marine mammals).

Tier 2, Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (i.e., a remote likelihood or no known incidental mortalities and serious injuries of marine mammals).

While Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock, Tier 2 considers fishery-specific mortality and serious injury for a particular stock. Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Because fisheries are classified on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (e.g., a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

Other Criteria That May Be Considered

There are several fisheries on the LOF classified as Category II that have no recent documented mortalities or injuries of marine mammals, or fisheries that did not result in a mortality and serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995) and listed in the regulatory definition of a Category II fishery: "In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental mortality or serious injury is "frequent," "occasional," or "remote" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries" (50 CFR 229.2).

Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. The list of species or stocks incidentally killed or injured includes "serious" and "non-serious" documented injuries as described later in the List of Species or Stocks Incidentally Killed or Injured in the Pacific Ocean and the Atlantic Ocean, Gulf of Mexico, and Caribbean sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. The best available scientific information used in the SARs reviewed for the 2014 LOF summarize data from 2007–2011. NMFS also reviews other sources of new information, including observer data, stranding data, and fisher self-reports.

In the absence of reliable information on the level of mortality or injury of a marine mammal stock, or insufficient observer data, NMFS will determine whether a species or stock should be added to, or deleted from, the list by considering other factors such as: changes in gear used, increases or decreases in fishing effort, increases or decreases in the level of observer coverage, and/or changes in fishery management that are expected to lead to decreases in interactions with a given marine mammal stock (such as a TRP or a fishery management plan (FMP)). In these instances, NMFS will provide case-specific justification in the LOF for changes to the list of species or stocks incidentally killed or injured.

Where does NMFS obtain information on the level of observer coverage in a fishery on the LOF?

The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions is presented in the SARs. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal

mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices and other resources referenced during the tier analysis may include: level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, characteristics of fishing gear and operations, management and regulations, and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources Web site at: *http://www.nmfs.noaa.gov/pr/sars/*. Information on observer coverage levels in Category I and II fisheries can also be found in the Category I and II fishery fact sheets on the NMFS Office of Protected Resources Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/*. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's Web site: *http://www.st.nmfs.gov/st4/nop/*.

How do I find out if a specific fishery is in Category I, II, or III?

This proposed rule includes three tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S.-authorized commercial fisheries on the high seas. A fourth table, Table 4, lists all commercial fisheries managed under applicable TRPs or take reduction teams (TRTs).

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (e.g., trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a "*" after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for five years, during which time FMPs can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008).

Where can I find specific information on fisheries listed on the LOF?

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets provide the full history of each Category I and II fishery, including: when the fishery was added to the LOF, the basis for the fishery's initial classification, classification changes to the fishery, changes to the list of species or stocks incidentally killed or injured in the fishery, fishery gear and methods used, observer coverage levels, fishery management and regulation, and applicable TRPs or TRTs, if any. These fishery fact sheets are updated after each final LOF and can be found under "How Do I Find Out if a Specific Fishery is in Category I, II, or III?" on the NMFS Office of Protected Resources' Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/*, linked to the "List of Fisheries by Year" table. NMFS plans to develop similar fishery fact sheets for each Category III fishery on the LOF. However, due to the large number of Category III fisheries on the LOF and the lack of accessible and detailed information on many of these fisheries, the development of these fishery fact sheets will take significant time to complete. NMFS anticipates posting Category III fishery fact sheets along with the final 2015 LOF, although this timeline may be revised as this effort progresses.

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register and receive my authorization certificate and mortality/injury reporting forms?

NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials directly under the MMAP. In the Pacific Islands, West Coast, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate and/or mortality/injury reporting forms via U.S. mail or with their state or Federal license at the time of renewal. In the Northeast region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year; but vessel or gear owners must request or print mortality/injury reporting forms by contacting the NMFS Northeast Regional Office at 978–281–9328 or by visiting the Northeast Regional Office Web site (*http://www.nero.noaa.gov/mmap*). In the Southeast region, NMFS will issue vessel or gear owners notification of registry and vessel or gear owners may receive their authorization certificate and/or mortality/injury reporting form by contacting the

Southeast Regional Office at 727–209–5952 or by visiting the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/mm/mmap.htm*) and following the instructions for printing the necessary documents. Mortality/injury forms are also available at *http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf*.

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

How do I renew my registration under the MMAP?

In Alaska and Northeast regional fisheries, registrations of vessel or gear owners are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. In Pacific Islands regional fisheries, vessel or gear owners receive an authorization certificate by January 1 for state fisheries and with their permit renewal for federal fisheries. In West Coast regional fisheries, vessel or gear owners receive authorization with each renewed state fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (see **ADDRESSES**).

In Southeast regional fisheries, vessel or gear owners' registrations are automatically renewed and participants will receive a letter in the mail by January 1 instructing them to contact the Southeast Regional Office to have an authorization certificate mailed to them or to visit the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/mm/mmap.htm*) to print their own certificate.

Am I required to submit reports when I kill or injure a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental mortalities and injuries of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of the end of the fishing trip. "Injury" is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Mortality/injury reporting forms and instructions for submitting forms to NMFS can be downloaded from: *http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf* or by contacting the appropriate Regional office (see **ADDRESSES**). Forms may be faxed directly to the NMFS Office of Protected Resources at 301–713–4060 or 301–713–0376. Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that an observer may not be required on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe; thereby, exempting vessels too small to accommodate an observer from this requirement. However, observer requirements will not be exempted, regardless of vessel size, for U.S. Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50 CFR 229.36(d)). Observer requirements can be found in 50 CFR 229.7.

Am I required to comply with any marine mammal take reduction plan regulations?

Table 4 in this proposed rule provides a list of fisheries affected by TRPs and TRTs. TRP regulations can be found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: *http://www.nmfs.noaa.gov/pr/interactions/trt/*. It is the responsibility of fishery participants to comply with applicable take reduction regulations.

Where can I find more information about the LOF and the MMAP?

Information regarding the LOF and the Marine Mammal Authorization Program, including registration procedures and forms, current and past LOFs, information on each Category I and II fishery, observer requirements, and marine mammal mortality/injury reporting forms and submittal procedures, may be obtained at: *http://www.nmfs.noaa.gov/pr/interactions/lof/*, or from any NMFS Regional Office at the addresses listed below:

NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2298, Attn: Allison Rosner;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Jessica Powell;

NMFS, West Coast Region, California, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Elizabeth Petras;

NMFS, West Coast Region, Washington and Oregon, 7600 Sand Point Way NE., Seattle, WA 98115, Attn: Brent Norberg, Protected Resources Division;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Kim Rivera; or

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814, Attn: Nancy Young.

Sources of Information Reviewed for the Proposed 2014 LOF

NMFS reviewed the marine mammal incidental mortality and serious injury information presented in the SARs for all fisheries to determine whether changes in fishery classification are warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of mortality and serious injury of marine mammals that occurs incidental to commercial fishery operations and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that informs the SARs, and to advise NMFS

on marine mammal population status, trends, and stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports through the Marine Mammal Authorization Program, reports to the SRGs, conference papers, FMPs, and ESA documents.

The proposed LOF for 2014 was based on, among other things, information provided in the NEPA and ESA documents analyzing authorized high seas fisheries; stranding data; fishermen self-reports through the MMAP; and SARs, primarily the draft 2013 SARs, which are generally based on data from 2007–2011. The final SARs referenced in this LOF include: 2007 (73 FR 21111, April 18, 2008), 2008 (74 FR 19530, April 29, 2009), 2009 (75 FR 12498, March 16, 2010), 2010 (76 FR 34054, June 10, 2011), 2011 (77 FR 29969, May 21, 2012); and 2012 (78 FR 19446, April, 1 2013) and the draft SAR for 2013 (78 FR 66681, November 6, 2013). The SARs are available at: *http://www.nmfs.noaa.gov/pr/sars/*.

Summary of Changes to the LOF for 2014

The following summarizes proposed changes to the LOF for 2014 in the estimated number of vessels/persons in a particular fishery and the species or stocks that are incidentally killed or injured in a particular fishery. The proposed LOF for 2014 has no changes to fishery classifications or to fisheries that are subject to a take reduction plan. The classifications and definitions of U.S. commercial fisheries for 2014 are identical to those provided in the LOF for 2013 with the proposed changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), DE (Delaware), FL (Florida), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), ME (Maine), NC (North Carolina), NY (New York), OR (Oregon), RI (Rhode Island), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the commercial fisheries in the Pacific Ocean (Table 1). Updates are based on state and federal fisheries permit data. The estimated number of vessels/persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow.

NMFS proposes to update the estimated number of vessels/persons in the "CA thresher shark/swordfish drift gillnet (≥14 in mesh)" fishery from 25 to 19.

NMFS proposes to update the estimated number of vessels/persons in the "CA spot prawn pot" fishery from 27 to 28.

NMFS proposes to update the estimated number of vessels/persons in the "CA Dungeness crab pot" fishery from 534 to 570.

NMFS proposes to update the estimated number of vessels/persons in the "CA pelagic longline" fishery from 6 to 1.

NMFS proposes to update the estimated number of vessels/persons in the "CA coonstripe shrimp, rock crab, tanner crab pot/trap" fishery from 305 to 203.

NMFS proposes to update the estimated number vessels/persons in the "CA spiny lobster trap" fishery from 225 to 198.

List of Species or Stocks Incidentally Killed or Injured in the Pacific Ocean

NMFS proposes to update the list of species or stocks incidentally killed or injured by fisheries in the Pacific Ocean (Table 1). The agency notes here that while only mortalities and "serious injuries" are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented mortalities and injuries, including "non-serious" injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, "Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals" (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*). NMFS proposes the following updates:

NMFS proposes to add minke whale (CA/OR/WA stock) to the list of species/stocks incidentally killed or injured in the "CA thresher shark and swordfish drift gillnet" fishery. A minke whale interaction was observed in this fishery in 2011 (Carretta and Enriquez, 2012).

NMFS proposes to add grey whale (Eastern North Pacific) to the list of species/stocks incidentally killed or injured in the "Bering Sea, Aleutian Islands crab pot" fishery. One grey whale was observed entangled in Bering Sea red king crab pot gear in 2008 (AKR Standing Database #2007117). NMFS Alaska Fisheries Science Center staff determined that the animal was seriously injured based on the poor body condition and the gear remaining on the animal based on the recent criteria for assessing serious injury in marine mammals (NMFS 2012).

NMFS proposes to change the false killer whale stock name from "HI Insular" to "MHI Insular" in the "HI deep-set (tuna target) longline" fishery, to reflect the revised stock name (Carretta *et al.*, 2013a). NMFS also proposes to remove the superscript "1" to indicate the stock is no longer driving the fishery's Category I classification, as described below. The fishery remains a Category I fishery because of mortality and serious injuries (M/SI) of the HI pelagic stock of false killer whales. The fishery has approximately 20% observer coverage.

NMFS finds that the MHI insular stock does not drive the Category I classification because of the following Tier 1 and Tier 2 analyses. The total average annual mortalities and serious injuries of the MHI Insular stock of false killer whale across all fisheries within the U.S. exclusive economic zone (EEZ) around Hawaii from 2007–2011 is 0.1 (Carretta *et al.*, 2013b). That M/SI rate is 33.33% of PBR, which exceeds 10% of PBR (Tier 1) (PBR = 0.3 (Carretta *et al.*, 2013b)). The M/SI rate (0.1) is the same when evaluating the deep-set longline fishery alone. The percent of PBR (33.33%) is between 1% and 50% of PBR (Tier 2), which would classify the fishery as Category II. Therefore, the stock no longer drives the fishery's Category I classification and NMFS proposes to remove the superscript "1".

For the HI pelagic stock of false killer whales, the total average annual M/SI across all fisheries within the U.S. EEZ around Hawaii from 2007–2011 is 12.6 (Carretta *et al.*, 2013b). PBR for this stock from most recent SAR is 9.1 (Carretta *et al.*, 2013b). The M/SI rate is 138.46% of PBR, which exceeds 10% of PBR (Tier 1). The average annual M/SI within the U.S. EEZ around Hawaii, for the deep-set longline fishery, is 12.4

(Carretta *et al.*, 2013b). The percent of PBR for the deep-set fishery alone is 136.26%, which is greater than 50% of PBR (Tier 2) (Category I). The HI pelagic stock continues to drive the fishery's Category I classification.

NMFS proposes to add sperm whale (HI stock) to the list of species or stocks incidentally injured or killed in the "HI deep-set (tuna target) longline" fishery. In 2011, one sperm whale interaction was observed in the fishery within the U.S. EEZ around Hawaii (Bradford and Forney, 2013). This sperm whale was prorated as 75% probability of serious injury (Bradford and Forney, 2013), based on an evaluation of the observer's description of the interaction and following the most recently developed criteria for assessing serious injury in marine mammals (NMFS 2012). The 5-year average (2007–2011) estimate of 0.7 sperm whale M/SI per year is 6.86% of the stock's PBR of 10.2 (Carretta *et al.*, 2013b). The fishery has approximately 20% observer coverage.

NMFS proposes to add Blainville's beaked whale (HI stock) to the list of species or stocks incidentally injured or killed in the "HI shallow-set (swordfish target) longline" fishery. One non-serious injury was observed on the high seas in 2011 (Bradford and Forney, 2013). There is no PBR calculated for Blainville's beaked whales on the high seas. This fishery has 100% observer coverage. Although the species was only observed taken by the fishery on the high seas, we are proposing to include it on the list of species/stocks incidentally injured or killed in the U.S. waters portion of the fishery (i.e., on Table 1) because the fishery, and, thus, its risk to marine mammals, is considered the same on either side of the EEZ boundary and beaked whales occur throughout the U.S. EEZ.

NMFS proposes to add Cuvier's beaked whale (unknown stock) to the list of species or stocks incidentally killed or injured in the "American Samoa longline" fishery. In 2011, one Cuvier's beaked whale was observed to be incidentally killed in the fishery within the U.S. EEZ around American Samoa. Total M/SI of marine mammals in the American Samoa longline fishery for 2007–2011 have not yet been estimated. Observer coverage in the fishery in 2011 was 33%, though coverage has ranged from 6.4% to 33% from 2007–2011. There is currently no stock assessment report for Cuvier's beaked whales in American Samoa, so the stock identity is considered unknown.

NMFS proposes to add short-finned pilot whale (unknown stock) and bottlenose dolphin (unknown stock) to the list of species or stocks incidentally killed or injured in the "American Samoa longline" fishery. An MMAP report was submitted in 2009 that described a hooked bottlenose dolphin that was not associated with an observed take (Bradford and Forney 2013). Another MMAP report was submitted in 2010 that described two hooked short-finned pilot whales, which were not associated with observed takes (Bradford and Forney 2013). MMAP reports are not used for bycatch estimation because they are not obtained using a quantifiable sampling scheme, but they could potentially provide minimum counts of mortality and serious injuries for species not observed interacting with the fishery. Insufficient detail was provided to allow verification of species identifications, but short-finned pilot whales and common bottlenose dolphins are not accounted for by observed interactions in this fishery. Total M/SI of marine mammals in the American Samoa longline fishery for 2007–2011 have not yet been estimated. Observer coverage in the fishery in 2011 was 33%, though coverage has ranged from 6.4% to 33% from 2007–2011. There are currently no stock assessment reports for short-finned pilot whales or common bottlenose dolphins in American Samoa, so the stock identities are considered unknown.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes the following additions and deletions from the list of marine mammal species and stocks incidentally killed or injured in commercial fisheries in the Atlantic, Gulf of Mexico, and Caribbean (Table 2). These additions and deletions are based on information contained in the U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments, strandings data, and/or observer data. The agency notes here that while only mortalities and "serious injuries" are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented mortalities and injuries, including "non-serious" injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, "Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals" (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*). NMFS proposes the following updates:

NMFS proposes to add several stocks to the list of species and stocks incidentally killed or injured in the "Atlantic Ocean, Gulf of Mexico, Caribbean passenger vessel" fishery. NMFS proposes to add the following bottlenose dolphin stocks based on stranding data from 2007–2011: (1) Northern migratory coastal stock, (2) Southern migratory coastal stock, (3) Southern South Carolina/Georgia coastal stock, (4) Northern Florida coastal stock, (5) Central Florida coastal stock, (6) Northern North Carolina estuarine stock, (7) Northern Georgia/Southern South Carolina estuarine stock, (8) Jacksonville estuarine system stock. The number of documented possible interactions ranges from 1 to 4 for a given stock, but cannot be confirmed because the gear from a recreational fishery cannot be discerned from a passenger vessel fishery.

NMFS proposes to add bottlenose dolphin (Western North Atlantic offshore stock) to the list of species and stocks incidentally killed or injured in the "Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon" fishery. The addition is based on an MMAP report.

NMFS proposes to remove bottlenose dolphin (Western North Atlantic offshore stock) from the list of species and stocks incidentally killed or injured in the "Mid-Atlantic mid-water trawl" fishery. There have been no observed takes of bottlenose dolphins from this fishery in over five years. Observer coverage of this fishery was 25% in 2010.

Commercial Fisheries on the High Seas

Removal of Fisheries From the LOF

NMFS proposes to remove: (1) Category II Western Pacific pelagic "pot vessel," "factory mothership," and "multipurpose vessels not elsewhere identified (NEI);" (2) Category II Pacific highly migratory species "pot vessel" and "multipurpose vessels (NEI);" (3) Category II South Pacific albacore troll "pot vessel" and "multipurpose vessels (NEI);" and (4) Category II Atlantic highly migratory species "multipurpose vessels (NEI)" fisheries from the LOF. These fisheries categories are no longer valid under the HSFCA permits database.

NMFS corrects a typographical mistake and removes the Category III "Atlantic highly migratory species purse seine" fisheries from the LOF. The HSFCA permit expired in 2011, but the fishery was never removed from Table 3.

Number of Vessels/Persons

NMFS proposes to update the estimated number of HSFCA permits in multiple high seas fisheries for multiple gear types (Table 3). The proposed updated numbers of HSFCA permits reflect the current number of permits in the NMFS National Permit System database.

Category	High seas fishery	Number of HSFCA permits (Final 2013 LOF)	Number of HSFCA permits (Proposed 2014 LOF)
I	Atlantic highly migratory species longline	79	84
II	Atlantic highly migratory species drift gillnet	2	1
II	Atlantic highly migratory species trawl	5	1
II	South Pacific tuna fisheries purse seine	38	40
II	South Pacific albacore troll longline	11	13
II	South Pacific tuna fisheries longline	10	8
II	Pacific highly migratory species handline/pole and line	40	46
II	South Pacific albacore troll handline/pole and line	7	9
II	Western Pacific pelagic handline/pole and line	6	5
II	Atlantic highly migratory species troll	5	4
II	South Pacific albacore troll	36	33
II	South Pacific tuna fisheries troll	3	2
II	Western Pacific pelagic troll	22	19
II	Pacific highly migratory species liners nei	1	3
III	Pacific highly migratory species longline	96	101
III	Pacific highly migratory species purse seine	6	8
III	Pacific highly migratory species troll	263	262

List of Species or Stocks Incidentally Killed or Injured in High Seas Fisheries

NMFS proposes to update the list of species or stocks incidentally killed or injured by fisheries in High Seas Fisheries (Table 3). The agency notes here that while only mortalities and "serious injuries" are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented mortalities and injuries, including "non-serious" injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, "Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals" (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*). The lists of species or stocks injured or killed in fisheries that operate both within U.S. waters and on the high seas are identical to their Table 1 or 2 counterparts, except for those with distributions known to occur on only one side of the EEZ boundary. Stock structure on the high seas is unclear or unknown for most species, which leads to uncertainty in stock identification for animals injured or killed on the high seas. Therefore, for Table 3, we report the stock names as identified in the SARs. NMFS proposes the following updates:

NMFS proposes to remove all "unknown" stocks from the Category I "Western Pacific Pelagic (HI Deep-set component)" fishery for consistency in how marine mammal stocks are identified on Table 3. In previous LOFs, NMFS included "unknown" stocks of species that had been observed taken in the fishery on the high seas to acknowledge that the fishery may be interacting with unknown, unidentified stocks beyond the range of the HI pelagic stocks. NMFS believes that this information is unnecessary and may create confusion about what interactions have been documented. Therefore, rather than including "unknown" stocks for this fishery, we have added language to the introductory paragraph of this section to acknowledge the uncertainty in stock identification. Accordingly, NMFS proposes to remove the following unknown stocks from the "Western Pacific Pelagic (HI Deep-set component)" fishery: bottlenose dolphin, false killer whale, Pantropical spotted dolphin, Risso's dolphin, short-finned pilot whale, and striped dolphin. NMFS is retaining the HI and HI pelagic stocks of these species to acknowledge and account for mortality and injury of these transboundary stocks on the high seas (Carretta *et al.*, 2013b).

NMFS proposes to remove the following "unknown" stocks from the Category II "Western Pacific Pelagic (HI Shallow-set component)" fishery for the same reason as the HI deep-set component: bottlenose dolphin, Kogia sp. whale (pygmy or dwarf sperm whale), Risso's dolphin, short-finned pilot whale, and striped dolphin. NMFS is retaining the HI and HI pelagic stocks of these species to acknowledge and account for mortality and injury of these transboundary stocks on the high seas (Carretta *et al.*, 2013b).

NMFS proposes to add sperm whale (HI stock) to the list of species and stocks incidentally killed or injured in the Category I "Western Pacific Pelagic (HI Deep-set component)" fishery, to be consistent with the Table 1 recommendation above.

NMFS proposes to add false killer whale (HI Pelagic stock) to the list of species and stocks incidentally killed or injured in the Category II "Western Pacific Pelagic (HI Shallow-set component)" fishery. Although false killer whales have been included in the list of species killed or injured in the U.S. EEZ component of the fishery in Table 1 since the 2011 LOF (75 FR 68468, November 8, 2010), they were inadvertently left off of the list for the high seas component of the fishery. We are now proposing to add the species to the list in Table 3 to be consistent with Table 1. Additionally, although false killer whales have not been observed to be taken in the fishery on the high seas from 2007–2011, two blackfish (i.e., either false killer whale or short-finned pilot whale) were observed seriously injured in the fishery on the high seas during that time. Blackfish interactions are prorated to each stock based on distance from shore (see McCracken 2010 for details), resulting in a 5-year average estimate of 0.3 false killer whale M/SI per year in the fishery on the high seas (Carretta *et al.*, 2013b). The fishery has 100% observer coverage.

NMFS proposes to add short-beaked common dolphin (CA/OR/WA) to the list of species and stocks incidentally killed or injured in the Category II

"Western Pacific Pelagic (HI Shallow-set component)" fishery. One serious injury was observed on the high seas in 2011 (Bradford and Forney, 2013). There is no PBR calculated for short-beaked common dolphins on the high seas. There is no stock defined within the U.S. EEZ around the Hawaiian Islands, so the stock identity is considered CA/OR/WA. This fishery has 100% observer coverage.

NMFS proposes to add Blainville's beaked whale (HI stock) and to the list of species and stocks incidentally killed or injured in the Category II "Western Pacific Pelagic (HI Shallow-set component)" fishery, to be consistent with the Table 1 recommendation above.

NMFS corrects a typographical error and removes pygmy sperm whale (WNA stock) from the list of species and stocks incidentally killed or injured in the "Atlantic Highly Migratory Species" to reflect the list change made to the "Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline" fishery on the LOF for 2010 (74 FR 27739, June 11, 2009).

List of Fisheries

The following tables set forth the proposed list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; Table 3 lists commercial fisheries on the high seas; and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels/persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort, such as for many of the Mid-Atlantic and New England fisheries. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow for. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Table 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, NMFS refers the reader to contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of currently valid HSFCA permits held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort in high seas fisheries at this time. As noted previously in this proposed rule, the number of HSFCA permits listed in Table 3 for the high seas components of fisheries that also operate within U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/persons holding HSFCA permits also fishing within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

Tables 1, 2, and 3 also list the marine mammal species or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on observer data, logbook data, stranding reports, disentanglement network data, and MMAP reports. The best available scientific information included in these reports is based on data through 2011. This list includes all species or stocks known to be injured or killed in a given fishery but also includes species or stocks for which there are anecdotal records of a mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (i.e., MMAP reports) may not be verified. In Tables 1 and 2, NMFS has designated those stocks driving a fishery's classification (i.e., the fishery is classified based on mortalities and serious injuries and of a marine mammal stock that are greater than or equal to 50 percent [Category I], or greater than 1 percent and less than 50 percent [Category II], of a stock's PBR) by a "[1]" after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities and injuries of marine mammals, or fisheries that did not result in a mortality and serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a "Category II fishery" in 50 CFR 229.2 (i.e., fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a "[2]" after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the EEZ boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately between Table 1 or 2 and Table 3, are considered the same fishery on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a "*" after the fishery's name.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
LONGLINE/SET LINE FISHERIES:		
HI deep-set (tuna target) longline/set line. * ^	129	Bottlenose dolphin, HI Pelagic. False killer whale, MHI Insular. False killer whale, HI Pelagic. [1] False killer whale, Palmyra Atoll. Pantropical spotted dolphin, HI.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Risso's dolphin, HI.
		Short-finned pilot whale, HI.
		Sperm whale, HI.
		Striped dolphin, HI.
GILLNET FISHERIES:		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	19	Bottlenose dolphin, CA/OR/WA offshore.
		California sea lion, U.S.
		Humpback whale, CA/OR/WA.
		Long-beaked common dolphin, CA.
		Minke whale, CA/OR/WA.
		Northern elephant seal, CA breeding.
		Northern right-whale dolphin, CA/OR/WA.
		Pacific white-sided dolphin, CA/OR/WA.
		Risso's dolphin, CA/OR/WA.
		Short-beaked common dolphin, CA/OR/WA.
		Sperm Whale, CA/OR/WA. [1*]
CATEGORY II		
GILLNET FISHERIES:		
CA halibut/white seabass and other species set gillnet (>3.5 in mesh).	50	California sea lion, U.S.
		Harbor seal, CA.
		Humpback whale, CA/OR/WA. [1]
		Long-beaked common dolphin, CA.
		Northern elephant seal, CA breeding.
		Sea otter, CA.
		Short-beaked common dolphin, CA/OR/WA.
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and ≤14 in) [2].	30	California sea lion, U.S.
		Long-beaked common dolphin, CA.
		Short-beaked common dolphin, CA/OR/WA.
AK Bristol Bay salmon drift gillnet [2]	1,863	Beluga whale, Bristol Bay.
		Gray whale, Eastern North Pacific.
		Harbor seal, Bering Sea.
		Northern fur seal, Eastern Pacific.
		Pacific white-sided dolphin, North Pacific.
		Spotted seal, AK.
		Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet.[2]	982	Beluga whale, Bristol Bay.
		Gray whale, Eastern North Pacific.
		Harbor seal, Bering Sea.
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA. [1]
		Harbor seal, GOA.
		Sea otter, Southwest AK.
		Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	738	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Humpback whale, Central North Pacific. [1]
		Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA. [1]
		Harbor seal, GOA.
		Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet [2]	162	Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
AK Peninsula/Aleutian Islands salmon set gillnet [2]	114	Harbor porpoise, Bering Sea.
		Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK.
		Harbor porpoise, GOA. [1]
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
		Pacific white-sided dolphin, North Pacific.
		Sea otter, South Central AK.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
AK Southeast salmon drift gillnet	474	Steller sea lion, Western U.S.[1] Dall's porpoise, AK. Harbor porpoise, Southeast AK. Harbor seal, Southeast AK. Humpback whale, Central North Pacific.[1] Pacific white-sided dolphin, North Pacific. Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	167	Gray whale, Eastern North Pacific. Harbor porpoise, Southeastern AK. Harbor seal, Southeast AK. Humpback whale, Central North Pacific (Southeast AK).
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line—Treaty Indian fishing is excluded).	210	Dall's porpoise, CA/OR/WA. Harbor porpoise, inland WA.[1] Harbor seal, WA inland.
PURSE SEINE FISHERIES:		
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific.[1]
AK Kodiak salmon purse seine	379	Humpback whale, Central North Pacific.[1]
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	34	Bearded seal, AK. Gray whale, Eastern North Pacific. Harbor porpoise, Bering Sea. Harbor seal, Bering Sea. Humpback whale, Western North Pacific.[1] Killer whale, AK resident.[1] Killer whale, GOA, AI, BS transient.[1] Northern fur seal, Eastern Pacific. Ringed seal, AK. Ribbon seal, AK. Spotted seal, AK. Steller sea lion, Western U.S.[1] Walrus, AK.
AK Bering Sea, Aleutian Islands pollock trawl	95	Bearded Seal, AK. Dall's porpoise, AK. Harbor seal, AK. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Northern fur seal, Eastern Pacific. Ribbon seal, AK. Ringed seal, AK. Spotted seal, AK. Steller sea lion, Western U.S.[1]
AK Bering Sea, Aleutian Islands rockfish trawl	10	Killer whale, ENP AK resident.[1] Killer whale, GOA, AI, BS transient.[1]
POT, RING NET, AND TRAP FISHERIES:		
CA spot prawn pot	28	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
CA Dungeness crab pot	570	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
OR Dungeness crab pot	433	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
WA/OR/CA sablefish pot	309	Humpback whale, CA/OR/WA.[1]
WA coastal Dungeness crab pot/trap	228	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
LONGLINE/SET LINE FISHERIES:		
HI shallow-set (swordfish target) longline/set line * ^	20	Blainville's beaked whale, HI. Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic.[1] Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
American Samoa longline[2]	24	Bottlenose dolphin, unknown. Cuvier's beaked whale, unknown. False killer whale, American Samoa. Rough-toothed dolphin, American Samoa. Short-finned pilot whale, unknown.
HI shortline[2]	11	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1702	Harbor porpoise, Bering Sea.
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA. Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	990	None documented.
CA set gillnet (mesh size <3.5 in)	304	None documented.
HI inshore gillnet	36	Bottlenose dolphin, HI. Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA/OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented.
WA/OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
PURSE SEINE, BEACH SEINE, ROUND HAUL, THROW NET AND TANGLE NET FISHERIES:		
AK Southeast salmon purse seine	415	None documented in the most recent 5 years of data.
AK Metlakatla salmon purse seine	10	None documented.
AK miscellaneous finfish beach seine	1	None documented.
AK miscellaneous finfish purse seine	2	None documented.
AK octopus/squid purse seine	0	None documented.
AK roe herring and food/bait herring beach seine	6	None documented.
AK roe herring and food/bait herring purse seine	367	None documented.
AK salmon beach seine	31	None documented.
AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II).	935	Harbor seal, GOA.
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	80	Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
CA tuna purse seine *	10	None documented.
WA/OR sardine purse seine	42	None documented.
WA (all species) beach seine or drag seine	235	None documented.
WA/OR herring, smelt, squid purse seine or lampara	130	None documented.
WA salmon purse seine	440	None documented.
WA salmon reef net	53	None documented.
HI opelu/akule net	22	None documented.
HI inshore purse seine	<3	None documented.
HI throw net, cast net	29	None documented.
HI hukilau net	26	None documented.
HI lobster tangle net	0	None documented.
DIP NET FISHERIES:		
CA squid dip net	115	None documented.
WA/OR smelt, herring dip net	119	None documented.
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented.
CA salmon enhancement rearing pen	>1	None documented.
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented.
OR salmon ranch	1	None documented.
WA/OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries *.	1,320 (120 AK)	None documented.
AK salmon troll	2,008	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	7	None documented.
CA/OR/WA salmon troll	4,300	None documented.
HI trolling, rod and reel	1,560	Pantropical spotted dolphin, HI.
Commonwealth of the Northern Mariana Islands tuna troll.	40	None documented.
Guam tuna troll	432	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Pacific cod longline	154	Dall's porpoise, AK. Northern fur seal, Eastern Pacific.
AK Bering Sea, Aleutian Islands rockfish longline	0	None documented.
AK Bering Sea, Aleutian Islands Greenland turbot longline.	36	Killer whale, AK resident.
AK Bering Sea, Aleutian Islands sablefish longline	28	None documented.
AK Gulf of Alaska halibut longline	1,302	None documented.
AK Gulf of Alaska Pacific cod longline	107	Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish longline	0	None documented.
AK Gulf of Alaska sablefish longline	291	Sperm whale, North Pacific.
AK halibut longline/set line (State and Federal waters)	2,280	None documented in the most recent 5 years of data.
AK octopus/squid longline	2	None documented.
AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish).	1,323	None documented.
WA/OR/CA groundfish, bottomfish longline/set line	367	Bottlenose dolphin, CA/OR/WA offshore.
WA/OR North Pacific halibut longline/set line	350	None documented.
CA pelagic longline	1	None documented in the most recent 5 years of data.
HI kaka line	17	None documented.
HI vertical longline	9	None documented.
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	9	Ribbon seal, AK. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	93	Steller sea lion, Western U.S.
AK Gulf of Alaska flatfish trawl	41	Northern elephant seal, North Pacific.
AK Gulf of Alaska Pacific cod trawl	62	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	62	Dall's porpoise, AK. Fin whale, Northeast Pacific. Northern elephant seal, North Pacific. Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	34	None documented.
AK food/bait herring trawl	4	None documented.
AK miscellaneous finfish otter/beam trawl	282	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet).	33	None documented.
AK State-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	2	None documented.
CA halibut bottom trawl	53	None documented.
WA/OR/CA shrimp trawl	300	None documented.
WA/OR/CA groundfish trawl	160–180	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, CA/OR/WA. Steller sea lion, Eastern U.S.
POT, RING NET, AND TRAP FISHERIES:		
AK statewide miscellaneous finfish pot	243	None documented.
AK Aleutian Islands sablefish pot	8	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot	68	None documented.
AK Bering Sea, Aleutian Islands crab pot	296	Grey whale, Eastern North Pacific.
AK Bering Sea sablefish pot	6	None documented.
AK Gulf of Alaska crab pot	389	None documented.
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA.
AK Southeast Alaska crab pot	415	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	274	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	210	None documented.
AK octopus/squid pot	26	None documented.
AK snail pot	1	None documented.
CA coonstripe shrimp, rock crab, tanner crab pot or trap	203	Gray whale, Eastern North Pacific. Harbor seal, CA.
CA spiny lobster	198	Gray whale, Eastern North Pacific.
OR/CA hagfish pot or trap	54	None documented.
WA/OR shrimp pot/trap	254	None documented.
WA Puget Sound Dungeness crab pot/trap	249	None documented.
HI crab trap	9	None documented.
HI fish trap	9	None documented.
HI lobster trap	<3	Hawaiian monk seal.
HI shrimp trap	4	None documented.
HI crab net	6	None documented.
HI Kona crab loop net	48	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline/hand troll and mechanical jig.	456	None documented.
AK North Pacific halibut handline/hand troll and mechanical jig.	180	None documented.
AK octopus/squid handline	0	None documented.
American Samoa bottomfish	12	None documented.
Commonwealth of the Northern Mariana Islands bottomfish.	28	None documented.
Guam bottomfish	>300	None documented.
HI aku boat, pole, and line	3	None documented.
HI Main Hawaiian Islands deep-sea bottomfish handline	567	Hawaiian monk seal.
HI inshore handline	378	None documented.
HI tuna handline	459	None documented.
WA groundfish, bottomfish jig	679	None documented.
Western Pacific squid jig	<3	None documented.
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented.
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	411	None documented.
AK Southeast herring roe/food/bait pound net	4	None documented.
WA herring brush weir	1	None documented.
HI bullpen trap	<3	None documented.
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	0	None documented.
AK clam	156	None documented.
WA herring spawn on kelp	4	None documented.
AK Dungeness crab	2	None documented.
AK herring spawn on kelp	266	None documented.
AK urchin and other fish/shellfish	521	None documented.
CA abalone	0	None documented.
CA sea urchin	583	None documented.
HI black coral diving	<3	None documented.
HI fish pond	16	None documented.
HI handpick	57	None documented.
HI lobster diving	29	None documented.
HI spearfishing	143	None documented.
WA/CA kelp	4	None documented.
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented.
WA shellfish aquaculture	684	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (2,702 AK)	Killer whale, unknown. Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	Pantropical spotted dolphin, HI.
LIVE FINFISH/SHELLFISH FISHERIES:		
CA nearshore finfish live trap/hook-and-line	93	None documented.

List of Abbreviations and Symbols Used in Table 1: AK—Alaska; CA—California; GOA—Gulf of Alaska; HI—Hawaii; OR—Oregon; WA—Washington;

[1] Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

[2] Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3;

^ The list of marine mammal species or stocks killed or injured in this fishery is identical to the list of species or stocks killed or injured in high seas component of the fishery, minus species or stocks have geographic ranges exclusively on the high seas. The species or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	5,509	Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
		Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Gray seal, WNA.
		Harbor porpoise, GME/BF.
		Harbor seal, WNA.
		Harp seal, WNA.
		Humpback whale, Gulf of Maine.
		Long-finned pilot whale, WNA.
		Minke whale, Canadian east coast.
		Risso's dolphin, WNA.
		Short-finned pilot whale, WNA.
		White-sided dolphin, WNA.
Northeast sink gillnet	4,375	Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Fin whale, WNA.
		Gray seal, WNA.
		Harbor porpoise, GME/BF.[1]
		Harbor seal, WNA,
		Harp seal, WNA.
		Hooded seal, WNA.
		Humpback whale, Gulf of Maine.
		Long-finned pilot whale, WNA.
		Minke whale, Canadian east coast.
		North Atlantic right whale, WNA.
		Risso's dolphin, WNA.
		Short-finned pilot whale, WNA.
		White-sided dolphin, WNA.
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	11,693	Harbor seal, WNA.
		Humpback whale, Gulf of Maine.
		Minke whale, Canadian east coast.
		North Atlantic right whale, WNA.[1]
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*.	420	Atlantic spotted dolphin, GMX continental and oceanic.
		Atlantic spotted dolphin, WNA.
		Bottlenose dolphin, Northern GMX oceanic.
		Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Cuvier's beaked whale, WNA.
		Killer whale, GMX oceanic.
		Long-finned pilot whale, WNA.[1]
		Mesoplodon beaked whale, WNA.
		Northern bottlenose whale, WNA.
		Pantropical spotted dolphin, Northern GMX.
		Pantropical spotted dolphin, WNA.
		Risso's dolphin, Northern GMX.
		Risso's dolphin, WNA.
		Short-finned pilot whale, Northern GMX.
		Short-finned pilot whale, WNA.[1]
		Sperm whale, GMX oceanic.
CATEGORY II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	1,126	None documented in the most recent 5 years of data.
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, GMX bay, sound, and estuarine.
		Bottlenose dolphin, Northern GMX coastal.
		Bottlenose dolphin, Western GMX coastal.
NC inshore gillnet	1,323	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
Northeast anchored float gillnet[2]	421	Harbor seal, WNA.
		Humpback whale, Gulf of Maine.
		White-sided dolphin, WNA.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
Northeast drift gillnet [2]	311	None documented.
Southeast Atlantic gillnet [2]	357	Bottlenose dolphin, Southern Migratory coastal. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Northern FL coastal.
Southeastern U.S. Atlantic shark gillnet	30	Bottlenose dolphin, Central FL coastal.[1] Bottlenose dolphin, Northern FL coastal. North Atlantic right whale, WNA.
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl (including pair trawl)	322	Common dolphin, WNA. Long-finned pilot whale, WNA. Risso's dolphin, WNA. Short-finned pilot whale, WNA. White-sided dolphin, WNA.[1]
Mid-Atlantic bottom trawl	631	Bottlenose dolphin, WNA offshore. Common dolphin, WNA.[1] Gray seal, WNA. Harbor seal, WNA. Long-finned pilot whale, WNA.[1] Risso's dolphin, WNA.[1] Short-finned pilot whale, WNA.[1] White-sided dolphin, WNA.
Northeast mid-water trawl (including pair trawl)	1,103	Gray seal, WNA. Harbor seal, WNA. Long-finned pilot whale, WNA.[1] Short-finned pilot whale, WNA.[1] Common dolphin, WNA. White-sided dolphin, WNA.
Northeast bottom trawl	2,987	Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Long-finned pilot whale, WNA. Minke whale, Canadian East Coast. Short-finned pilot whale, WNA. White-sided dolphin, WNA.[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, GMX continental and oceanic. Bottlenose dolphin, SC/GA coastal.[1] Bottlenose dolphin, Eastern GMX coastal.[1] Bottlenose dolphin, GMX continental shelf. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal.[1] Bottlenose dolphin, GMX bay, sound, estuarine.[1] West Indian manatee, FL.
TRAP/POT FISHERIES:.		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot [2].	1,282	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay. Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion). Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Jacksonville estuarine system. Bottlenose dolphin, Northern GMX coastal.
Atlantic mixed species trap/pot [2]	3,467	Fin whale, WNA. Humpback whale, Gulf of Maine.
Atlantic blue crab trap/pot	8,557	Bottlenose dolphin, Charleston estuarine system.[1] Bottlenose dolphin, Indian River Lagoon estuarine system.[1] Bottlenose dolphin, Jacksonville estuarine system.[1] Bottlenose dolphin, SC/GA coastal.[1] Bottlenose dolphin, Northern GA/Southern SC estuarine system.[1] Bottlenose dolphin, Southern GA estuarine system.[1] Bottlenose dolphin, Northern Migratory coastal.[1] Bottlenose dolphin, Southern Migratory coastal.[1] Bottlenose dolphin, Central FL coastal.[1] Bottlenose dolphin, Northern FL coastal.[1]

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
		West Indian manatee, FL.[1]
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	40–42	Bottlenose dolphin, GMX bay, sound, estuarine.
		Bottlenose dolphin, Northern GMX coastal.[1]
		Bottlenose dolphin, Western GMX coastal.[1]
Mid-Atlantic menhaden purse seine[2]	5	Bottlenose dolphin, Northern Migratory coastal.
		Bottlenose dolphin, Southern Migratory coastal.
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	565	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
NC long haul seine	372	Bottlenose dolphin, Southern NC estuarine system.
		Bottlenose dolphin, Northern NC estuarine system.[1]
STOP NET FISHERIES:		
NC roe mullet stop net	13	Bottlenose dolphin, Southern NC estuarine system.[1]
POUND NET FISHERIES:		
VA pound net	67	Bottlenose dolphin, Northern NC estuarine system.
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
CATEGORY III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	None documented in the most recent 5 years of data.
DE River inshore gillnet	unknown	None documented in the most recent 5 years of data.
Long Island Sound inshore gillnet	unknown	None documented in the most recent 5 years of data.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	unknown	None documented in the most recent 5 years of data.
Southeast Atlantic inshore gillnet	unknown	None documented.
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	>58	None documented.
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic.
		Bottlenose dolphin, Northern GMX continental shelf.
Gulf of Mexico mixed species trawl	20	None documented.
GA cannonball jellyfish trawl	1	Bottlenose dolphin, Southern South Carolina/Georgia.
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	unknown	None documented.
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA.
		Gray seal, WNA.
Gulf of Maine menhaden purse seine	>2	None documented.
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine*	5	Long-finned pilot whale, WNA.
		Short-finned pilot whale, WNA.
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	428	Bottlenose dolphin, WNA offshore.
		Humpback whale, Gulf of Maine.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line.	>5,000	Bottlenose dolphin, GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	<125	Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, Northern GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	1,446	None documented.
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented.
TRAP/POT FISHERIES:		
Caribbean mixed species trap/pot	>501	None documented.
Caribbean spiny lobster trap/pot	>197	None documented.
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine.
		Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, FL Bay estuarine.
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal.
		Bottlenose dolphin, Northern GMX coastal.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, estuarine. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot	unknown	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot.	10	None documented.
U.S. Mid-Atlantic eel trap/pot	unknown	None documented.
STOP SEINE/WEIR/POUND NET/FLOATING TRAP FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir.	>1	Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Minke whale, Canadian east coast. Atlantic white-sided dolphin, WNA.
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented.
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net).	unknown	Bottlenose dolphin, Northern NC estuarine system.
RI floating trap	9	None documented.
DREDGE FISHERIES:		
Gulf of Maine mussel dredge	unknown	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented.
U.S. Mid-Atlantic offshore surf clam and quahog dredge	unknown	None documented.
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	None documented in the most recent 5 years of data.
Gulf of Mexico haul/beach seine	unknown	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented.
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	unknown	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern migratory coastal. Bottlenose dolphin, Southern migratory coastal. Bottlenose dolphin, Southern SC/GA coastal. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Northern NC estuarine. Bottlenose dolphin, Northern GA/Southern SC estuarine. Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Southern NC estuarine system. Bottlenose dolphin, Jacksonville estuarine system.

List of Abbreviations and Symbols Used in Table 2: DE—Delaware; FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; MA—Massachusetts; NC—North Carolina; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic; [1] Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; [2] Fishery classified by analogy; * Fishery has an associated high seas component listed in Table 3.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS

Fishery Description	Number of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Category I		
LONGLINE FISHERIES:		
Atlantic Highly Migratory Species+	84	Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS—Continued

Fishery Description	Number of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Western Pacific Pelagic (HI Deep-set component) *^+	124	Common dolphin, WNA. Cuvier's beaked whale, WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Risso's dolphin, WNA. Short-finned pilot whale, WNA. Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. Pantropical spotted dolphin, HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Sperm whale, HI. Striped dolphin, HI.
Category II		
DRIFT GILLNET FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined.
Pacific Highly Migratory Species *^	4	Long-beaked common dolphin, CA. Humpback whale, CA/OR/WA. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA.
TRAWL FISHERIES:		
Atlantic Highly Migratory Species **	1	Undetermined.
CCAMLR	0	Antarctic fur seal.
Western Pacific Pelagic	0	Undetermined.
PURSE SEINE FISHERIES:		
South Pacific Tuna Fisheries	40	Undetermined.
Western Pacific Pelagic	3	Undetermined.
LONGLINE FISHERIES:		
CCAMLR	0	None documented.
South Pacific Albacore Troll	13	Undetermined.
South Pacific Tuna Fisheries **	8	Undetermined.
Western Pacific Pelagic (HI Shallow-set component) *^+	28	Blainville's beaked whale, HI. Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Short-beaked common dolphin, CA/OR/WA. Short-finned pilot whale, HI. Striped dolphin, HI.
HANDLINE/POLE AND LINE FISHERIES:		
Atlantic Highly Migratory Species	3	Undetermined.
Pacific Highly Migratory Species	46	Undetermined.
South Pacific Albacore Troll	9	Undetermined.
Western Pacific Pelagic	5	Undetermined.
TROLL FISHERIES:		
Atlantic Highly Migratory Species	4	Undetermined.
South Pacific Albacore Troll	33	Undetermined.
South Pacific Tuna Fisheries **	2	Undetermined.
Western Pacific Pelagic	19	Undetermined.
LINERS NEI FISHERIES:		
Pacific Highly Migratory Species **	3	Undetermined.
South Pacific Albacore Troll	1	Undetermined.
Western Pacific Pelagic	1	Undetermined.
Category III		
LONGLINE FISHERIES:		
Pacific Highly Migratory Species *	101	None documented in the most recent 5 years of data.
PURSE SEINE FISHERIES		
Pacific Highly Migratory Species *^	8	None documented.
TROLL FISHERIES:		
Pacific Highly Migratory Species *	262	None documented.

List of Terms, Abbreviations, and Symbols Used in Table 3: GMX-Gulf of Mexico; NEI—Not Elsewhere Identified; WNA—Western North Atlantic.

* Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.

** These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for five years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.

+ The marine mammal species or stocks listed as killed or injured in this fishery has been observed taken by this fishery on the high seas.

^ The list of marine mammal species or stocks killed or injured in this fishery is identical to the list of marine mammal species or stocks killed or injured in U.S. waters component of the fishery, minus species or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species or stocks are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the components of these fisheries operating in U.S. waters.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS

Take reduction plans	Affected fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP)—50 CFR 229.32	*Category I* Mid-Atlantic gillnet. Northeast/Mid-Atlantic American lobster trap/pot. Northeast sink gillnet. *Category II* Atlantic blue crab trap/pot. Atlantic mixed species trap/pot. Northeast anchored float gillnet. Northeast drift gillnet. Southeast Atlantic gillnet. Southeastern U.S. Atlantic shark gillnet.* Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.^
Bottlenose Dolphin Take Reduction Plan (BDTRP)—50 CFR 229.35	*Category I* Mid-Atlantic gillnet. *Category II* Atlantic blue crab trap/pot. Chesapeake Bay inshore gillnet fishery. Mid-Atlantic haul/beach seine. Mid-Atlantic menhaden purse seine. NC inshore gillnet. NC long haul seine. NC roe mullet stop net. Southeast Atlantic gillnet. Southeastern U.S. Atlantic shark gillnet. Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.^ Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.^ VA pound net.
False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37 ..	*Category I* HI deep-set (tuna target) longline/set line. *Category II* HI shallow-set (swordfish target) longline/set line.
Harbor Porpoise Take Reduction Plan (HPTRP)—50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic).	*Category I* Mid-Atlantic gillnet. Northeast sink gillnet.
Pelagic Longline Take Reduction Plan (PLTRP)—50 CFR 229.36	*Category I* Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.
Pacific Offshore Cetacean Take Reduction Plan (POCTRP)—50 CFR 229.31.	*Category I* CA thresher shark/swordfish drift gillnet (≥14 in mesh).

Take reduction teams	Affected fisheries
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	*Category II* Mid-Atlantic bottom trawl Mid-Atlantic mid-water trawl (including pair trawl) Northeast bottom trawl Northeast mid-water trawl (including pair trawl)

* Only applicable to the portion of the fishery operating in U.S. waters; ^ Only applicable to the portion of the fishery operating in the Atlantic Ocean.

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule would not have a significant economic impact on a substantial number of small entities. The SBA has established size criteria for all major industry sectors in the US, including fish harvesting and fish processing businesses (78 FR 37397). The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization

Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a TRP and requested to carry an observer. NMFS has estimated that up to approximately 58,500 fishing vessels, most have annual revenues below the SBA's small entity thresholds, may operate in Category I or II fisheries. As Category I or II fisheries they are required to register with NMFS. No fishing vessels are new to a Category I or II fishery as a result of this proposed rule. The MMPA registration process is integrated with existing state and Federal licensing, permitting, and registration programs. Therefore, individuals who have a state or Federal fishing permit or landing license, or who are authorized through another related state or Federal fishery registration program, are currently not required to register separately under the MMPA or pay the $25 registration fee. Therefore, this proposed rule would not impose any direct costs on small entities.

If a vessel is requested to carry an observer, individuals will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individuals required to take observers may include: lost space on deck for catch, lost bunk space, and lost fishing time due to time needed by the observer to process bycatch data. For effective monitoring, however, observers will rotate among a limited number of vessels in a fishery at any given time and each vessel within an observed fishery has an equal probability of being requested to accommodate an observer. Therefore, the potential indirect costs to individuals are expected to be minimal, because observer coverage would only be required for a small percentage of an individual's total annual fishing time. In addition, section 118 of the MMPA states that an observer is not required to be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that TRP would be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal mortalities or injuries has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries; therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. The Council of Environmental Quality (CEQ) recommends agencies review EAs every five years. NMFS reviewed the 2005 EA in 2009 and concluded that no update was needed at that time. NMFS is currently undertaking the next five year review and is updating the 2005 EA. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an environmental document, as required under NEPA, specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this proposed rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would consult under ESA section 7 on that action.

This proposed rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

References

Bradford, A.L. and K.A. Forney. 2013. Injury determinations for cetaceans observed interacting with Hawaii and American Samoa longline fisheries during 2007–2011. PIFSC Working Paper WP–13–002. Pacific Islands Fisheries Science Center, National Marine Fisheries Service. 24 p.

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McCracken, M.L. 2010. Adjustments to false killer whale and short-finned pilot whale bycatch estimates. PIFSC Working Paper WP–10–007. Pacific Islands Fisheries Science Center, National Marine Fisheries Service. 23 p.

NMFS. 2012. NOAA Fisheries Policy Directive 02–038–01 Process for Injury Determinations (01/27/12). Available at: *http://www.nmfs.noaa.gov/pr/pdfs/serious_injury_policy.pdf.*

Dated: December 2, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2013–29208 Filed 12–5–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 78, No. 235
Friday, December 6, 2013

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

Forest Service

Stanislaus National Forest, CA; Notice of Intent To Prepare an Environmental Impact Statement for Rim Fire Recovery

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Stanislaus National Forest proposes to remove hazard trees and dead trees within the Rim Fire perimeter in the Stanislaus National Forest in order to: capture the economic value of those trees which pays for their removal from the woods and potentially other future restoration treatments; provide for greater worker and public safety; reduce fuels for future forest resiliency to fire; and, improve road infrastructure to ensure proper hydrologic function.

DATES: Comments on the proposed action should be submitted within 30 days of the date of publication of this Notice of Intent. Completion of the Draft Environmental Impact Statement (EIS) is expected in April 2014 and the Final EIS in August 2014.

ADDRESSES: Comments may be: mailed to the Stanislaus National Forest; Attn: Rim Recovery; 19777 Greenley Road; Sonora, CA 95370; delivered to the address shown during business hours (M–F 8:00 a.m. to 4:30 p.m.); or, submitted by FAX (209) 533–1890. Submit electronic comments, in common (.doc, .pdf, .rtf, .txt) formats, to: *comments-pacificsouthwest-stanislaus@fs.fed.us* with Subject: Rim Recovery.

FOR FURTHER INFORMATION CONTACT: Maria Benech, Stanislaus National Forest, 19777 Greenley Road, Sonora, CA 95370, phone (209) 532–3671, or email: *mbenech@fs.fed.us*. A scoping package, maps and other information are online at: *http://www.fs.fed.us/nepa/nepa_project_exp.php?project=43033*.

SUPPLEMENTARY INFORMATION:

General Background

The Rim Fire started on August 17, 2013, in a remote area of the Stanislaus National Forest near the confluence of the Clavey and Tuolumne Rivers about 20 miles east of Sonora, California. Over the next several weeks it burned 257,314 acres, including 154,430 acres of National Forest System (NFS) lands, becoming the third largest wildfire in California history. The Rim Fire Recovery project is located within the Rim Fire perimeter in the Stanislaus National Forest on portions of the Mi-Wok and Groveland Ranger Districts.

Purpose and Need for Action

On August 22, 2013, after determining that conditions within the burn area were unsafe for public travel, Forest Supervisor Susan Skalski issued a temporary Forest Order (STF 2013–08) that prohibited public use within the burn area. The Forest Supervisor issued several updates changing the closure area to meet the current situation on the ground (2013–09 on 8/23/2013; 2013–10 on 8/31/2013; 2013–11 on 9/12/2013; 2013–14 on 9/27/2013). On November 18, 2013, the Forest Supervisor issued the current temporary Forest Order (STF 2013–15) that prohibits public use within the burn area until November 18, 2014.

Vegetation burn severities in the project area varied from low to high, but many areas contain trees killed or so severely damaged that they are not expected to survive.

The primary purposes of this project are to: capture the economic value of hazard trees and dead trees which pays for their removal from the woods and potentially other future restoration treatments; provide for greater worker and public safety; reduce fuels for future forest resiliency to fire; and, improve road infrastructure to ensure proper hydrologic function.

Proposed Action

The Forest Service proposed action, within the Rim Fire perimeter in the Stanislaus National Forest, includes: salvage of dead trees; removal of hazard trees and dead trees along roads open to the public; fuel reduction for future forest resiliency to fire; and, road improvements for proper hydrologic function. Implementation is expected to begin in summer 2014 and continue for up to 5 years. Roadside hazard trees will be designated for removal using the Hazard Tree Guidelines for Forest Service Facilities and Roads in the Pacific Southwest Region, April 2012 (Report RO–12–01). Dead trees will be designated for removal based on "no green needles visible from the ground". Proposed treatments include: salvage of dead trees and fuel reduction (29,648 acres) including ground based mechanized equipment such as harvesters and rubber tired skidders (25,174 acres) and aerial based helicopter or cable systems (4,474 acres); removal of hazard trees, salvage of dead trees and fuel reduction along existing roads (390 miles); new road construction (6 miles); road reconstruction (234 miles); and, temporary road construction (6 miles). Temporary roads will be decommissioned following completion of project activities. No treatments are proposed within Wilderness, Inventoried Roadless Areas, or the wild classification segments of the Wild and Scenic Rivers. Project design will incorporate Best Management Practices (BMPs) according to regional and national guidance.

Possible Alternatives

In addition to the Proposed Action, the EIS will evaluate the required No Action alternative and will likely consider other alternatives identified through the inderdisciplinary process and public participation.

Responsible Official

Susan Skalski, Forest Supervisor, Stanislaus National Forest, Supervisor's Office, 19777 Greenley Road, Sonora, CA 95370.

Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action with respect to the Rim Fire Recovery project.

Scoping Process

Public participation is important at numerous points during the analysis. The Forest Service seeks information, comments and assistance from federal, state, and local agencies and individuals or organizations that may be interested in or affected by the proposed action.

The Forest Service conducts scoping according to the Council on

Environmental Quality (CEQ) regulations (40 CFR 1501.7). In addition to other public involvment, this Notice of Intent initiates an early and open process for determining the scope of issues to be addressed in the EIS and for identifying the significant issues related to a proposed action. This scoping process allows the Forest Service to not only identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the EIS process accordingly (40 CFR 1500.4(g)).

Comment Requested

This Notice of Intent initiates the scoping proces which guides the development of the EIS. Comments on the proposed action should be submitted within 30 days of the date of publication of this Notice of Intent.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft EIS will be available for comment when the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate during the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: December 2, 2013.

Susan Skalski,

Forest Supervisor.

[FR Doc. 2013–29135 Filed 12–5–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[11/26/2013 through 12/02/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
No Boundaries, Inc. (dba Green Box Art,).	789 Gateway Center Way, San Diego, CA 92102.	11/26/2013	The firm manufactures stretched canvas and framed paper print wall décor, canvas growth charts, wall decals, lampshades, night lights and placemats.
Innovative Enterprises, Inc.	25 Town and Country Drive, Washington, MO 63090.	11/26/2013	The firm manufactures corrugated sheets, cartons and pallets.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 2, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–29141 Filed 12–5–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Sea Scallops Amendment 10 Data Collection

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 February 4, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Emily Gilbert, 978–281–9244 or *Emily.Gilbert@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

National Marine Fisheries Service (NMFS) Northeast Region manages the Atlantic sea scallop (scallop) fishery of the Exclusive Economic Zone (EEZ) off the East Coast under the Atlantic Sea Scallop Fishery Management Plan (FMP). The regulations implementing the FMP are at 50 CFR Part 648. To successfully implement and administer components of the FMP, OMB Control No. 0648–0491 includes the following information collections for scallop vessel owners, operators, and fishery participants: vessel monitoring system (VMS) trip declarations for all scallop vessels, including powerdown declarations; notification of access area trip termination for limited access scallop vessels; submission of access area compensation trip identification; submission of broken trip adjustment and access area trip exchange forms; VMS purchase and installation for individuals that purchase a federally permitted scallop vessel; submission of ownership cap forms for individual fishing quota (IFQ) scallop vessels; submission of vessel replacement, upgrade and permit history applications for IFQ, Northern Gulf of Maine (NGOM), and Incidental Catch (IC) scallop vessels; submission of VMS pre-landing notification form by IFQ vessels; enrollment into the state waters exemption program; submission of requests for IFQ transfers; payment of cost recovery bills for IFQ vessels; sector proposals for IFQ vessels and industry participants; and sector operations plans for approved sector proposals.

Data collected through these programs are incorporated into the NMFS database and are used to track and confirm vessel permit status and eligibility, scallop landings, and scallop vessel allocations. Aggregated summaries of the collected information will be used to evaluate the management program and future management proposals.

II. Method of Collection

Participants will submit electronic VMS transmissions and paper applications by mail, facsimile, or email.

III. Data

OMB Control Number: 0648–0491.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 783.

Estimated Time per Response: VMS trip declaration, trip termination, compensation trip identification, powerdown provision, 2 minutes; broken trip adjustment and access area trip exchange, 10 minutes; VMS purchase and installation, 2 hours; IFQ ownership cap forms, 5 minutes; vessel replacement, upgrade and permit history applications, 3 hours; VMS pre-landing notification form, 5 minutes; VMS state waters exemption program, 2 minutes; quota transfers, 10 minutes; cost recovery, 2 hours; sector proposals, 150 hours; sector operations plans, 100 hours; IFQ, Northern Gulf of Maine, and incidental catch vessel VMS requirements, 2 minutes.

Estimated Total Annual Burden Hours: 2,804.

Estimated Total Annual Cost to Public: $775,719.

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: December 2, 2013

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–29104 Filed 12–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC997

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 January, February, and March of 2014. 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 2014 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on January 9, February 6, and March 20, 2014.

The Protected Species Safe Handling, Release, and Identification Workshops will be held on January 8, January 22, February 4, February 6, March 19, and March 20, 2014.

See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Kenner, LA; Norfolk, VA; and Fort Pierce, FL.

The Protected Species Safe Handling, Release, and Identification Workshops will be held in Gulfport, MS; Portsmouth, NH; Wilmington, NC; Clearwater, FL; Houston, TX; and Port St. Lucie, FL.

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 92 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. January 9, 2014, 12 p.m.–4 p.m., LaQuinta Inn and Suites, 2610 Williams Boulevard, Kenner, LA 70062.
2. February 6, 2014, 12 p.m.–4 p.m., LaQuinta Inn and Suites, 1387 North Military Highway, Norfolk, VA 23502.
3. March 20, 2014, 12 p.m.–4 p.m., LaQuinta Inn and Suites, 2655 Crossroads Parkway, Fort Pierce, FL 34945.

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 166 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. January 8, 2014, 9 a.m.–5 p.m., Holiday Inn, 9515 U.S. Highway 49, Gulfport, MS 39503.
2. January 22, 2014, 9 a.m.–5 p.m. Holiday Inn, 300 Woodbury Avenue, Portsmouth, NH 03801.
3. February 4, 2014, 9 a.m.–5 p.m. Hilton Garden Inn, 6745 Rock Spring Road, Wilmington, NC 28405.
4. February 6, 2014, 9 a.m.–5 p.m., Holiday Inn Express, 2580 Gulf to Bay Boulevard, Clearwater, FL 33765.
5. March 18, 2014, 9 a.m.–5 p.m., Holiday Inn Express, 8080 South Main Street, Houston, TX 77025.
6. March 20, 2014, 9 a.m.–5 p.m. Holiday Inn, 10120 Northwest Federal Highway, Port St. Lucie, FL 34952.

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: December 3, 2013.

Sean F. Corson,

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

[FR Doc. 2013–29206 Filed 12–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Process To Develop Consumer Data Privacy Code of Conduct Concerning Facial Recognition Technology

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene meetings of a privacy multistakeholder process concerning the commercial use of facial recognition technology. This Notice announces the meetings to be held in February, March, April, May, and June 2014. The first meeting is scheduled for February 6, 2014.

DATES: The meetings will be held on February 6, 2014; February 25, 2014; March 25, 2014; April 8, 2014; April 29, 2014; May 20, 2014; June 3, 2014; and June 24, 2014 from 1 p.m. to 5:00 p.m., Eastern Time. See **SUPPLEMENTARY INFORMATION** for details.

ADDRESSES: The meetings will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: John Verdi, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–8238; email *jverdi@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email *press@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background: On February 23, 2012, the White House released *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (the "Privacy Blueprint").[1] The Privacy Blueprint directs NTIA to convene multistakeholder processes to develop legally enforceable codes of conduct that specify how the Consumer Privacy Bill of Rights applies in specific business contexts.[2] On July 12, 2012, NTIA convened the first multistakeholder process, in which stakeholders developed a code of conduct to provide transparency in how companies providing applications and interactive services for mobile devices handle personal data.[3] On December 3, 2013, NTIA announced that the goal of the second multistakeholder process is to develop a code of conduct to protect consumers' privacy and promote trust regarding facial recognition technology in the commercial context.[4] NTIA encourages stakeholders to address in the code all seven fair information practice principles enumerated in the Consumer Privacy Bill of Rights.

Matters to Be Considered: The February 6, 2014 meeting will be the first in a series of NTIA-convened multistakeholder discussions concerning facial recognition technology. Subsequent meetings will follow on February 25, 2014; March 25, 2014; April 8, 2014; April 29, 2014; May 20, 2014; June 3, 2014; and June 24, 2014. Stakeholders will engage in an open, transparent, consensus-driven process to develop a code of conduct regarding facial recognition technology.

The objective of the February 6, 2014, meeting is to convene a factual, stakeholder-driven dialogue regarding the technical capabilities and commercial uses of facial recognition technology. This dialogue will likely involve a series of discussion panels and Q&A sessions featuring knowledgeable stakeholders from industry, civil society, and academia. This first meeting is intended to provide stakeholders with factual background regarding how facial recognition technology is currently used by businesses, how the technology might be employed in the near future, and what privacy issues might be raised by the technology. NTIA will publish a draft agenda on December 20, 2013 and a final agenda on January 17, 2014.

The objectives of the February 25, 2014 meeting are: 1) Begin discussion among stakeholders concerning a code of conduct that sets forth privacy practices for facial recognition technology (this discussion may include circulation of straw-man drafts and discussion of the appropriate scope of a code); and 2) provide a venue for stakeholders to agree on the procedural work plan for the group (this might include establishing working groups, drafting procedures, and/or modifying the logistics of future meetings).

The March 25, 2014; April 8, 2014; April 29, 2014; May 20, 2014; June 3, 2014; and June 24, 2014 meetings are intended to serve as venues for stakeholders to discuss, draft, revise, and finalize a privacy code of conduct that sets forth privacy practices for facial recognition technology. NTIA suggests that stakeholders consider "freezing" the draft code of conduct after the June 24, 2014 meeting in order to facilitate external review of the draft.

[1] The Privacy Blueprint is available at *http://www.whitehause.gav/sites/defoult/files/privacy-final.pdf.*

[2] *Id.*

[3] NTIA, *First Privacy Multistakehalder Meeting: July 12, 2012, http://www.ntia.dac.gov/other-publicatian/2012/first-privacy-multistakehalder-meeting-july-12-2012* NTIA, *Privacy Multistakehalder Process: Mobile Applicotion Transparency, http://www.ntio.doc.gov/other-publicotion/2013/privacy-multistokeholder-process-mobile-applicatian-transparency.*

[4] NTIA, *Fociol Recagnitian Technalagy, http://www.ntio.doc.gov/other-publicatian/2013/privacy-multistakehalder-process-facial-recognitian-technalagy.*

Stakeholders would then likely reconvene the group in September to take account of external feedback. More information about stakeholders' work will be available at: *http://www.ntia.doc.gov/other-publication/2013/privacy-multistakeholder-process-facial-recognition-technology.*

Time and Date: NTIA will convene meetings of the privacy multistakeholder process regarding facial recognition technology on February 6, 2014; February 25, 2014; March 25, 2014; April 8, 2014; April 29, 2014; May 20, 2014; June 3, 2014; and June 24, 2014, from 1:00 p.m. to 5:00 p.m., Eastern Time. The meeting dates and times are subject to change. The meetings are subject to cancelation if stakeholders complete their work developing a code of conduct. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2013/privacy-multistakeholder-process-facial-recognition-technology,* for the most current information.

Place: The meeting will be held in the Boardroom at the American Institute of Architects, 1735 New York Avenue NW., Washington, DC 20006. The location of the meetings is subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2013/privacy-multistakeholder-process-facial-recognition-technology,* for the most current information.

Other Information: The meetings are open to the public and the press. The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to each meeting. The meetings will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to each meeting. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meetings through a moderated conference bridge, including polling functionality. Access details for the meetings are subject to change. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2013/privacy-multistakeholder-process-facial-recognition-technology,* for the most current information.

Dated: December 3, 2013.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–29157 Filed 12–5–13; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions 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 product and services from the Procurement List previously furnished by such agencies.

DATES: *Effective Date:* 1/6/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 8/9/2013 (78 FR 48656–48657), and 9/6/2013 (78 FR 54871), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and 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:

NSN: 7510–01–462–1383—Binder, Loose-leaf, View Framed, Navy Blue, 1/2″.

NSN: 7510–01–462–1385—Binder, Loose-leaf, Frame View, Navy Blue, 1–1/2″.

NSN: 7510–01–462–1386—Binder, Loose-leaf, View Framed, White, 1″.

NPA: South Texas Lighthouse for the Blind, Corpus Christi, TX.

Contracting Activity: General Services Administration, New York, NY.

COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: MR 376—Resealable Bags, Holiday, 6.5″ × 5.875″.

NSN: MR 379—Storage Containers, Holiday, 12 oz. or 16 oz., 6PK.

NSN: MR 380—Set, Baking Cups and Picks, Holiday, 24PC.

NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.

Contracting Activity: Defense Commissary Agency, Fort Lee, VA.

COVERAGE: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

Deletions

On 10/25/2013 (78 FR 63967–63968) and 11/1/2013 (78 FR 65618), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product and services listed below are 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 furnish the product and services 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 product and services deleted from the Procurement List.

End of Certification

Accordingly, the following product and services are deleted from the Procurement List:

PRODUCT:

NSN: 8460–01–113–7576—Envelope Case, Map and Photograph.

NPA: No NPA currently authorized.

Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

SERVICES:

Service Type/Location: Janitorial/Custodial Service, Naval & Marine Corps Reserve Center, Spokane, WA.

NPA: Career Connections, Spokane, WA (Deleted).

Contracting Activity: DEPT OF THE NAVY, U.S. FLEET FORCES COMMAND, NORFOLK, VA.

Service Type/Location: Food Service Attendant Service, Oregon Air National Guard, Camp Rilea National Guard Training Site, Building 7028, Warrenton, OR.

NPA: Clatsop County Developmental Training Center Association, Warrenton, OR (Deleted).

Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK, ANDREWS AIR FORCE BASE, MD.

Service Type/Location: Grounds Maintenance Service, U.S. Army Reserve Center: San Jose, San Jose, CA.

NPA: Social Vocational Services, Inc., San Jose, CA (Deleted).

Contracting Activity: DEPT OF THE ARMY, W40M NATL REGION CONTRACT OFC, FORT BELVOIR, VA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–29138 Filed 12–5–13; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: 1/6/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

For Further Information or to Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Custodial Service, U.S. Geological Survey, Patuxent Wildlife Research Center, 12100 Beech Forest Rd., Laurel, MD.

NPA: MVLE, Inc., Springfield, VA.

Contracting Activity: Dept of the Interior, Geological Survey, Office of Procurement And Contracts, Reston, VA.

Service Type/Location: Custodial Service, Directorate of Contracting Procurement Logistics Support Detachment, Undisclosed Location*, Ft. Belvoir, VA.

NPA: MVLE, Inc., Springfield, VA.

Contracting Activity: Directorate of Contracting Procurement Logistics Support Detachment, Fort Belvoir, VA.

* Additional Information: Contact Barry S. Lineback, *blineback@abilityone.gov* or 703–603–2118 if you require more information about the undisclosed location at which the service is to be performed.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–29139 Filed 12–5–13; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 78 FR 70539, Nov. 26, 2013.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Friday, December 13, 2013.

CHANGES IN THE MEETING: Adjudicatory Matters are being added to the previously announced list of matters to be considered at this closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, 202–418–5516.

Natise Stowe,

Executive Assistant.

[FR Doc. 2013–29296 Filed 12–4–13; 4:15 pm]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0055]

Agency Information Collection Activities; Proposed Collection; Comment Request; Standard for the Flammability of Mattresses and Mattress Pads and Standard for the Flammability (Open Flame) of Mattress Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed extension of approval of a collection of information from manufacturers and importers of mattresses and mattress pads. The collection of information is set forth in the Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR part 1632 and the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633. These regulations establish testing and recordkeeping requirements for manufacturers and importers subject to the standards. The Commission will consider all comments received in response to this notice, before requesting an extension of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive comments not later than February 4, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0055, 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.

The Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov*.

Written Submissions

Submit written submissions in the following way:

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

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

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

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

There are approximately 671 establishments producing mattresses: Approximately 571 produce conventional mattresses and approximately 100 establishments produce nonconventional mattresses (such as futons, sleep sofa inserts, hybrid water mattresses) in the United States. The Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR part 1632, (part 1632 standard) was promulgated under section 4 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1193, to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses and mattress pads. The part 1632 standard prescribes requirements to test whether a mattress or mattress pad will resist ignition from a smoldering cigarette. The part 1632 standard requires manufacturers to perform prototype tests of each combination of materials and construction methods used to produce mattresses or mattress pads and to obtain acceptable results from such testing. Manufacturers and importers must maintain the records and test results specified under the standard. OMB previously approved the collection of information under control number 3041–0014, with an expiration date of December 31, 2013.

The Commission also promulgated the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633, (part 1633 standard) under section 4 of the FFA to reduce deaths and injuries related to mattress fires, particularly those ignited by open flame sources, such as lighters, candles, and matches. The part 1633 standard requires manufacturers to maintain certain records to document compliance with the standard, including maintaining records concerning prototype testing, pooling, and confirmation testing, and quality assurance procedures and any associated testing. The required records must be maintained for as long as mattress sets based on the prototype are in production and must be retained for three years thereafter. Although some larger manufacturers may produce mattresses based on more than 100 prototypes, most mattress manufacturers base their complying production on 15 to 20 prototypes. OMB previously approved the collection of information for 16 CFR part 1633 under Control Number 3041–0133, with an expiration date of May 31, 2016. The information collection requirements under the part 1633 standard do not duplicate the testing and recordkeeping requirements under the part 1632 standard.

Because the collection of information required under the part 1632 and part 1633 standards relate to reducing fire hazards associated with mattresses and mattress pads, the Commission now proposes to request an extension of approval for the collection of information for both standards under a single control number, 3041–0014.

B. Burden Hours

Respondents' Costs

For testing and recordkeeping under the part 1632 standard, based on data collected from the rulemaking proceeding, CPSC staff estimates that 671 respondents will each spend 26 hours for testing and recordkeeping annually for a total of 17,446 hours (671 establishments × 26 hours). Staff bases the hourly compensation for the time required for a technical employee to test prototypes and record test results on an hourly compensation of $61.80 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 9, total compensation of all management, professional, and related occupations in goods-producing industries: *http://www.bls.gov/ncs*). Staff estimates the annualized cost to respondents would be $1,078,162 (17,446 hours × $61.80).

In addition, under the part 1633 standard, based on data collected from the rulemaking proceeding, CPSC staff estimates additional testing and recordkeeping requirements will take approximately 4 hours and 44 minutes per establishment, per qualified prototype. Assuming that establishments qualify their production with an average of 20 different qualified prototypes, about 94.6 hours (4.73 hours × 20 prototypes) per establishment per year would be required for testing and recordkeeping for the part 1633 standard. (Note that pooling among establishments or using a prototype qualification for longer than one year will reduce this estimate.) This translates to an annual recordkeeping time cost to all mattress producers of 63,477 hours (671 establishments × 94.6 hours) for the part 1633 standard. Based on an hourly compensation for the time required of $61.80 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 9, total compensation of all management, professional, and related occupations in goods-producing industries: *http://www.bls.gov/ncs*), total estimated costs for recordkeeping for both mattress standards are about $3.9 million (63,477 hours × $61.80).

Thus, the total cost to the estimated 671 respondents for the information collection requirements under 16 CFR part 1632 and 16 CFR part1633 is estimated to be approximately $4.9 million.

Federal Government's Costs

The estimated annual cost of the information collection requirements to the federal government to review 16 CFR part 1632 is approximately $101,890. This sum includes 10 staff months and travel costs expended for examination of the information in records required to be maintained by the part 1632 standard. This estimate is based on an annual wage of $84,855 (the equivalent of a GS–12 Step 5 employee) with an additional 30.6 percent added

for benefits (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees) for total annual compensation $122,269 per full time employee.

The estimated annual cost of information collection requirements to the federal government to review 16 CFR part 1633 is approximately $2,939. This represents 50 staff hours for record review. This estimate uses an average hourly wage of $40.80 (the equivalent of a GS–12 Step 5 employee) with an additional 30.6 percent added for benefits (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees) for total hourly compensation $58.78.

Staff estimates the total cost to the federal government for information collections for both mattress standards is $104,829.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: December 3, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–29148 Filed 12–5–13; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0064]

Submission for OMB Review; Comment Request: Infant Bath Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (Commission or CPSC) announces that the CPSC has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information for the safety standard for infant bath seats.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by January 6, 2014.

ADDRESSES: OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified by Docket No. CPSC–2009–0064. In addition, written comments also should be submitted at: *http://www.regulations.gov*, under Docket No. CPSC–2009–0064, or by mail/hand delivery/courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, U.S. Consumer Product Safety Commission,4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7923 or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 2013 (78 FR 53734), the Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the CPSC's intention to seek extension of approval of a collection of information for the safety standard for infant bath seats. CPSC received no comments. By publication of this notice, the Commission announces that the CPSC has submitted to the Office of Management and Budget (OMB), a request for extension of approval of that collection of information without change.

A. Background

Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, 122 Stat. 3016 (August 14, 2008), requires the CPSC to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be "substantially the same as" applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. On June 4, 2010, the Commission issued a safety standard for infant bath seats that incorporated by reference the voluntary standard for infant bath seats issued by ASTM International, ASTM F1967–08a, with some modifications to reduce further the risk of injury associated with infant bath seats. 75 FR 31691. On July 31, 2012, the Commission adopted the revised ASTM standard for infant bath seats, ASTM F1967–11a. 77 FR 45242. The requirements for infant bath seats are set forth under 16 CFR part 1215.

Sections 8.6 and 9 of ASTM F1967–11a contain requirements for marking, labeling, and instructional literature, which may be considered to be collections of information. Section 8.6 of ASTM F1967–11a requires:

- The name of the manufacturer, distributor, or seller and either the place of business (city, state, and mailing address, including zip code), or telephone number, or both; and
- A code mark or other means that identifies the date (month and year, as a minimum) of manufacture.

Section 9 of ASTM F1967–11a requires infant bath seats to be provided with instructions regarding assembly, maintenance, cleaning, storage, and use, as well as warnings.

B. Burden Hours

There are seven known firms supplying infant bath seats to the U.S. market. All seven firms are assumed to use labels on both their products and their packaging; however, modifications to existing labels may be required to comply with the ASTM standard. The estimated time required to make these modifications is about one hour per model. On the average, each of the seven firms supplies approximately two different models of infant bath seats; therefore, the estimated burden hours associated with modified labels is 1 hour x 7 firms x 2 models per firm = 14 annual hours.

Section 9 of ASTM F1967–11a requires instructions to be supplied with the product. This practice is usual and customary with infant bath seats. These are products that generally require some installation and maintenance instructions. Any burden associated with supplying instructions with infant bath seats thus would be "usual and customary" and not within the definition of "burden" under OMB's regulations. 5 CFR 1320.3(b)(2).

We estimate that hourly compensation for the time required to create and update labels is $27.44, based on the assumption that sales or office employees will be modifying the labels as required (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," March 2013, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, the estimated annual cost associated with the requirements is $384 ($27.44 per hour x 14 hours = $384).

The estimated annual cost of the information collection requirements to the federal government is approximately $3,527, which includes 60 CPSC staff hours to examine and evaluate the information, as needed, for monitoring and enforcement. This is based on a GS–12 level, salaried employee. The average hourly wage rate for a mid-level salaried GS–12 employee in the Washington, DC, metropolitan area (effective January 2011) is $40.80 (GS–12, step 5). This represents 69.5 percent of total compensation (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," March 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees, *http://www.bls.gov/ncs/*). Adding an additional 30.5 percent for benefits brings average hourly compensation for a mid-range salaried GS–12 employee to $58.78. Assuming that approximately 60 hours of staff time will be required annually, the total annual cost of CPSC staff time to examine and evaluate the information is estimated at $3,527.

Dated: December 3, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–29147 Filed 12–5–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0225]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DWHS P37, entitled "Grievance and Unfair Labor Practices Records, in its inventory of record systems subject to the Privacy Act of 1974, as amended. These records are used in the administration, processing, and resolution of unfair labor complaints, grievance arbitrations, negotiability, and representation issues.

DATES: This proposed action will be effective on January 6, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office Web site *http://dpclo.defense.gov/privacy/SORNs/component/osd/index.html.*

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 7, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P37

SYSTEM NAME:

Grievance and Unfair Labor Practices Records (October 27, 2011, 76 FR 66696).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Grievance and Unfair Labor Practice Records."

SYSTEM LOCATION:

Delete entry and replace with "Labor and Management Employee Relations Division, Human Resources Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Alexandria, VA 22350–3200."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 7121, Grievance Procedures; DoD Instruction 1400.25–V771, DoD Civilian Personnel Management System (Administrative Grievance System); Washington Headquarters Services Administrative Instruction 37, Employee Grievances; and E.O. 9397 (SSN), as amended."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials of labor organizations reorganized under the Civil Service Reform Act when relevant and

necessary to the performance of their exclusive representation duties concerning personnel policies, practices, and matters affecting working conditions.

To representatives of the Office of Personnel Management (OPM) in matters relating to the inspection, survey, audit, or evaluation of civilian personnel management programs.

To the Comptroller General, or any of his or her authorized representatives, in the course of the performance of duties of the Government Accountability Office relating to the Labor-Management Relations Program.

To arbitrators, examiners, or other third parties appointed to inquire into or adjudicate labor-management issues.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense compilation of systems of notices also may apply to this system of records."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Name of individual initiating grievance procedures and case number."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Assistant Director, Labor and Management Employee Relations Division, Human Resources Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Alexandria, VA 22350–3200."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Assistant Director, Labor and Management Employee Relations Division, Human Resources Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Alexandria, VA 22350–3200.

Signed, written requests should include name, case number, current address, and telephone number."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should include the name, case number, current address, telephone number, and number of this system of records notice."

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with "The individual or individuals, or management officials involved with the incident leading to the adjudication of a grievance or unfair labor practice charges, Washington Headquarters Service Labor and Management Employee Relations personnel, the Arbitrators office, the Federal Labor Relations Authority Headquarters and Regional Offices, and union officials."

* * * * *

[FR Doc. 2013–29101 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2013–0037]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The Department of the Air Force proposes to add a new system of records, F084 NMUSAF A, entitled "USAF Museum System Volunteer Records" to its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will maintain an official registry of individuals who volunteer to support the United States Air Force Museum System.

DATES: This proposed action will be effective on January 6, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* Mail: Federal Docket Management System Office, 4800 Mark Center Drive East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at (571) 256–2515.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/airforce/index.html*.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on October 24, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F084 NMUSAF A

SYSTEM NAME:

USAF Museum System Volunteer Records.

SYSTEM LOCATION:

National Museum of the U.S. Air Force, 1100 Spaatz Street, Wright-Patterson Air Force Base, Ohio 45433–7102.

Air Force Museums. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who registered to volunteer at any Air Force Museum.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home and personal cell telephone number, home address, personal email address, emergency

contact, place and date of birth, employer, education background, skills, hobbies, citizenship, military and/or federal civilian service information, and private and professional affiliations.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapter 10, Section 1588, Authority to Accept Certain Voluntary Services; 10 U.S.C. Section 8013, Secretary of the Air Force; 5 U.S.C. Section 301, Government Organization And Employees; Department of Defense Instruction 1100.21, Voluntary Service in the Department of Defense, and Air Force Instruction 84–103, U.S. Air Force Heritage Program.

PURPOSE(S):

To maintain an offical registry of individuals who volunteer to support the United States Air Force Museum System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under Title 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to Title 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses published at the beginning of the Air Force's compilation of systems of records notices may apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Paper and electronic storage media.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Physical entry is restricted by the use of an electronic key card and is accessible only to authorized personnel. Paper records are stored in locked file cabinets. Database is on non-networked computer requiring username and password with access restricted to personnel who have been properly screened and who have a need to know.

RETENTION AND DISPOSAL:

Records are retained for the duration of the volunteer relationship. Records are destroyed three years after the volunteer relationship has terminated. Paper records are destroyed by cross-cut shredding. Electronic media is destroyed by erasure or degaussing.

SYSTEM MANAGER(S)AND ADDRESS:

Chief, Education Division, National Museum of the U.S. Air Force, 1100 Spaatz Street, Wright-Patterson Air Force Base, Ohio 45433–7102.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to National Museum of the U.S. Air Force, 1100 Spaatz Street, Wright-Patterson Air Force Base, Ohio 45433–7102 or visit the Air Force Museum location where they volunteer.

For verification purposes, individual should provide their full name and/or any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to National Museum of the U.S. Air Force, 1100 Spaatz Street, Wright-Patterson Air Force Base, Ohio 45433–7102 or visit the Air Force Museum location where they volunteer.

For verification purposes, individual should provide their full name and/or any details which may assist in locating records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C., 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare(or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332, Air Force Privacy Program; 32 CFR part 806b; and may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–29094 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0045]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The Department of the Army proposes to add a new system of records, A0500–5 DAMO, The Mobilization Common Operating Picture System (MOBCOP), in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will be used to provide a portal for authorization, management, accountability, mobilization and demobilization of Army Reserve Component Soldiers and Units, and Air Force, Navy and Marine Corps requesting and scheduling "Army unit" required training before entering into CENTCOM's theater of operation.

DATES: This proposed action will be effective on January 7, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public

viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at *http://dpclo.defense.gov/privacy/SORNs/component/army/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 31, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0500–5 DAMO

SYSTEM NAME:

Mobilization Common Operating Picture System (MOBCOP).

SYSTEM LOCATION:

Army Operation Center, The Pentagon, Room BE745, Washington, DC 20310–0400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army Reserve personnel assigned for mobilization; Active duty, Reserve and National Guard personnel receiving Permanent Change of Station (PCS) orders. Army Soldiers filling a Worldwide Individual Augmentation System (WIAS) position will be processed through MOBCOP's Overseas Contingency Operations—Temporary Change of Station (OCO–TCS) application to receive TCS and NATO orders to deploy into theater. The Service force providers (Air Force/Navy/Marine Corps) requesting and scheduling "Army unit" required training before entering into CENTCOM's theater of operation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel information which has been extracted from official personnel files and Manpower Authorization files, including name; grade/rank; Social Security Number (SSN); DoD ID Number, gender; Military Occupational Skills and/or Civilian Occupational Series; additional Skill Identifiers; security clearance; current unit of assignment; deployment eligibility; Service Component; mobilization date; mobilization location; and mobilization history. In addition, PCS records contain allowances, entitlements and future assignment of duty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 151, Joint Chiefs of Staff: composition; functions; 10 U.S.C. 153, Chairman: functions; 10 U.S.C. 162, Combatant commands: assigned forces; chain of command; 10 U.S.C. 164, Commanders of combatant commands: assignment; powers; 10 U.S.C. 167, Unified combatant command for special operations; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5031, Office of the Chief of Naval Operations: function; composition; 10 U.S.C. 8031, The Air Staff: Function; composition; 10 U.S.C. 12301, Reserve components generally; 10 U.S.C. 12302, Ready Reserve; 10 U.S.C. 12304, Selected Reserve and Certain Individual Ready Reserve Members; Order to Active Duty other than during war or National emergency; Joint Publications 1–0, Personnel Support to Joint Operations, 2–0, Joint Intelligence, 3–0, Joint Operations, and 5–0, Joint Operation Planning; Army General Order No. 2012–01, Assignment of Functions and Responsibilities Within Headquarters, Department of the Army, CJCSI 1301.01E, Joint Individual Augmentation Procedures; DA PAM 500–5–1, Individual Augmentation Management; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

The Mobilization Common Operating Picture System (MOBCOP) will provide a portal for authorization, management, accountability, mobilization, deployment, redeployment, and demobilization of Active, Reserve, and National Guard Soldiers and Units. MOBCOP is used by authorized officials within the Army in performing all administrative functions with respect to personnel assigned against mobilization requirements in the system and for monitoring and processing requests for mobilization and demobilization. Jointly, facilitate Service force providers (Air Force/Navy/Marine Corps) requesting and scheduling "Army unit" required training before entering into CENTCOM's theater of operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under Title 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the Department of Defense as a routine use pursuant to Title 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses published at the beginning of the Army's compilation of record system notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by SSN and/or any combination of the data fields described in the Categories of Records.

SAFEGUARDS:

All Mobilization Common Operating Picture (MOBCOP) servers are located in the Pentagon, Washington, DC and access is controlled by the Information Management Support Center (IMCEN). All COOP servers are located remotely with controlled access as well. Access to this record system is restricted to authorized personnel in performance of official duties. Entry into the system requires login and password. The system employs secure socket layer certificate and the Social Security Number data is encrypted to provide further protection.

RETENTION AND DISPOSAL:

Mobilization and Permanent Change of Station (PCS) records are permanent. Unofficial personnel records are deleted by erasing when no longer needed for current business.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Mobilization Deployment Information System (MDIS) Branch, Current Operations Division, Headquarters, Department of the Army, G3/5/7, Army Operations Center, Washington, DC 20310–0400.

At Army mobilized organizations:

Commander or supervisor of organization maintaining operational tracking of requirements or assigned personnel provided in response to an assigned requirement. Official mailing

addresses are published as an appendix to the Army's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to the Chief, Mobilization Deployment Information (MDIS) Branch, Current Operations Division, Headquarters, Department of the Army, G3/5/7, Army Operations Center, Washington, DC 20310–0400. Air Force, Navy and Marine Corps personnel should contact their current or former commander or supervisor of the organization to which the individual is/was assigned or employed. Addresses can be found on the published orders from their assigned unit. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices procedure.

Individual should provide full name, SSN and/or DoD ID number and military status or other information verifiable from the record itself.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, unsworn declaration under penalty of perjury; in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, Mobilization Deployment Information System (MDIS) Branch, Current Operations Division, Headquarters, Department of the Army, G3/5/7, Army Operations Center, Washington, DC 20310–0400. Air Force, Navy and Marine Corps personnel should contact their current or former commander or supervisor of the organization to which the individual is/was assigned or employed. Addresses can be found on the published orders from their assigned unit. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices procedure.

Individual should provide full name, SSN and/or DoD ID number and military status or other information verifiable from the record itself.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, Unsworn declaration under penalty of perjury; in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21, The Army Privacy Program; Title 32 CFR National Defense, part 505, Army Privacy Act Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual and the individual's official personnel file, Total Army Personnel Database system, Department of the Army Mobilization Processing System (DAMPS), and the integrated Total Army Personnel Database system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–29091 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

[Docket ID: USN–2013–0046]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to delete a System of Records.

SUMMARY: The Department of the Navy is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, as amended. The system being deleted is N01500–8, System Name: Personnel and Training Evaluation Program.

DATES: This proposed action will be effective on January 6, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, HEAD, FOIA/Privacy Act Policy Branch, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT.** The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: December 3, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:
N01500–8

SYSTEM NAME:

Personnel and Training Evaluation Program (February 2, 2007, 72 FR 5023).

REASON:

The Department of the Navy (DON) has determined that SORN N01500–8, Personnel and Training Evaluation Program can be deleted. The Personnel and Training Evaluation Program has been cancelled and all records have been destroyed in accordance with the National Archives and Records Administration retention schedule.

[FR Doc. 2013–29171 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0043]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter the system of records, N01070–5, entitled "Database of Retired Navy Flag Officers" in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system maintains a directory of retired Navy flag officers for the purpose of providing briefings and outreach materials, and facilitating interaction between retired and active duty Navy flag officers via a limited access Web site.

DATES: This proposed action will be effective on January 6, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 24, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 3, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01070–5

SYSTEM NAME:

Database of Retired Navy Flag Officers (March 7, 2007, 72 FR 10189).

CHANGES:

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "The file contains personal and professional information to include: full name, nickname, retired rank, work and/or home address, home and/or office telephone/fax/cell phone numbers, and email address."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses that appear at the beginning of the Navy's compilation of systems of records notices may apply to this system."

* * * * *

STORAGE:

Delete entry and replace with "Electronic storage media."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Destroy when files are no longer needed."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Naval Operations (DNS–4), 2000 Navy Pentagon, Washington, DC 20350–2000 or visit the Retired Flag Web site.

Requests should include full name, address and signature.

The system manager may require a notarized signature as a means of proving the identity of the individual requesting access to the records."

* * * * *

[FR Doc. 2013–29123 Filed 12–5–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0045]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter the system of records, N05880–2, entitled "Admiralty Claims Files" in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will be used to evaluate and settle Admiralty tort claims asserted for and against the Department of the Navy involving death, personal injury, property damage, or salvage, and to provide litigation support to the Department of Justice.

DATES: This proposed action will be effective on January 7, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://*

www.regulations.gov as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 24, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 3, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05880–2

SYSTEM NAME:

Admiralty Claims Files (May 9, 2003, 68 FR 24959).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Office of the Judge Advocate General (Admiralty and Maritime Law), Department of the Navy, 1322 Patterson Avenue SE., Suite 3000, Washington Navy Yard, Washington, DC 20374–5066."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Any individual or entity who has asserted a maritime tort claim against the Department of the Navy, is the subject of a maritime tort claim by the Department of the Navy, or is a party to maritime tort litigation involving the Department of the Navy."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "The files may contain claims filed, correspondence, investigative reports, accident reports, medical and dental records, x-rays, photographs, drawings, legal memoranda, settlement agreements, releases, deck logs, litigation reports, jury verdict research evaluation guides, court records involving litigation reports and related matters.

Depending on the facts of the claim or investigation, files may include any of the following: name, Social Security Number(SSN), truncated SSN, mariner credentials, spouse and children's name, bank account and routing number, work identification and badge number, citizenship, race/ethnicity, physically descriptive characteristics, birth date, personal cell telephone number, home telephone number, personal email address, home address, location, date and type of incident, file number, ship name and hull number, military records, educational certificate and degree, medical records, witness descriptions, claimant's alleged damages."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "44 U.S.C. section 3101, Records Management; 10 U.S.C. section 5013, Secretary of the Navy; 10 U.S.C. section 5043, Commandant of the Marine Corps; 10 U.S.C. sections 5031–5033, 5035–5036, Office of the Chief of Naval Operations; 10 U.S.C. sections 5148–5149, Office of the Judge Advocate General; 10 U.S.C. sections 7622–7623, Admiralty claims; 32 CFR section 752, Admiralty Claims; DoD 6025.18–R, DoD 6025.18–R, DoD Health Information Privacy Regulation; and E.O. 9397(SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To evaluate and settle Admiralty tort claims asserted for and against the Department of the Navy involving death, personal injury, property damage, or salvage, and to provide litigation support to the Department of Justice."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the Department of Defense (DoD) as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The records of investigations are provided to agents and authorized representatives of persons involved in the incident, for use in legal or administrative matters.

Investigations are furnished to agencies of the Department of Justice and court authorities for use in connection with civil court proceedings.

To contractors for use in connection with settlement, adjudication, or defense of claims by or against the United States, and, in certain circumstances, for use in design and evaluation of products, services, and systems.

To agencies of Federal, State, or local court authorities, administrative authorities, and regulatory authorities, for use in connection with civilian and military civil, administrative, and regulatory proceedings and actions.

If the records contain evidence of criminal activity, to appropriate Federal, State, or local law enforcement agencies.

The DoD Blanket Routine Uses that appear at the beginning of the Navy's compilation of system of records notices may apply to this system.

Note: This system of records contains Individually Identifiable Health Information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974, as amended or mentioned in this system records notice."

* * * * *

STORAGE:

Delete entry and replace with "Paper file folders and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Name of the ship or naval unit and the year it was closed or by name of claimant in cases of claims against the Department of Navy."

SAFEGUARDS:

Delete entry and replace with "Files are maintained in file cabinets or other storage devices under the control of authorized personnel during working hours. The office space in which the file cabinets and storage devices are located is locked outside of official working hours. Access to the installation is protected by uniformed guards requiring positive identification for admission and access to the building is restricted to authorized persons. Access to the database system is controlled by Common Access Card (CAC)."

RETENTION AND DISPOSAL:

Delete entry and replace with "Claims files are retained in the Admiralty Division for four years from the calendar year in which the file was closed. Each calendar year, admiralty claims files are reviewed. After four years, Admiralty Investigation reports from the file are sent to the Washington National Records Center (NRC). All other documents in the file are burned or shredded. Admiralty records held by NRC are reviewed 75 years from date of shipment for destruction or further retention. Electronic records are destroyed after four years.

Historically significant records are retained in the Admiralty Division and periodically reviewed for retention, shipment to NRC, submission to the Naval History and Heritage Command (NHHC), or destruction if no longer needed."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE., Suite 3000, Washington Navy Yard, Washington, DC 20374–5066."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE., Suite 3000, Washington Navy Yard, Washington, DC 20374–5066.

Requests should contain the requesting individual's complete name, the location and date of incident, type of incident, file number, ship name and hull number. Written requests must be signed by the requesting individual.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Avenue SE., Suite 3000, Washington Navy Yard, Washington, DC 20374–5066.

Requests should contain the requesting individual's complete name, the location and date of incident, type of incident, file number, ship name and hull number. Written requests must be signed by the requesting individual.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individuals who were involved in, have witnessed, or possess relevant information about an admiralty incident; medical, dental and military records; and deck logs and ship's documents containing relevant information about an admiralty incident."

* * * * *

[FR Doc. 2013–29129 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0041]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter the system of records, N01001–1, entitled "Database of Reserve/Retired Judge Advocates and Legalmen" in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will be used to facilitate liaison between Naval Reserve Law Units, Law Program Director, Director, Naval Reserve Law Programs, and the Navy's legal assistance program.

DATES: This proposed action will be effective on January 7, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html.*

The proposed system report, as required by 5 U.S.C. 552a of the Privacy Act of 1974, as amended, was submitted on October 24, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 2, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01001–1

SYSTEM NAME:

Database of Reserve/Retired Judge Advocates and Legalmen (July 14, 1999, 64 FR 37944).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Personal and professional information: Full name and nickname; Social Security Number (SSN); date of birth; home address; home and office telephone/FAX/pager numbers; email address; gender; school year and degrees earned; and spouse's name. * The SSN

is no longer authorized to be collected; however, older files may still contain the SSN if previously collected. Files will be maintained until the records meet their retention and are destroyed.

Military information: Home of record, rank/date of rank; branch of service; lineal number; date of entrance on duty (enlisted); pay entry base data; date commissioned; date retired; military accomplishments; Naval Officer Billet Codes; Naval Enlisted Billet Code; military decorations; Naval Reserve Awards; letters of appreciation; Sailor of the Quarter/Year; military courses completed and dates attended; military certificates (e.g., Career Counselor, Surface Warfare, Naval Aviator); foreign language skills, Readiness Command; Reserve Unit Identification Code; unit name; current unit; position; date joined unit; primary type of employment; employer/agency; and job title.

Civilian job information: Civilian Occupational Codes; Federal and State Courts admitted; and address of employer."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 806, Judge advocates and legal officers; and E.O. 9397 (SSN), as amended."

* * * * *

STORAGE:

Delete entry and replace with "Electronic storage media and paper records."

RETRIEVABILITY:

Delete entry and replace with "Information in this database can be retrieved by name, address, email address, and home of record."

SAFEGUARDS:

Delete entry and replace with "Access to the computer database is restricted to individuals with a need to know and requires a Common Access Card (CAC). Offices where files are stored are locked daily."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are retained on board and destroy when no longer needed."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Judge Advocate General (Reserve Affairs and Operations, Department of the Navy, Washington Navy Yard, 1322 Patterson Street SE., Washington, DC 20374–5066."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Deputy Judge Advocate General (Reserve Affairs and Operations), Department of the Navy, Washington Navy Yard, 1322 Patterson Street SE., Washington, DC 20374–5066.

The request should contain full name and address of the individual concerned and should be signed.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Deputy Judge Advocate General (Reserve Affairs and Operations), Department of the Navy, Washington Navy Yard, 1322 Patterson Street SE., Washington, DC 20374–5066.

The request should contain full name and address of the individual concerned and should be signed.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

* * * * *

[FR Doc. 2013–29106 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0042]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter the system of records, N01850–2, entitled "Physical Disability Evaluation System Proceedings" in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will be used to determine fitness for duty or eligibility for separation or retirement due to physical disability of Navy and Marine Corps personnel, by establishing the existence of disability, the degree of disability, and the circumstances under which disability was incurred, and to respond to official inquiries concerning the disability evaluation proceedings of particular service personnel.

DATES: This proposed action will be effective on January 6, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 31, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 3, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01850–2

SYSTEM NAME:

Physical Disability Evaluation System Proceedings (April 14, 1999, 64 FR 18410).

CHANGES:

* * * * *

SYSTEM ID:

Delete entry and replace with "NM01850–2."

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "All Navy and Marine Corps personnel who have been considered by a Physical Evaluation Board for separation or retirement by reason of physical disability.

All Navy and Marine Corps personnel who have been considered by a Physical Evaluation Board for separation or retirement by reason of physical disability and been found fit for duty by such boards."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "File contains medical board reports; statements of findings of physical evaluation boards; medical reports from Department of Veterans Affairs and civilian medical facilities; copies of military health records; copies of the Judge Advocate General's (JAG) Manual investigations; copies of prior actions/appellate actions/review taken in the case; recordings of physical evaluation board hearings; rebuttals submitted by the member; intra and interagency correspondence concerning the case; correspondence from and to the member, members of Congress, attorneys; and documents concerning the appointment of trustees for mentally incompetent service members. Records include name, Social Security Number (SSN), DoD ID Number, date of birth, mailing/home address, home/work or mobile phone numbers, home/work email address, record number, military grade/rate, year of disability proceeding and date of disability evaluation system action."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 1216a, Determinations of Disability: Requirements and Limitations on Determinations; DoD 6025.18–R, DoD Health Information Privacy Regulation; and E.O. 9397 (SSN), as amended."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Department of Veterans Affairs to request and verify information of service-connected disabilities in order to evaluate applications for veteran's benefits.

The DoD Blanket Routine Uses set forth at the beginning of the Department of Navy's compilation of system of records notices may apply to this system.

Note: This system of records contains Individually Identifiable Health Information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025–18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974, as amended, or mentioned in this system of records notice."

* * * * *

STORAGE:

Delete entry and replace with "Paper and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Name, record number, year of disability proceeding, and SSN."

SAFEGUARDS:

Delete entry and replace with "Files are maintained in file cabinets and electronic storage media under the control of authorized personnel during working hours. Access during working hours is controlled by Board personnel and the office spaces in which file cabinets and storage devices are located are locked outside official working hours. Computerized system is password protected. The office is located in a building on a military installation which has 24-hour gate sentries and 24-hour roving patrols."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Secretary of the Navy Council of Review Boards, Department of the Navy, Washington Navy Yard, 720 Kennon Street SE., Room 309, Washington, DC 20374–5023.

Written requests for information should contain the full name of the individual, military grade or rate, and date of Disability Evaluation System action. Written requests must be signed by the requesting individual.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

RECORD ACCESS PROCEDURE:

Delete entry and replace with "Individuals seeking to access information about themselves contained in this system should address written inquiries to the Director, Secretary of the Navy Council of Review Boards, Department of the Navy, Washington Navy Yard, 720 Kennon Street SE., Room 309, Washington, DC 20374–5023.

Written requests for information should contain the full name of the individual, military grade or rate, and date of Disability Evaluation System action. Written requests must be signed by the requesting individual.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

* * * * *

[FR Doc. 2013–29121 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2013–0044]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Navy proposes to alter the system of records, N01000–2, entitled "Naval Discharge Review Board Proceedings" in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will use selected information to defend the Department of the Navy in civil suits filed against it in the State and/or Federal courts system.

This information will permit officials and employees of the Board to consider former member's applications for review of discharge or dismissal and any subsequent application by the member; to answer inquiries on behalf of or from the former member or counsel regarding the action taken in the former member's case.

DATES: This proposed action will be effective on January 6, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/navy/index.html*.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 21, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 3, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01000–2

SYSTEM NAME:

Naval Discharge Review Board Proceedings (January 29, 2007, 72 FR 3983).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "The file contains the former member's application for review of discharge or dismissal, any supporting documents submitted therewith, copies of correspondence between the former member or his counsel and the Naval Discharge Review Board and other correspondence concerning the case, and a summarized record of proceedings before the Board. Records include the individual's name, Social Security Number (SSN), and case docket number and may include the individual's home address and phone number, military personnel records, medical records, and investigation reports."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 1553, Review of discharge or dismissal; DoD 6025.18–R, DoD Health Information Privacy Regulation; and E.O. 9397 (SSN), as amended."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The file is used by counsel for the former member, and by accredited representatives of veterans' organizations recognized by the Secretary, Department of Veterans Affairs under 38 U.S.C. 5902, Recognition of Representatives of Organizations and duly designated by the former member as his or her representative before the Naval Discharge Review Board.

Officials of the Department of Justice and the United States Attorney's offices assigned to the particular case.

The DoD Blanket Routine Uses that appear at the beginning of the Navy's compilation of system of records notices may apply to this system.

Note: This system of records contains Individually Identifiable Health Information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025–18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974, as amended or mentioned in this system of records notice."

* * * * *

STORAGE:

Delete entry and replace with "Paper file folders and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Name, case docket number, and/or SSN."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Secretary of the Navy Council of Review Boards, Department of the Navy, Washington Navy Yard, 720 Kennon Street SE., Room 309, Washington, DC 20374–5023.

The signed request should contain name, SSN and case docket number if known.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Secretary of the Navy Council of Review Boards, Department of the Navy, Washington Navy Yard, 720 Kennon Street SE., Room 309, Washington, DC 20374–5023.

The signed request should contain name, SSN and case docket number if known.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records."

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[FR Doc. 2013–29127 Filed 12–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice Inviting Suggestions for New Experiments for the Experimental Sites Initiative; Federal Student Financial Assistance Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education invites institutions of higher education that participate in the student assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (the HEA), and other parties, to propose ideas for new institutionally based experiments designed to test alternative ways of administering the student financial assistance programs to be a part of the ongoing Experimental Sites Initiative (ESI). For this set of experiments, the Secretary seeks suggestions for creative experiments to test innovations that have the potential to increase quality and reduce costs in higher education, while maintaining or increasing the programmatic and fiscal integrity of the student financial assistance programs authorized by Title IV of the HEA (Title IV, HEA programs). The Secretary is particularly interested in experiments that will improve student persistence and academic success, result in shorter time to degree, and reduce student loan indebtedness.

Based on the suggestions submitted in response to this notice the Secretary will design experiments and corresponding evaluation plans. The Secretary will subsequently publish a second notice in the **Federal Register** to announce approved experiments, describe implementation and evaluation, and invite institutions to apply to participate in the experiments.

DATES: Suggestions for new experiments under the ESI must be submitted no later than January 31, 2014 in order to ensure their consideration.

ADDRESSES: Submissions must be made in the form of an attachment to an email sent to the following email address: *experimentalsites@ed.gov.*

Instructions for Submitting Suggestions: We recommend that suggestions be prepared in either a Microsoft Word or Adobe Acrobat document that is attached to an email sent to the email address provided in the **ADDRESSES** section of this notice. We ask that submitters include the name and address of the institution or entity that is submitting the suggestion and the name, title, mailing and email addresses, and telephone number of one contact person for the submission.

FOR FURTHER INFORMATION CONTACT: Warren Farr, U.S. Department of Education, Federal Student Aid. Email at: *Warren.Farr@ed.gov* or by telephone at (202) 377–4380.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339. Individuals with disabilities can obtain this document in an accessible format (e.g. braille, large print, audiotape, or computer diskette) by contacting Warren Farr.

SUPPLEMENTARY INFORMATION:

Background

This past August, President Obama outlined an ambitious new agenda to combat rising college costs and make college affordable for American families. One of the components of the President's plan is to remove barriers that stand in the way of competition and innovation in higher education, including barriers that prevent the use of new technologies or adoption of alternative approaches to teaching and learning. (For more information see: *www.whitehouse.gov/the-press-office/2013/08/22/fact-sheet-president-s-plan-make-college-more-affordable-better-bargain-*).

To support the President's agenda, the Secretary will use his statutory authority under section 487A(b) of the HEA to grant waivers from specific Title IV, HEA statutory or regulatory requirements to allow a limited number of postsecondary educational institutions to participate in experiments to test alternative methods for administering the Title IV, HEA programs. Such experiments are referred to in the HEA as "experimental sites." [1]

Consistent with section 487A(b) of the HEA, the Secretary generally cannot waive requirements related to need analysis, award rules (other than an award rule related to an experiment in modular or compressed schedules), and grant and loan maximum award amounts. However, the Secretary has the authority to approve experiments in a wide range of other areas. Through this effort, we expect to develop creative experiments that align with the President's plan to promote innovations that increase quality and reduce costs, while strengthening the programmatic and fiscal integrity of the Title IV, HEA programs.

While the Title IV, HEA programs help make a postsecondary education possible for millions of students, their costs to the American taxpayer are considerable. Accordingly, Congress and the Secretary have an interest in protecting the integrity of the programs, and they do so by establishing statutory and regulatory requirements. Many of these requirements are also designed to provide protections and safeguards to students and families, including by ensuring that they are fully informed of their rights and responsibilities as applicants and recipients of assistance from the Title IV, HEA programs and that they have the information needed to make informed decisions.

At this time, we seek the assistance of postsecondary educational institutions and other parties in identifying aspects of the Title IV, HEA programs for testing alternative approaches that could result in stronger academic or career outcomes for students, especially for students from low-income backgrounds and those who struggle to succeed academically. We also seek suggestions on evaluation plans that will allow for the measurement of the effectiveness of these alternative approaches.

We understand that the ability to construct rigorous experimental or evaluation designs is a specialized skill not expected of most financial aid professionals and others who may submit suggestions for experiments. Therefore, as described below, submissions do not need to fully detail the proposed experiment and corresponding evaluation plan.

This invitation for suggestions is a part of the Secretary's continuing effort to improve Title IV, HEA program effectiveness in partnership with the higher education community. We have benefited tremendously from the community's past contributions and look forward to working with the institutions that will participate in the ESI.

Invitation for Suggestions

Through this notice, we seek ideas from postsecondary educational institutions and other parties for innovative experiments that will improve postsecondary student outcomes while maintaining or improving Title IV, HEA program accountability. Institutions and others, including businesses, philanthropies, and State agencies and offices, are encouraged to collaborate in the development of proposals. We will consider the outcomes of the experiments when proposing changes to the Title IV, HEA program regulations or, if appropriate, in legislative proposals to the Congress.

[1] Currently there are approximately 120 postsecondary educational institutions participating in one or more of eight on-going experiments. Information about these experiments is available on our Web site at *https://experimentalsites.ed.gov.*

We are particularly interested in experiments that are designed to improve student persistence and academic success, result in shorter time to degree, including by allowing students to advance through educational courses and programs at their own pace by demonstrating academic achievement, and reduce reliance on student loans. Subject to the statutory restrictions and limitations of the Secretary's experimental site authority noted above, examples of areas that could be considered for experiments include:

- Allowing flexibility in how institutions provide Federal student aid to students enrolled in competency-based education programs where progress is measured on the basis of how much has been learned, rather than measures of time;
- Allowing high school students to receive Federal student aid for enrollment in postsecondary coursework without a reduction in the amount of State and local support provided for such enrollment;
- Allowing Federal student aid to be used to pay for assessments of prior learning and other processes to evaluate students' knowledge.

We will require institutions that participate in the experiments to provide data on the outcomes of the proposed alternatives. Further, experiments must not only measure the results of the alternative approach but also provide reasonable assessments of what would have happened under the existing requirements.

Submissions need not be longer than two or three pages and should address the following:

- The specific statutory or regulatory requirement(s) relating to the Title IV, HEA programs that would be waived or modified to test the alternative approach.
- A description of the recommended alternative approach, and how the proposed alternative approach avoids or minimizes challenges imposed by the existing requirements.
- A description of how the experiment could be evaluated, including identifying outcome measures and ways to collect comparative data with respect to the current statutory or regulatory requirements that will be waived as a part of the experiment.

It is not necessary to submit fully developed experimental or evaluation plans.

Based on the submissions and our own input, and in collaboration with the submitting institution or other parties, we will develop the final experimental designs and evaluation plans for each experiment. We may also develop experiments in addition to those proposed in response to this request.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document

The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1094a(b).

Delegation of Authority: The Secretary of Education has delegated authority to Brenda Dann-Messier for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: December 3, 2013.

Brenda Dann-Messier,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2013–29213 Filed 12–5–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE)

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, December 19, 2013 6:00 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Rachel Blumenfeld, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken As Appropriate

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Rachel Blumenfeld as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Rachel Blumenfeld at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Rachel Blumenfeld at the address and phone number listed above. Minutes will also be available at

the following Web site: *http://www.pgdpcab.energy.gov/2013Meetings.html.*

Issued at Washington, DC, on November 29, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–29167 Filed 12–5–13; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0715; FRL–9902–85]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Survey of the Public and Commercial Building Industry" and identified by EPA ICR No. 2494.01 and OMB Control No. 2070–NEW, represents a new request. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before February 4, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2013–0715, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *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:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. ATTN: Docket ID Number EPA–HQ–OPPT–2013–0715. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2013–0715. EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* 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 electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Judith Brown, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–3218; fax number: (202) 564–8893; email address: *brown.judith@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. What Information is EPA Particularly Interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it 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 estimates 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.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Information Collection Activity or ICR Does this Action Apply to?

Title: Survey of the Public and Commercial Building Industry.

ICR number: EPA ICR No. 2494.01.

OMB control number: OMB Control No. 2070–NEW.

ICR status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA has initiated a proceeding to investigate whether and what type of regulatory action might be appropriate to control exposures to lead dust resulting from renovation, repair, and painting (RRP) activities in public and commercial buildings (PnCBs). These proceedings have been described in previous **Federal Register** documents, entitled "Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings" (advance notice of proposed rulemaking) (75 FR 24848, May 6, 2010) (FRL–8823–6); "Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Request for Information and Advance Notice of Public Meeting" (77 FR 76996, December 31, 2012) (FRL–9373–7); and "Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Notice of Public Meeting and Reopening of Comment Period" (78 FR 27906, May 13, 2013) (FRL–9385–6).

EPA plans to conduct a survey to collect information on: Building and activity patterns that may affect exposures to lead dust from RRP activities in PnCBs; the number of firms that perform RRP activities in PnCBs; the types and numbers of RRP activities that are performed; the extent to which various work practices are currently being used in RRP jobs in PnCBs; and the extent to which various work practices that help with the containment and cleanup of lead dust are currently being used in RRP jobs performed in PnCBs.

The information collected through the survey (along with information submitted to EPA in response to the previous **Federal Register** documents for this proceeding, as well as other data sources) will allow EPA to predict a baseline for the incidence of different types of RRP activities that disturb lead-based paint in PnCBs, the methods that are used to conduct these activities, the work practices that are used to contain and clean the resulting dust, and the characteristics of the buildings where the work is performed. EPA will use this information to estimate the resulting exposures to lead dust, which will inform Agency decisionmaking about the need for and scope of potential regulatory or other actions to reduce exposures to lead dust from RRP activities in PnCBs. If EPA determines that a regulation is needed, the Agency will use this data to assess the incremental benefits and costs of potential options to reduce such exposures. The information collected through the survey is necessary to inform Agency decisionmakers about the need for and scope of regulatory or other actions to protect against risks created by RRP activities disturbing lead-based paint in PnCBs.

The information collection will be a one-time data collection. Participation will be voluntary. Establishments will be selected using a stratified random sampling method. EPA plans to have a total of 402 respondents complete a questionnaire. The information collection will utilize separate questionnaires for contractors that perform RRP activities in PnCBs; lessors and managers of PnCBs that use their own staff to perform RRP activities; and building owners and occupants of PnCBs that use their own staff to perform RRP activities. The survey asks for readily available information, e.g., information known or easily accessible by respondents.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3 minutes per response for the screening portion of the survey, 30 minutes for the contractor questionnaire, 5 minutes for the property lessor/manager questionnaire, and 5 minutes for the building owner/occupant questionnaire. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are RRP contractors that work in PnCBs, lessors and managers of PnCBs, and owners and occupants of PnCBs.

Estimated total number of potential respondents: 402.

Frequency of response: One occasion (one time).

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 672 hours.

Estimated total annual costs: $ 39,191. This includes an estimated burden cost of $ 39,191 and an estimated cost of $ 0 for capital investment or maintenance and operational costs.

III. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 27, 2013.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–29192 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9903–86–OEI]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (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 currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 0152.10; Notice of Arrival of Pesticides and Devices (FIFRA); 19 CFR 12.112; was approved on 11/13/2013; OMB Number 2070–0020; expires on 11/30/2016; Approved with change.

EPA ICR Number 1604.10; NSPS for Secondary Brass/Bronze Production, Primary Copper/Zinc/Lead Smelters, Primary Aluminum Reduction Plants and Ferroalloy Production Facilities; 40 CFR part 60 subparts A, M, P, Q, R, S, and Z; was approved on 11/14/2013; OMB Number 2060–0110; expires on 11/30/2016; Approved without change.

EPA ICR Number 2370.03; Ambient Oxides of Sulfur Monitoring Regulations: Revisions to Network Design Requirements (Renewal); 40 CFR part 58; was approved on 11/18/2013; OMB Number 2060–0642; expires on 11/30/2016; Approved without change.

EPA ICR Number 0278.11; Notice of Supplemental Distribution of a Registered Pesticide Product; 40 CFR 152.132; was approved on 11/20/2013; OMB Number 2070–0044; expires on 11/30/2016; Approved without change.

EPA ICR Number 2415.02; Pesticide Environmental Stewardship Program Annual Measures Reporting; was approved on 11/22/2013; OMB Number 2070–0188; expires on 11/30/2016; Approved with change.

EPA ICR Number 2079.05; NESHAP for Metal Can Manufacturing Surface Coating; 40 CFR part 63 subparts A and KKKK; was approved on 11/22/2013; OMB Number 2060–0541; expires on 11/30/2016; Approved with change.

EPA ICR Number 1966.05; NESHAP for Boat Manufacturing; 40 CFR part 63 subparts A and VVVV; was approved on 11/22/2013; OMB Number 2060–0546; expires on 11/30/2016; Approved without change.

EPA ICR Number 1765.07; National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (Renewal); 40 CFR part 59 subpart B; was approved on 11/25/2013; OMB Number 2060–0353; expires on 11/30/2016; Approved without change.

EPA ICR Number 1135.11; NSPS for Magnetic Tape Coating Facilities; 40 CFR part 60 subparts A and SSS; was approved on 11/26/2013; OMB Number 2060–0171; expires on 11/30/2016; Approved without change.

EPA ICR Number 2345.03; Control of Emissions from New Marine Compression-Ignition Engines at or Above 30 Liters per Cylinder; 40 CFR parts 1042, 1043, 1060, 1065 and 1068; was approved on 11/27/2013; OMB Number 2060–0641; expires on 11/30/2016; Approved without change.

Comment Filed

EPA ICR Number 2475.01; Labeling Change for Certain Minimum Risk Pesticides under FIFRA Section 25(b); in 40 CFR 152.25; OMB filed comment on 11/22/2013.

Richard T. Westlund,

Acting Director, Collections Strategies Division.

[FR Doc. 2013–29120 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2010–0291; FRL– 9903–87–OEI]

Agency Information Collection Activities: Submission to OMB for Review and Approval; State Review Framework; EPA ICR Number 2185.05

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before January 6, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2010–0291, by one of the following methods:

- *http://www.regulations.gov:* (our preferred method) Follow the online instructions for submitting comments.
- *Mail:* Enforcement and Compliance Docket, Environmental Protection Agency, Mailcode: 2221A, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

FOR FURTHER INFORMATION CONTACT: Christopher Knopes, Office of Enforcement and Compliance Assurance, Office of Compliance, MC: 2221A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–2337; fax number: 202–564–0027; email address: *knopes.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 10, 2013 (78 FR 55252), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OECA–2010–0291, which is available for online viewing at *www.regulations.gov.* Use EPA's electronic docket and comment system at *www.regulations.gov.*

Title: State Review Framework.

ICR numbers: EPA ICR No. 2185.05, OMB Control No. 2020–0031.

ICR status: This ICR is scheduled to expire on December 31, 2013. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR Part 9.

Abstract: The State Review Framework ("Framework") is an oversight tool designed to assess state performance in enforcement and compliance assurance. The Framework's goal is to evaluate state performance by examining existing data to provide a consistent level of oversight and develop a uniform mechanism by which EPA Regions, working collaboratively with their states, can ensure that state environmental agencies are consistently implementing the national compliance and enforcement program in order to meet agreed-upon goals. Furthermore, the Framework is designed to foster

dialogue on enforcement and compliance performance between the states that will enhance relationships and increase feedback, which will in turn lead to consistent program management and improved environmental results. The Framework is described in the April 26, 2005, **Federal Register** Notice (79 FR 21408) [*http://edocket.access.gpo.gov/2005/pdf/05-8320.pdf*]. This amendment will allow OECA to collect information from enforcement and compliance files reviewed during routine on-site visits of state or local agency offices that will assist in the evaluation of the State Review Framework implementation from FY 2014 to the end of FY 2017. This request will allow EPA to make inquiries to assess the State Review Framework process, including the consistency achieved among the EPA Regions and states, the resources required to conduct the reviews, and the overall effectiveness of the program.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 521 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 54.

Frequency of response: Once every five years.

Estimated total average number of responses for each respondent: one.

Estimated total annual burden hours: 5,626.8 hours.

Estimated total annual costs: $214,725.48. This includes an estimated burden cost of $0 for capital investment or maintenance and operational costs.

Changes in the estimates: There has been a decrease in the hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. There has been a decrease in the cost in the total estimated respondent burden based on implemented program efficiencies.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–29131 Filed 12–5–13; 8:45 m]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0310; FRL–9903–74–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Sewage Sludge Treatment Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NSPS for Sewage Sludge Treatment Plants (40 CFR Part 60, Subpart O) (Renewal)" (EPA ICR No. 1063.12, OMB Control No. 2060–0035), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through March 31, 2014. Public comments were previously requested, via the **Federal Register** (78 *FR* 33409) on June 4, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 6, 2014

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0310, to: (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460: and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart O. Owners or operators of the affected facilities must make an initial notification report, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Form Numbers: None.

Respondents/affected entities: Sewage sludge treatment plant incinerators.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart O).

Estimated number of respondents: 112 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 12,464 hours (per year). "Burden" is defined at 5 CFR 1320.3(b).

Total estimated cost: $5,179,185 (per year), includes $3,960,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in labor hours in this ICR compared to the most recently approved ICR. This is due to two considerations:

(1) The regulations have not changed over the past three years, and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, so there is no significant change in the overall burden. However, there is a slight increase in the respondent labor costs due to the use of updated labor rates.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–29132 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0329; FRL–9903–66–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Rubber Tire Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NSPS for Rubber Tire Manufacturing" (EPA ICR No. 1158.11, OMB Control No. 2060–0156), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through March 31, 2014. Public comments were requested previously, via the **Federal Register** (78 *FR* 33409) on June 4, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 6, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0329, to: (1) EPA online, using *www.regulations.gov* (our preferred method), by email to: *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets*.

Abstract: Respondents are owners or operators of rubber tire manufacturing plants which include each: under-tread cementing operation, sidewall cementing operation, tread end cementing operation, bead cementing operating, green tire spraying operation, Michelin-A operation, Michelin-B operation, and Michelin-C automatic operation. The standards require the submission of notification when conducting performance tests and periodic reporting including semiannual reports of excess emissions and annual reports of Method 24 formulation data.

Form Numbers: None.

Respondents/affected entities: Rubber tire manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart BBB).

Estimated number of respondents: 41 (total).

Frequency of response: Initially, annually, and semiannually.

Total estimated burden: 17,684 hours (per year). "Burden" is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,746,207 (per year), includes $16,400 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the respondent burden from the most-recently approved ICR. Based on consultation comments received in development of this ICR, the frequency of occurrence for burden items "monitoring of VOC emissions and operations" and "recording startup, shutdown, and malfunction" were revised to account for 350 days per year operation, which is typical for current plant operation in the industry sector. This results in an increase in respondent burden hours and costs.

There is also a decrease of one burden hour for the Agency as a result of rounding. This ICR calculates all burden hours and costs to two decimal places and presents a more precise estimate.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2013–29133 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9012–4]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/*

Weekly receipt of Environmental Impact Statements

Filed 11/25/2013 Through 11/29/2013 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*

EIS No. 20130355, Draft EIS, USFS, UT, ADOPTION—TransWest Express Transmission Project, Comment Period Ends: 01/21/2014, Contact: Kenton Call 435–865–3730.

The U.S. Department of Agriculture's Forest Service has adopted the U.S. Department of the Interior's Bureau of Land Management and the U.S. Department of Energy's Western Area Power Administration's Draft EIS #20130180, filed 06/19/2013. The U.S. Forest Service was a cooperating agency for the project. Therefore, recirculation of the document is not necessary under Section 1506.3 of the CEQ Regulations.

Amended Notices

EIS No. 20130308, Draft EIS, USACE, NC, Morehead City Harbor Integrated

Dredged Material Management Plan, Port of Morehead City, Comment Period Ends: 02/03/2014, Contact: Hugh Heine 910–251–4070.

Revision to the FR Notice Published 11/01/2013; Extending Comment Period from 12/16/2013 to 02/03/2014.

EIS No. 20130325, Draft EIS, NPS, MO, Ozark National Scenic Riverways Draft General Management Plan, Wilderness Study, Comment Period Ends: 01/08/2014, Contact: William Black 573–323–4236.

Revision to the FR Notice Published 11/08/2013; Extending Comment Period from 12/30/2013 to 01/08/2014.

Dated: December 3, 2013.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2013–29193 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9903–71–OSWER]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 128(a); Notice of Grant Funding Guidance for State and Tribal Response Programs for FY2014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) will begin to accept requests, from December 9, 2013 through January 31, 2014, for grants to supplement State and Tribal Response Programs. This notice provides guidance on eligibility for funding, use of funding, grant mechanisms and process for awarding funding, the allocation system for distribution of funding, and terms and reporting under these grants. EPA has consulted with state and tribal officials in developing this guidance.

The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements and a public record. Another goal is to provide funding for other activities that increase the number of response actions conducted or overseen by a state or tribal response program. This funding is not intended to supplant current state or tribal funding for their response programs. Instead, it is to supplement their funding to increase their response capacity.

For fiscal year 2014, EPA will consider funding requests up to a maximum of $1.0 million per state or tribe. Subject to the availability of funds, EPA regional personnel will be available to provide technical assistance to states and tribes as they apply for and carry out these grants.

DATES: This action is effective as of December 9, 2013. EPA expects to make non-competitive grant awards to states and tribes which apply during fiscal year 2014.

ADDRESSES: Mailing addresses for EPA Regional Offices and EPA Headquarters can be located at *www.epa.gov/brownfields* and at the end of this Notice.

FOR FURTHER INFORMATION CONTACT: EPA's Office of Solid Waste and Emergency Response, Office of Brownfields and Land Revitalization, (202) 566–2745 or the applicable EPA Regional Office listed at the end this Notice.

SUPPLEMENTARY INFORMATION:

I. General Information

Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes a noncompetitive $50 million grant program to establish and enhance state [1] and tribal [2] response programs. CERCLA 128(a) response program grants are funded with categorical [3] State and Tribal Assistance Grant (STAG) appropriations. Section 128(a) cooperative agreements are awarded and administered by the EPA regional offices. Generally, these response programs address the assessment, cleanup, and redevelopment of brownfields sites and other sites with actual or perceived contamination. This document provides guidance that will enable states and tribes to apply for and use fiscal year 2014 section 128(a) funds.[4]

The Catalogue of Federal Domestic Assistance entry for the section 128(a) State and Tribal Response Program cooperative agreements is 66.817. This grant program is eligible to be included in state and tribal Performance Partnership Grants under 40 CFR part 35 Subparts A and B, with the exception of funds used to capitalize a revolving loan fund for brownfield remediation under section 104(k)(3); or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State or Tribal response program.

Requests for funding will be accepted from December 9, 2013 through January 31, 2014. Requests EPA receives after January 31, 2014 will not be considered for FY2014 funding. Information that must be submitted with the funding request is listed in Section VIII of this guidance. States or tribes that do not submit the request in the appropriate manner may forfeit their ability to receive funds. First time requestors are strongly encouraged to contact their Regional EPA Brownfields contacts, listed at the end of this guidance, prior to submitting their funding request.

EPA will consider funding requests up to a maximum of $1.0 million per state or tribe for FY2014.

Requests submitted by the January 31, 2014 request deadline are preliminary; final cooperative agreement work plans and budgets will be negotiated with the regional offices once final funding allocation determinations are made. As in previous years, EPA will place special emphasis on reviewing a cooperative agreement recipient's use of prior section 128(a) funding in making allocation decisions and unexpended balances are subject to 40 CFR 35.118 and 40 CFR 35.518 to the extent consistent with this guidance.

States and tribes requesting funds are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their cooperative agreement's final package. For more information, please go to *www.grants.gov.*

II. Background

State and tribal response programs oversee assessment and cleanup activities at brownfields sites across the country. The depth and breadth of state and tribal response programs vary. Some focus on CERCLA related activities, while others are multi-faceted, addressing sites regulated by both CERCLA and the Resource Conservation and Recovery Act (RCRA). Many state programs also offer accompanying financial incentive programs to spur cleanup and redevelopment. In enacting CERCLA

[1] The term "state" is defined in this document as defined in CERCLA section 101(27).

[2] The term "Indian tribe" is defined in this document as it is defined in CERCLA section 101(36). Intertribal consortia, as defined in the **Federal Register** Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA section 128(a).

[3] Categorical grants are issued by the U.S. Congress to fund state and local governments for narrowly defined purposes.

[4] The Agency may waive any provision of this guidance that is not required by statute, regulation, Executive Order or overriding Agency policies.

section 128(a),[5] Congress recognized the accomplishments of state and tribal response programs in cleaning up and redeveloping brownfields sites. Section 128(a) provides EPA with an opportunity to strengthen its partnership with states and tribes, and recognizes the response programs' critical role in overseeing cleanups enrolled in their response programs.

This funding is intended for those states and tribes that have the management and administrative capacity within their government required to administer a federal grant. The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements of an environmental response program and that the response program establishes and maintains a public record of sites addressed.

Subject to the availability of funds, EPA regional personnel will be available to provide technical assistance to states and tribes as they apply for and carry out section 128(a) cooperative agreements.

III. Eligibility for Funding

To be eligible for funding under CERCLA section 128(a), a state or tribe must:

1. demonstrate that its response program includes, or is taking reasonable steps to include, the four elements of a response program described in Section V of this guidance; *or* be a party to a voluntary response program Memorandum of Agreement (VRP MOA)[6] with EPA; and

2. maintain and make available to the public a record of sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year, see CERCLA section 128(b)(1)(C).

IV. Matching Funds/Cost-Share

States and tribes are *not* required to provide matching funds for cooperative agreements awarded under section 128(a), with the exception of section 128(a) funds a state or tribe uses to capitalize a Brownfields Revolving Loan Fund (RLF) under CERCLA section 104(k)(3). There is a 20% cost share requirement for 128(a) funds used to capitalize a RLF.

[5] Section 128(a) was added to CERCLA in 2002 by the Small Business Liability Relief and Brownfields Revitalization Act (Brownfield Amendments).

[6] States or tribes that are parties to VRP MOAs and that maintain and make available a public record are automatically eligible for section 128(a) funding.

V. The Four Elements—Section 128(a)

Section 128(a) recipients that do not have a VRP MOA with EPA must demonstrate that their response program includes, or is taking reasonable steps to include, the four elements. Achievement of the four elements should be viewed as a priority. Section 128(a) authorizes funding for activities necessary to establish and enhance the four elements, and to establish and maintain the public record requirement.

The four elements of a response program are described below:

1. *Timely survey and inventory of brownfields sites in state or tribal land.* EPA's goal in funding activities under this element is to enable the state or tribe to establish or enhance a system or process that will provide a reasonable estimate of the number, likely locations, and the general characteristics of brownfields sites in their state or tribal lands. EPA recognizes the varied scope of state and tribal response programs and will not require states and tribes to develop a "list" of brownfields sites. However, at a minimum, the state or tribe should develop and/or maintain a system or process that can provide a reasonable estimate of the number, likely location, and general characteristics of brownfields sites within their state or tribal lands. Inventories should evolve to a prioritization of sites based on community needs, planning priorities, and protection of human health and the environment. Inventories should be developed in direct coordination with communities, and particular attention should focus on those communities with limited capacity to compete for, and manage a competitive brownfield assessment, revolving loan, or cleanup cooperative agreement.

Given funding limitations, EPA will negotiate work plans with states and tribes to achieve this goal efficiently and effectively, and within a realistic time frame. For example, many of EPA's Brownfields Assessment cooperative agreement recipients conduct inventories of brownfields sites in their communities or jurisdictions. EPA encourages states and tribes to work with these cooperative agreement recipients to obtain the information that they have gathered and include it in their survey and inventory.

2. *Oversight and enforcement authorities or other mechanisms and resources.* EPA's goal in funding activities under this element is to have state and tribal response programs that include oversight and enforcement authorities or other mechanisms, and resources that are adequate to ensure that:

a. A response action will protect human health and the environment, and be conducted in accordance with applicable laws; and

b. The state or tribe will complete the necessary response activities if the person conducting the response fails to complete the necessary response (this includes operation and maintenance and/or long-term monitoring activities).

3. *Mechanisms and resources to provide meaningful opportunities for public participation.*[7] EPA's goal in funding activities under this element is to have states and tribes include in their response program mechanisms and resources for meaningful public participation, at the local level, including, *at a minimum:*

a. Public access to documents and related materials that a state, tribe, or party conducting the cleanup is relying on or developing to make cleanup decisions or conduct site activities;

b. Prior notice and opportunity for meaningful public comment on cleanup plans and site activities, including the input into the prioritization of sites; and

c. A mechanism by which a person who is, or may be, affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfields site—located in the community in which the person works or resides—may request that a site assessment be conducted. The appropriate state or tribal official must consider this request and appropriately respond.

4. *Mechanisms for approval of a cleanup plan, and verification and certification that cleanup is complete.* EPA's goal in funding activities under this element is to have states and tribes include in their response program mechanisms to approve cleanup plans and to verify that response actions are complete, including a requirement for certification or similar documentation from the state, the tribe, or a licensed site professional that the response action is complete. Written approval by a state or tribal response program official of a proposed cleanup plan is an example of an approval mechanism.

VI. Public Record Requirement

In order to be eligible for section 128(a) funding, states and tribes (including those with MOAs) must establish and maintain a public record system, as described below, in order to

[7] States and tribes establishing this element may find useful information on public participation on EPA's community involvement Web site at *http://www.epa.gov/superfund/community/policies.htm.*

receive funds. The public record should be made available to provide a mechanism for meaningful public participation (refer to Section V.3 above). Specifically, under section 128(b)(1)(C), states and tribes must:

1. Maintain and update, at least annually or more often as appropriate, a record that includes the name and location of sites at which response actions have been completed during the previous year;

2. Maintain and update, at least annually or more often as appropriate, a record that includes the name and location of sites at which response actions are planned in the next year; and

3. Identify in the public record whether or not the site, upon completion of the response action, will be suitable for unrestricted use. If not, the public record must identify the institutional controls relied on in the remedy and include relevant information concerning the entity that will be responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls; and how the responsible entity is implementing those activities (see Section VI.C).

Section 128(a) funds may be used to maintain and make available a public record system that meets the requirements discussed above.

A. Distinguishing the "Survey and Inventory" Element From the "Public Record"

It is important to note that the public record requirement differs from the "timely survey and inventory" element described in the "Four Elements" section above. The public record addresses sites at which response actions have been completed in the previous year or are planned in the upcoming year. In contrast, the "timely survey and inventory" element, described above, refers to identifying brownfields sites regardless of planned or completed actions at the site.

B. Making the Public Record Easily Accessible

EPA's goal is to enable states and tribes to make the public record and other information, such as information from the "survey and inventory" element, easily accessible. For this reason, EPA will allow states and tribes to use section 128(a) funding to make the public record, as well as other information, such as information from the "survey and inventory" element, available to the public via the internet or other means. For example, the Agency would support funding state and tribal efforts to include detailed location information in the public record such as the street address, and latitude and longitude information for each site.[8] States and tribes should ensure that all affected communities have appropriate access to the public record by making it available on-line, in print at libraries, or at other community gathering places.

In an effort to reduce cooperative agreement reporting requirements and increase public access to the public record, EPA encourages states and tribes to place their public record on the internet. If a state or tribe places the public record on the internet, maintains the substantive requirements of the public record, and provides EPA with the link to that site, EPA will, for purposes of cooperative agreement funding only, deem the public record reporting requirement met.

C. Long-Term Maintenance of the Public Record

EPA encourages states and tribes to maintain public record information, including data on institutional controls, on a long term basis (more than one year) for sites at which a response action has been completed. Subject to EPA regional office approval, states or tribes may include development and operation of systems that ensure long term maintenance of the public record, including information on institutional controls (such as ensuring the entity responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls is implementing those activities) in their work plans.[9]

VII. Use of Funding

A. Overview

Section 128(a)(1)(B) describes the eligible uses of cooperative agreement funds by states and tribes. In general, a state or tribe may use funding to "establish or enhance" its response program. Specifically, a state or tribe may use cooperative agreement funds to build response programs that includes the four elements outline in section 128(a)(2). Eligible activities include, but are not limited to, the following:

- Developing legislation, regulations, procedures, ordinances, guidance, etc. that establish or enhance the administrative and legal structure of a response program;
- Establishing and maintaining the required public record described in Section VI of this guidance;
- Operation, maintenance and long-term monitoring of institutional controls and engineering controls;
- Conducting site-specific activities, such as assessment or cleanup, provided such activities establish and/or enhance the response program and are tied to the four elements. In addition to the requirement under CERCLA section 128(a)(2)(C)(ii) to provide for public comment on cleanup plans and site activities, EPA strongly encourages states and tribes to seek public input regarding the priority of sites to be addressed and solicit input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, and communities with limited experience working with government agencies. EPA will not provide section 128(a) funds solely for assessment or cleanup of specific brownfields sites; site-specific activities must be part of an overall section 128(a) work plan that includes funding for other activities that establish or enhance the four elements;
- Capitalizing a revolving loan fund (RLF) for brownfields cleanup under CERCLA section 104(k)(3). These RLFs are subject to the same statutory requirements and cooperative agreement terms and conditions applicable to RLFs awarded under section 104(k)(3). Requirements include a 20 percent match (can be in the form of a contribution of money, labor, material, or services from a non-federal source) on the amount of section 128(a) funds used for the RLF, a prohibition on using EPA cooperative agreement funds for administrative costs relating to the RLF, and a prohibition on using RLF loans or subgrants for response costs at a site for which the recipient may be potentially liable under section 107 of CERCLA. Other prohibitions contained in CERCLA section 104(k)(4) also apply; and
- Purchasing environmental insurance or developing a risk-sharing pool, indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program.

B. Uses Related to "Establishing" A State or Tribal Response Program

Under CERCLA section 128(a), "establish" includes activities necessary

[8] For further information on data quality requirements for latitude and longitude information, please see EPA's data standards Web site available at *http://iaspub.epa.gov/sor_internet/registry/datastds/findadatastandard/epaapproved/latitudelongitude.*

[9] States and tribes may find useful information on institutional controls on the EPA's institutional controls Web site at *http://www.epa.gov/superfund/policy/ic/index.htm*

to build the foundation for the four elements of a state or tribal response program and the public record requirement. For example, a state or tribal response program may use section 128(a) funds to develop regulations, ordinances, procedures, guidance, and a public record.

C. Uses Related to "Enhancing" A State or Tribal Response Program

Under CERCLA section 128(a), "enhance" is related to activities that add to or improve a state or tribal response program or increase the number of sites at which response actions are conducted under a state or tribal response program.

The exact "enhancement" uses that may be allowable depend upon the work plan negotiated between the EPA regional office and the state or tribe. For example, regional offices and states or tribes may agree that section 128(a) funds may be used for outreach and training directly related to increasing awareness of its response program, and improving the skills of program staff. It may also include developing better coordination and understanding of other state response programs, e.g., RCRA or Underground Storage Tanks (USTs). As another example, states and tribal response programs enhancement activities can include outreach to local communities to increase their awareness and knowledge regarding the importance of monitoring engineering and institutional controls. Other "enhancement" uses may be allowable as well.

D. Uses Related to Site-Specific Activities

1. Eligible Uses of Funds for Site-Specific Activities

Site-specific assessment and cleanup activities should establish and/or enhance the response program and be tied to the four elements. Site-specific assessments and cleanups can be both eligible and allowable if the activities is included in the work plan negotiated between the EPA regional office and the state or tribe, but activities must comply with all applicable laws and are subject to the following restrictions:

a. Section 128(a) funds can only be used for assessments or cleanups at sites that meet the definition of a brownfields site at CERCLA section 101(39). EPA encourages states and tribes to use site-specific funding to perform assessment (e.g., phase II, supplemental assessments and cleanup planning) and cleanup activities that will lead more quickly to the reuse and redevelopment of sites, particularly sites located in distressed, environmental justice, rural or tribal communities. Furthermore, states and tribes that perform site-specific activities should plan to directly engage with and involve the targeted community in the project. For example, a Community Relations Plan (CRP) could be developed to provide reasonable notice to the public about a planned cleanup, as well as opportunities for the public to comment on the cleanup. States and tribes should work towards securing additional funding for site-specific activities by leveraging resources from other sources such as businesses, non-profit organizations, education and training providers, and/or federal, state, tribal, and local governments;

b. Absent EPA approval, no more than $200,000 per site assessment can be funded with section 128(a) funds, and no more than $200,000 per site cleanup can be funded with section 128(a) funds;

c. Absent EPA approval, the state/tribe may not use funds awarded under this agreement to assess and/or clean up sites owned or operated by the recipient or held in trust by the United States Government for the recipient; and

d. Assessments and cleanups cannot be conducted at sites where the state/tribe is a potentially responsible party pursuant to CERCLA section 107, except:

- At brownfields sites contaminated by a controlled substance as defined in CERCLA section 101(39)(D)(ii)(I); or
- When the recipient would satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.

Subgrants cannot be provided to entities that may be potentially responsible parties (pursuant to CERCLA section 107) at the site for which the assessment or cleanup activities are proposed to be conducted, except:

1. At brownfields sites contaminated by a controlled substance as defined in CERCLA section 101(39)(D)(ii)(I); or

2. When the recipient would satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was on or before January 11, 2002.

2. Limitations on the Amount of Funds Used for Site-Specific Activities and Waiver Process

States and tribes may use section 128(a) funds for site-specific activities that improve state or tribal capacity but the amount recipients may request for site-specific assessments and cleanups may not generally exceed 50% of the total amount of funding.[10] In order for EPA to consider a waiver, the total amount of the site-specific request may not exceed the recipient's total funding level for the previous year. The funding request must include a brief justification describing the reason(s) for spending more than 50% of an annual allocation on site-specific activities. An applicant, when requesting a waiver, must include the following information in the written justification:

- Total amount requested for site-specific activities;
- Percentage of the site-specific activities (assuming waiver is approved) in the total budget;
- Site specific activities that will be covered by this funding. If known, provide site specific information and describe how work on each site contributes to the development or enhancement of your state/tribal site response program. EPA recognizes the role of response programs to develop and provide capacity in distressed, environmental justice, rural or tribal communities, and encourages prioritization for site-specific activities in those communities. Further explain how the community will be (or has been) involved in prioritization of site work and especially those sites where there is a potential or known significant environmental impact to the community;
- An explanation of how this shift in funding will not negatively impact the core programmatic capacity (i.e., the ability to establish/enhance four elements of a response program) and how related activities will be maintained in spite of an increase in site-specific work. Recipients must demonstrate that they have adequate funding from other sources to effectively carry out work on the four elements for EPA to grant a waiver of the 50% limit on using 128(a) funds for site-specific activities;
- As explanation as to whether the sites to be addressed are those for which the affected community(ies) has requested work be conducted (refer to Section VII.A Overview of Funding for more information). EPA Headquarters will base approval of waivers on the information that is included in the justification along with the request for funding, as well as other information available to the Agency. The EPA will then inform recipients of the Agency's final decision(s).

[10] Oversight of assessment and cleanup activities performed by responsible parties (other than the state or tribe) does not count toward the 50% limit.

3. Uses Related to Site-Specific Activities at Petroleum Brownfields Sites

States and tribes may use section 128(a) funds for activities that establish and enhance response programs addressing petroleum brownfield sites. Subject to the restrictions listed above (see Section VII.D.1) for all site-specific activities, the costs of site-specific assessments and cleanup activities at petroleum contaminated brownfields sites, defined at CERCLA section 101(39)(D)(ii)(II), are both eligible and allowable if the activity is included in the work plan negotiated between the EPA regional office and the state or tribe. Section 128(a) funds used to capitalize a Brownfields RLF may be used at brownfields sites contaminated by petroleum to the extent allowed under CERCLA section 104(k)(3).

4. Additional Examples of Eligible Site-Specific Activities

Other eligible uses of funds for site-specific related include, but are not limited to, the following activities:

- Technical assistance to federal brownfields cooperative agreement recipients;
- Development and/or review of quality assurance project plans (QAPPs); and
- Entering data into the ACRES database

E. Uses Related to Activities At "Non-Brownfields" Sites

Costs incurred for activities at non-brownfields sites, e.g., oversight, may be eligible and allowable if such activities are included in the state's or tribe's work plan. Other uses not specifically referenced in this guidance may also be eligible and allowable. Recipients should consult with their regional state or tribal contact for additional guidance. *Direct assessment and cleanup activities may only be conducted on eligible brownfields sites, as defined in CERCLA section 101(39).*

VIII. General Programmatic Guidelines For 128(a) Grant Funding Requests

Funding authorized under CERCLA section 128(a) is awarded through a cooperative agreement [11] between EPA and a state or a tribe. The program is administered under the general EPA grant and cooperative agreement regulations for states, tribes, and local governments found in the Code of Federal Regulations at 40 CFR part 31 as well as applicable provisions of 40 CFR Part 35 Subparts A and B. Under these regulations, the cooperative agreement recipient for section 128(a) grant program is the government to which a cooperative agreement is awarded and which is accountable for the use of the funds provided. The cooperative agreement recipient is the entire legal entity even if only a particular component of the entity is designated in the cooperative agreement award document. Further, unexpended balances of cooperative agreement funds are subject to 40 CFR 35.118 and 40 CFR 35.518 to the extent consistent with this guidance. EPA allocates funds to state and tribal response programs under 40 CFR 35.420 and 40 CFR 35.737.

A. One Application Per State or Tribe

Subject to the availability of funds, EPA regional offices will negotiate and enter into section 128(a) cooperative agreements with eligible and interested states or tribes. *EPA will accept only one application from each eligible state or tribe.*

B. Maximum Funding Request

For Fiscal Year 2014, EPA will consider funding requests up to a maximum of $1.0 million per state or tribe. Please note the CERCLA 128(a) program's annual budget has remained relatively the same since 2003 while demand has increased over time. Due to the increasing number of entities requesting funding, it is likely that the FY14 states and tribal individual funding amounts will be less than the FY13 individual funding amounts.

C. Define the State or Tribal Response Program

States and tribes must define in their work plan the "section 128(a) response program(s)" to which the funds will be applied, and may designate a component of the state or tribe that will be EPA's primary point of contact for negotiations on their proposed work plan. When EPA funds the section 128(a) cooperative agreement, states and tribes may distribute these funds among the appropriate state and tribal agencies that are part of the section 128(a) response program. This distribution must be clearly outlined in their annual work plan.

D. Separate Cooperative Agreements for the Capitalization of RLFs Using Section 128(a) Funds

If a portion of the section 128(a) grant funds requested will be used to capitalize a revolving loan fund for cleanup, pursuant to section 104(k)(3), two separate cooperative agreements must be awarded, i.e., one for the RLF and one for non-RLF uses. States and tribes may, however, submit one initial request for funding, delineating the RLF as a proposed use. Section 128(a) funds used to capitalize an RLF are not eligible for inclusion into a Performance Partnership Grant (PPG).

E. Authority To Manage a Revolving Loan Fund Program

If a state or tribe chooses to use its section 128(a) funds to capitalize a revolving loan fund program, the state or tribe must have the lead authority to manage the program, *e.g.*, hold loans, make loans, enter into loan agreements, collect repayment, access and secure the site in event of an emergency or loan default. If the agency/department listed as the point of contact for the section 128(a) cooperative agreement does not have this authority, it must be able to demonstrate that another state or tribal agency does have the authority to manage the RLF and is willing to do so.

F. Section 128(a) Cooperative Agreements Can Be Part of a Performance Partnership Grant (PPG)

States and tribes may include section 128(a) cooperative agreements in their PPG 69 FR 51,756 (2004). Section 128(a) funds used to capitalize an RLF or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program are not eligible for inclusion in the PPG.

G. Project Period

EPA regional offices will determine the project period for each cooperative agreement. These may be for multiple years depending on the regional office's cooperative agreement policies. Each cooperative agreement must have an annual budget period tied to an annual work plan. While not prohibited, pre-award costs are subject to 40 CFR 35.113 and 40 CFR 35.513.

H. Demonstrating the Four Elements

As part of the annual work plan negotiation process, states or tribes that do *not* have VRP MOAs must demonstrate that their program includes, or is taking reasonable steps to include, the four elements described in Section V. EPA will not fund, in future years, state or tribal response program annual work plans if EPA determines that these elements are not met or reasonable progress is not being made. EPA may base this determination on the information the state or tribe provides to support its work plan, on progress

[11] A cooperative agreement is an agreement to a state/tribe that includes substantial involvement by EPA on activities described in the work plan which may include technical assistance, collaboration on program priorities, etc.

reports, or on EPA's review of the state or tribal response program.

I. Establishing and Maintaining the Public Record

Prior to funding a state's or tribe's annual work plan, EPA regional offices will verify and document that a public record, as described in Section VI and below, exists and is being maintained.[12] Specifically for:

- States or tribes that received initial funding prior to FY13: Requests for FY14 funds will not be accepted from states or tribes that fail to demonstrate, by the January 31, 2014 request deadline, that they established and are maintaining a public record. (*Note*, this would potentially impact any state or tribe that had a term and condition placed on their FY13 cooperative agreement that prohibited drawdown of FY13 funds prior to meeting public record requirement). States or tribes in this situation will not be prevented from drawing down their prior year funds once the public record requirement is met; and
- States or tribes that received initial funding in FY13: By the time of the actual FY14 award, the state or tribe must demonstrate that they established and maintained the public record (those states and tribes that do not meet this requirement will have a term and condition placed on their FY14 cooperative agreement that prohibits the drawdown of FY14 funds until the public record requirement is met).

J. Demonstration of Significant Utilization of Prior Years' Funding

States and tribes should be aware that EPA and its Congressional appropriations committees place significant emphasis on the utilization of prior years' funding. Unused funds from prior years will be considered in the allocation process. Existing balances of cooperative agreement funds as reflected in EPA's Financial Data Warehouse could support an allocation amount below a recipient's request for funding or, if appropriate deobligation and reallocation by EPA Regions as provided for in 40 CFR 35.118 and 40 CFR 35.518.

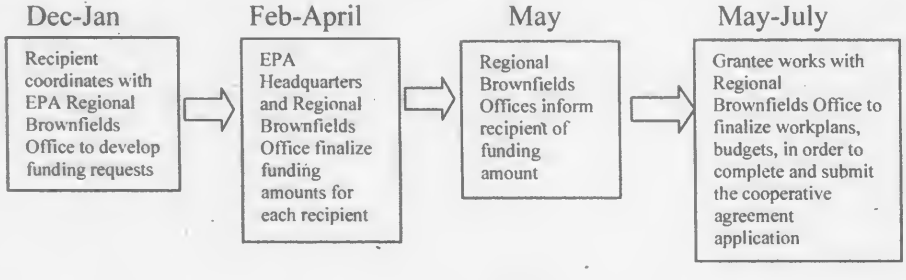
EPA Regional staff will review EPA's Financial Database Warehouse to identify the amount of remaining prior year(s) funds. The requestor should work, as early as possible, with both their own finance department, and with their Regional Project Officer to reconcile any discrepancy between the amount of unspent funds showing in EPA's system, and the amount reflected in the recipient's records. The recipient should obtain concurrence from the Region on the amount of unspent funds requiring justification by the deadline for this request for funding.

K. Allocation System and Process for Distribution of Funds

After the January 31, 2014, request deadline, EPA's Regional Offices will submit summaries of state and tribal requests to EPA Headquarters. Before submitting requests to EPA Headquarters, regional offices may take into account additional factors when determining recommended allocation amounts. Such factors include, but are not limited to, the depth and breadth of the state or tribal program; scope of the perceived need for the funding, e.g., size of state or tribal jurisdiction or the proposed work plan balanced against capacity of the program, amount of current year funding, funds remaining from prior years, etc.

After receipt of the regional recommendations, EPA Headquarters will consolidate requests and make decisions on the final funding allocations.

EPA regional offices will work with interested states and tribes to develop their preliminary work plans and funding requests. Final cooperative agreement work plans and budgets will be negotiated with the regional office once final allocation determinations are made. Please refer to process flow chart below (dates are estimates and subject to change):



IX. Information To Be Submitted With the Funding Request

A. Summary of Planned Use of FY14 Funding

All states and tribes requesting FY14 funds must submit (to their regional brownfields contact) a summary of the planned use of the funds with associated dollar amounts. Please provide the request in the chart below. The amount of funding requested should be an amount that can be reasonably spent in one year. It is likely that the FY14 state and tribal individual funding amounts will be less than the FY13 individual funding amounts. The requestor should work, as early as possible, with their EPA Regional Program contact to ensure that the funding amount requested and related activities are reasonable.

B. Demonstration of Significant Utilization of Prior Years' Funding

States and tribes that received section 128(a) funds in prior years must provide the amount of prior years' funding including funds that recipients have not received in payments (i.e., funds EPA has obligated for grants that remain in EPA's Financial Data Warehouse). EPA will take into account these funds in the allocation process when determining the recipient's programmatic needs under 40 CFR 35.420 and 40 CFR 35.737. The recipient should include a detailed explanation and justification of prior year funds that remain in EPA's Financial Data Warehouse as unspent balances. The recipient should obtain concurrence from the Region on the amount of unspent funds requiring explanation by the January 31, 2014

[12] For purposes of 128(a) funding, the state's or tribe's public record applies to that state's or tribe's response program(s) that utilized the section 128(a) funding.

deadlines for submitting funding requests.

C. Optional: Explanation of Overall Program Impacts of Any Funding Reductions

Please explain the programmatic effects of a reduction (to your current funding amount) on significant activities of your response program. Specifically, at what amount (e.g., percentage of your current funding level) would your response program experience core programmatic impacts such as a reduction in staff, a decrease in oversight activities, or other impacts to the environment and health of the communities the program serves, etc.? An EPA Region may require that this information be submitted as part of the request for funding in order to fully understand the individual program impacts associated with decreased funding. These impacts will be considered as part of the decision for the final allocation.

Funding use	FY13 Awarded	FY14 Requested	Summary of intended use (Example Uses)
Establish or enhance the four elements:	$XX,XXX	$XX,XXX.	
1. Timely survey and inventory of brownfields sites;.			1. Examples:
			• inventory and prioritize brownfields sites.
			• institutional control (IC)/engineering control (EC) tracking.
2. Oversight and enforcement authorities or other mechanisms;.			2. Examples:
			• develop/enhance ordinances, regulations, procedures for response programs.
3. Mechanisms and resources to provide meaningful opportunities for public participation;.			3. Examples:
			• develop a community involvement process.
			• community outreach.
			• issue public notices of site activities.
			• develop a process to seek public input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, and communities with limited experience working with government agencies to prioritize sites to be addressed.
4. Mechanisms or approval of a cleanup plan and verification and certification that cleanup is complete.			4. Examples:
			• Develop/update cleanup standards.
			• review cleanup plans and verify completed actions.
Establish and maintain the public record	$XX,XXX	$XX,XXX	• maintain public record.
			• create web site for public record.
			• disseminate public information on how to access the public record.
Enhance the response program	$XX,XXX	$XX,XXX	• provide oversight of site assessments and cleanups.
			• attend training and conferences on brownfields cleanup technologies & other brownfields topics.
			• update and enhance program management activities.
			• negotiate/oversee contracts for response programs.
			• enhance program management & tracking systems.
Site-specific activities *(amount requested should be incidental to the workplan, see Section VI.D for more information on what activities should be considered when calculating site specific activities).*	$XX,XXX	$XX,XXX	• perform site assessments and cleanups. • develop QAPPs. • establish eligibility of target sites. • prepare Property Profile Forms/input data into ACRES database for these sites.
Environmental insurance	$XX,XXX	$XX,XXX	• review potential uses of environmental insurance.
			• manage an insurance risk pool.
Revolving loan fund	$XX,XXX	$XX,XXX	• create a cleanup revolving loan fund.
Total funding	$XXX,XXX	$XXX,XXX	Performance Partnership Grant? Yes ☐ No ☐.

X. Terms and Reporting

Cooperative agreements for state and tribal response programs will include programmatic and administrative terms and conditions. These terms and conditions will describe EPA's substantial involvement including technical assistance and collaboration on program development and site-specific activities. Each of the subsections below summarizes the basic terms and conditions, and related reporting that will be required if a cooperative agreement with EPA is awarded.

A. Progress Reports

In accordance with 40 CFR 31.40, state and tribes must provide progress reports as provided in the terms and conditions of the cooperative agreement negotiated with EPA regional offices. State and tribal costs for complying with reporting requirements are an eligible expense under the section 128(a)

cooperative agreement. As a minimum, state or tribal progress reports must include both a narrative discussion and performance data relating to the state's or tribe's accomplishments and environmental outputs associated with the approved budget and workplan. Reports should also provide an accounting of section 128(a) funding. If applicable, the state or tribe must include information on activities related to establishing or enhancing the four elements of the state's or tribe's response program. All recipients must provide information related to establishing or, if already established, maintaining the public record. *Depending upon the activities included in the state's or tribe's work plan,* an EPA regional office may request that a progress report include:

1. *Reporting interim and final progress reports.* Reports must prominently display the following three relevant Essential Elements as reflected in the current EPA strategic plan: *Strategic Plan Goal 3:* Cleaning Up Communities and Advancing Sustainable Development, *Strategic Plan Objective 3.1:* Promote Sustainable and Livable Communities, and *Work plan Commitments and Timeframes.* EPA's strategic plan can be found on the Internet at *http://www.epa.gov/planandbudget/strategicplan.html.*

2. *Reporting for Non-MOA states and tribes.* All recipients *without* a VRP MOA must report activities related to establishing or enhancing the four elements of the state's or tribe's response program. For each element state/tribes must report how they are maintaining the element or how they are taking reasonable steps to establish or enhance the element as negotiated in individual state/tribal work plans. For example, pursuant to CERCLA section 128(a)(2)(B), reports on the oversight and enforcement authorities/mechanisms element *may* include:

- A narrative description and copies of applicable documents developed or under development to enable the response program to conduct enforcement and oversight at sites. For example:
  - Legal authorities and mechanisms (e.g., statutes, regulations, orders, agreements); and
  - Policies and procedures to implement legal authorities; and other mechanisms;
- A description of the resources and staff allocated/to be allocated to the response program to conduct oversight and enforcement at sites as a result of the cooperative agreement;
- A narrative description of how these authorities or other mechanisms, and resources, are adequate to ensure that:
  - A response action will protect human health and the environment; and be conducted in accordance with applicable federal and state law; and if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed; and
- A narrative description and copy of appropriate documents demonstrating the exercise of oversight and enforcement authorities by the response program at a brownfields site.

3. *Reporting for site-specific assessment or cleanup activities.* Recipients with work plans that include funding for *brownfields site assessment or cleanup* must input information required by the OMB-approved Property Profile Form into the Assessment Cleanup and Redevelopment Exchange System (ACRES) database for each site assessment and cleanup. In addition, recipients must report how they provide the affected community with prior notice and opportunity for meaningful participation as per CERCLA section 128(a)(2)(C)(ii), on proposed cleanup plans and site activities. For example, EPA strongly encourages states and tribes to seek public input regarding the priority of sites to be addressed and to solicit input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote communities, and communities with limited experience working with government agencies.

4. *Reporting for other site-specific activities.* Recipients with work plans that include funding for *other site-specific related activities* must include a description of the site-specific activities and the number of sites at which the activity was conducted. For example:

- Number and frequency of oversight audits of licensed site professional certified cleanups;
- Number and frequency of state/tribal oversight audits conducted;
- Number of sites where staff conducted audits, provided technical assistance, or conducted other oversight activities; and
- Number of staff conducting oversight audits, providing technical assistance, or conducting other oversight activities.

5. *Reporting required when using funding for an RLF.* Recipients with work plans that include funding for revolving loan fund (RLF) must include the information required by the terms and conditions for progress reporting under CERCLA section 104(k)(3) RLF cooperative agreements.

6. *Reporting environmental insurance.* Recipients with work plans that include funding for *environmental insurance* must report:

- Number and description of insurance policies purchased (*e.g.,* type of coverage provided; dollar limits of coverage; any buffers or deductibles; category and identity of insured persons; premium; first dollar or umbrella; site specific or blanket; occurrence or claims made, etc.);
- The number of sites covered by the insurance;
- The amount of funds spent on environmental insurance (*e.g.,* amount dedicated to insurance program, or to insurance premiums); and
- The amount of claims paid by insurers to policy holders.

The regional offices may also request that information be added to the progress reports, as appropriate, to properly document activities described by the cooperative agreement work plan.

EPA regions may allow states or tribes to provide performance data in appropriate electronic format.

The regional offices will forward progress reports to EPA Headquarters, if requested. This information may be used to develop national reports on the outcomes of CERCLA section 128(a) funding to states and tribes.

B. Reporting of Program Activity Levels

States and tribes must report, by January 31, 2014, a summary of the *previous federal fiscal year's* work (October 1, 2012 through September 30, 2013). The following information must be submitted to your regional project officer:

- Environmental programs where CERCLA 128(a) funds are used to support capacity building (general program support, non-site-specific work). Indicate as appropriate from the following:

—Brownfields
—Underground Storage Tanks/Leaking Underground Storage Tanks
—Federal Facilities
—Solid Waste
—Superfund
—Hazardous Waste Facilities
—VCP (Voluntary Cleanup Program, Independent Cleanup Program, etc.)
—Other_____;

- Number of properties (or sites) enrolled in a response program during FY13;
- Number of properties (or sites) where documentation indicates that

cleanup work is complete and all required institutional controls (IC's) are in place, or not required;

• Total number of acres associated with properties (or sites) in the previous bullet; and

• Number of properties where assistance was provided, but the property was not enrolled in the response program (OPTIONAL).

EPA may require states/tribes to report specific performance measures related to the four elements that can be aggregated for national reporting to Congress.

For example:

1. Timely survey and inventory—estimated number of brownfields sites in the state or on tribal land;

2. oversight and enforcement authorities/mechanisms—number of active cleanups and percentage that received oversight; percentage of active cleanups not in compliance with the cleanup workplan and that received communications from recipient regarding non-compliance;

3. public participation—percentage of sites in the response program where public meetings/notices were conducted regarding the cleanup plan and/or other site activities; number of site assessments requests, and responses to such requests; and

4. cleanup approval/certification mechanisms—total number of "no further action" letters or total number of certificates of completions.

[NOTE: This reporting requirement may include activities not funded with CERCLA Section 128(a) funding, because such information may be helpful to EPA when evaluating whether recipients have met or are taking reasonable steps to meet the four elements of a response program pursuant to CERCLA Section 128(a)(2).]

C. Reporting of Public Record

All recipients must report, as specified in the terms and conditions of their cooperative agreement, and in Section VIII.I of this guidance, information related to establishing, or if already established, maintaining the public record, described above. States and tribes can refer to an already existing public record, e.g., Web site or other public database to meet the public record requirement. Recipients reporting may only be required to demonstrate that the public record (a) exists and is up-to-date, and (b) is adequate. A public record may include the following information:

A list of sites at which response actions have been completed in the past year including:

• Date the response action was completed;

• Site name;

• Name of owner at time of cleanup, if known;

• Location of the site (street address, and latitude and longitude);

• Whether an institutional control is in place;

• Type of institutional control in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.);

• Nature of the contamination at the site (e.g., hazardous substances, contaminants or pollutants, petroleum contamination, etc.); and

• Size of the site in acres.

A list of sites planned to be addressed by the state or tribal response program in the coming year including:

• Site name and the name of owner at time of cleanup, if known;

• Location of the site (street address, and latitude and longitude);

• To the extent known, whether an institutional control is in place;

• Type of the institutional control in place (*e.g.*, deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.);

• To the extent known, the nature of the contamination at the site (*e.g.*, hazardous substances, contaminants, or pollutants, petroleum contamination, etc.); and

• Size of the site in acres

D. Award Administration Information

1. Subaward and Executive Compensation Reporting

Applicants must ensure that they have the necessary processes and systems in place to comply with the subaward and executive total compensation reporting requirements established under OMB guidance at 2 CFR part 170, unless they qualify for an exception from the requirements, should they be selected for funding.

2. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements

Unless exempt from these requirements under OMB guidance at 2 CFR Part 25(e.g., individuals), applicants must:

1. Be registered in SAM prior to submitting an application or proposal under this announcement. SAM information can be found at *https://www.sam.gov/portal/public/SAM/.*

2. Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or proposal under consideration by an agency, and

3. Provide its DUNS number in each application or proposal it submits to the agency. Applicants can receive a DUNS number, at no cost, by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711, or visiting the D&B Web site at: *http://www.dnb.com.*

If an applicant fails to comply with these requirements, it will, should it be selected for award, affect their ability to receive the award.

Please note that the CCR has been replaced by the System for Award Management (SAM). To learn more about SAM, go to SAM.gov or *https://www.sam.gov/portal/public/SAM/.*

3. Use of Funds

An applicant that receives an award under this announcement is expected to manage assistance agreement funds efficiently and effectively, and make sufficient progress towards completing the project activities described in the work-plan in a timely manner. The assistance agreement will include terms and conditions related to implementing this requirement.

REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS

Region	State	Tribal
1—CT, ME, MA, NH, RI, VT.	James Byrne, 5 Post Office Square, Suite 100, (OSRR07–2), Boston, MA 02109–3912, Phone (617) 918–1389 Fax (617) 918–1291.	Amy Jean McKeown, 5 Post Office Square, Suite 100 (OSRR07–2), Boston, MA 02109–3912, Phone (617) 918–1248 Fax (617) 918–1291.
2—NJ, NY, PR, VI ..	Alison Devine, 290 Broadway, 18th Floor, New York, NY 10007–1866, Phone (212) 637–4158 Fax (212) 637–3083.	Phillip Clappin, 290 Broadway, 18th Floor, New York, NY 10007–1866, Phone (212) 637–4431 Fax (212) 637–3083.
3—DE, DC, MD, PA, VA, WV.	Janice Bartel, 1650 Arch Street (3HS51), Philadelphia, PA 19103, Phone (215) 814–5394 Fax (215) 814–3015.	

REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS—Continued

Region	State	Tribal
4—AL, FL, GA, KY, MS, NC, SC, TN.	Nicole Comick-Bates, 61 Forsyth Street, S.W, 10TH FL (9T25), Atlanta, GA 30303–8909, Phone (404) 562–9966 Fax (404) 562–8788.	Cindy J. Nolan, 61 Forsyth Street, S.W, 10TH FL (9T25), Atlanta, GA 30303–8909, Phone (404) 562–8425 Fax (404) 562–8788.
5—IL, IN, MI, MN, OH, WI.	Jan Pels, 77 West Jackson Boulevard (SE–7J), Chicago, IL 60604–3507, Phone (312) 886–3009 Fax (312) 692–2161.	Jane Neumann, 77 West Jackson Boulevard (SE–7J), Chicago, IL 60604–3507, Phone (312) 353–0123 Fax (312) 697–2649.
6—AR, LA, NM, OK, TX.	Amber Perry, 1445 Ross Avenue, Suite 1200 (6SF), Dallas, TX 75202–2733, Phone (214) 665–3172 Fax (214) 665–6660.	Amber Perry, 1445 Ross Avenue, Suite 1200 (6SF), Dallas, TX 75202–2733, Phone (214) 665–3172 Fax (214) 665–6660.
7—IA, KS, MO, NE	Susan Klein, 11201 Renner Boulevard (SUPRSTAR), Lenexa, KS 66219, Phone (913) 551–7786 Fax (913) 551–9786.	Jennifer Morris, 11201 Renner Boulevard (SUPRSTAR), Lenexa, KS 66219, Phone (913) 551–7341Fax (913) 551–9798.
8—CO, MT, ND, SD, UT, WY.	Christina Wilson, 1595 Wynkoop Street (EPR–B), Denver, CO 80202–1129, Phone (303) 312–6706 Fax (303) 312–6065.	Barbara Benoy, 1595 Wynkoop Street (8EPR–SA), Denver, CO 80202–1129, Phone (303) 312–6760 Fax (303) 312–6962.
9—AZ, CA, HI, NV, AS, GU.	Eugenia Chow, 75 Hawthorne St. (SFD–6–1), San Francisco, CA 94105, Phone (415) 972–3160 Fax (415) 947–3520.	Glenn Kistner, 75 Hawthorne St. (SFD–6–1), San Francisco, CA 94105, Phone (415) 972–3004 Fax (415) 947–3520.
10—AK, ID, OR, WA	Mary K. Goolie, 222 West 7th Avenue #19 (AOO), Anchorage, AK 99513, Phone ((907) 271–3414 Fax (907) 271–3424.	Mary K. Goolie, 222 West 7th Avenue #19 (AOO), Anchorage, AK 99513, Phone ((907) 271–3414 Fax (907) 271–3424.

XI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). Because this action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub.L. 104–4). In addition, this action does not significantly or uniquely affect small governments. This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Because this final action does not contain legally binding requirements, it is not subject to the Congressional Review Act.

Dated: November 25, 2013.

David R. Lloyd,

Director, Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response.

[FR Doc. 2013–28983 Filed 12–5–13; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 12, 2013, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to VisitorRequest@FCA.gov at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- November 14, 2013.

B. New Business

- Reports of Accounts and Exposures—Final Rule.

C. Reports

- Quarterly Report on Economic Conditions and Farm Credit System Conditions.
- Semi-Annual Report on Office of Examination Operations.

Closed Session*

- Office of Examination Quarterly Report.

Dated: December 4, 2013.

Dale L. Aultman,

Secretary, Fam Credit Administration Board.

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

[FR Doc. 2013–29295 Filed 12–4–13; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 4, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov <mailto:Cathy.Williams@fcc.gov>*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0262.

Title: Section 90.179, Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, non-for-profit institutions, and state, local and tribal government.

Number of Respondents and Responses: 42,000 respondents, 42,000 responses.

Estimated Time per Response: .25 up to .75 hours.

Frequency of Response: Recordkeeping requirement and On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7).

Total Annual Burden: 42,000 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: The Commission was directed by the United States Congress, in the Balanced Budget Act of 1997, to dedicate 2.4 MHz of electromagnetic spectrum in the 746–806 MHz band for public safety services. Section 90.179 requires that Part 90 licensees that share use of their private land mobile radio facility on non-profit, cost-sharing basis to prepare and keep a written sharing agreement as part of the station records. Regardless of the method of sharing, an up-to-date list of persons who are sharing the station and the basis of their eligibility under Part 90 must be maintained. The requirement is necessary to identify users of the system should interference problems develop. This information is used by the Commission to investigate interference complaints and resolve interference and operational complaints that may arise among the users.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–29159 Filed 12–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records

AGENCY: Federal Communications Commission (FCC or Commission or Agency)

ACTION: Notice; one new Privacy Act system of records.

SUMMARY: Pursuant to subsection (e)(4) of the *Privacy Act of 1974*, as amended (5 U.S.C. 552a), the FCC proposes to add a new system of records, FCC/WCB–1, "Lifeline Program." The FCC's Wireline Competition Bureau (WCB) will use the information contained in FCC/WCB–1 to cover the personally identifiable information (PII) that is required as part of the Lifeline Program ("Lifeline"). The Lifeline Program provides discounts for voice telephony service (*i.e.*, telephone service) to qualifying low-income households (*i.e.*, individuals residing in a single household). Individuals may qualify for Lifeline through proof of income or participation in another qualifying program. Since the Telecommunications Act of 1996 (1996 Act), the Lifeline Program has been administered by the Universal Service Administrative Company (USAC) under Commission direction. USAC will maintain the databases containing consumer PII that are necessary to eliminate waste, fraud, and abuse in the Lifeline Program.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (e)(11) of the Privacy Act, as amended, any interested person may submit written comments concerning this new system of records on or before January 6, 2014. The Administrator, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act to review the system of records, and Congress may submit comments on or before January 15, 2014. The proposed new system of records will become effective on January 15, 2014 unless the FCC receives comments that require a contrary determination. The Commission will publish a document in the **Federal Register** notifying the public if any changes are necessary. As required by 5 U.S.C. 552a(r) of the

Privacy Act, the FCC is submitting reports on this proposed new system to OMB and Congress.

ADDRESSES: Address comments to Leslie F. Smith, Privacy Analyst, Performance Evaluation and Records Management (PERM), Room 1–C216, Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, or via the Internet at *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Performance Evaluation and Records Management (PERM), Room 1–C216, Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed new system of records maintained by the FCC. This notice is a summary of the more detailed information about the proposed new system of records, which may be obtained or viewed pursuant to the contact and location information given above in the **ADDRESSES** section. The purpose for establishing this new system of records, FCC/WCB–1, "Lifeline Program" is to cover the PII in the Commission's Lifeline Program. The Lifeline Program serves low-income individuals by providing qualifying individuals (*i.e.*, all individuals in a single household) with discounts on voice telephony service.

This notice meets the requirement documenting the proposed new system of records that is to be added to the systems of records that the FCC maintains, and provides the public, OMB, and Congress with an opportunity to comment.

FCC/WCB–1

SYSTEM NAME:

Lifeline Program

SECURITY CLASSIFICATION:

The FCC's Security Operations Center (SOC) has not assigned a security classification to this system of records.

SYSTEM LOCATION(S):

Universal Service Administrative Company (USAC)/Contractor Server Address:

Universal Service Administrative Company (USAC), 2000 L St. NW., Suite 200, Washington, DC 20036; and Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include those individuals (residing in a single household) who have applied for benefits; are currently receiving benefits; are minors whose status qualifies a parent or guardian for benefits; or who have received benefits under the Lifeline Program, which serves low-income individuals by providing these qualifying individuals with discounts on telephone service for their household.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system include, but are not limited to: The individual's name, residential address, date of birth, last four digits of social security number, tribal identification number, telephone number, means of qualification for Lifeline (*i.e.*, income or relevant program participation), Lifeline service initiation date and termination date, amount of Lifeline support received per month, date of the provision of Link-Up support (if applicable).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 151–154, 201–205, 214, 254, 403. 47 CFR 54.404–54.410.

PURPOSE(S):

The Lifeline Program provides discounts for voice telephony service, and the initial connection charge in tribal areas to support such service, to qualifying low-income individuals (*i.e.*, one Lifeline telephone service per household). Individuals may qualify for Lifeline through proof of income or proof of participation in another qualifying program. The Lifeline Program system of records covers the PII that the Eligible Telecommunications Carriers (ETCs) must provide to prevent the individuals in a single household from receiving more than one Lifeline Program benefit, as required by 47 CFR 54.404 and 54.410. The Lifeline Program system of records also covers the PII that enables USAC to recertify the eligibility of current Lifeline Program subscribers of ETCs who have elected this option, as required by 47 CFR 54.410. The PII in WCB–1 will include:

1. The information that is used to determine whether an individual in a household, who is applying for a Lifeline Program benefit, is already receiving a Lifeline Program benefit from one or more providers. In order to determine if this information is in fact accurate, the information is confirmed with a third-party verification service not in the control of USAC or the Commission;

2. The information that ETCs that elect to have USAC recertify their Lifeline subscribers. These ETCs must provide USAC with a subscriber list containing PII that includes the first name, last name, address, Lifeline telephone number, date of birth, and last four digits of social security number for each subscriber; and

3. The information that is contained in the records of the inquiries that the ETCs will make to the Lifeline Program contractor's call center to verify that an individual is eligible to participate in the Lifeline Program. USAC will designate a third party contractor to establish this call center as part of USAC's "exception management practices." The contractor will operate this call center, which individuals may use who are seeking to participate in or are already participating in the Lifeline Program. These individuals may call the center to ensure that they have not been improperly denied access to Lifeline Program benefits through the verification process. Any information generated by these inquiries will constitute a separate, distinct database, which will include, but is not limited to, recordings of live agent calls to be stored for 30 days from the date of the call, identity of the user initiating the request, brief description of the request, type of request, identification of the USAC-approved script used in responding to the request, resolution status, and whether the request was escalated (*i.e.*, if the agents escalates the issue to the agent's manager or USAC program personnel). This information will be used, among other things, to verify the accuracy of the information stored in the Lifeline system (*i.e.*, to determine the accuracy of the PII provided by the ETC.) Records in the Lifeline system are available for public inspection after redaction of information that could identify the individual participant, such as the individual's name(s), date of birth, last four digits of social security number, tribal ID number, telephone number, or other PII.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about individuals in this system of records may routinely be disclosed under the following conditions. The FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected in each of these cases.

1. FCC Program Management—A record from this system may be accessed and used by the FCC and USAC employees to conduct official duties

associated with the management and operation of the Lifeline Program and the National Lifeline Accountability Database (NLAD), as directed by the Commission. While the FCC will not routinely access the information in this system, information which includes, but is not limited to USAC audits and/or investigations of the ETCs (for the purposes of eliminating waste, fraud, and abuse in this program) may be shared with the FCC's Enforcement Bureau (EB), Wireline Competition Bureau (WCB), Office of Managing Director (OMD), and/or Office of Inspector General (OIG), as necessary;

2. Third Party Contractors—A record from this system may be disclosed to an employee of a third-party contractor to conduct the verification process that allows the ETC to determine the accuracy of the PII provided by the ETC to the system of records. When an employee of a third-party contractor, responsible for exception management, verifies the eligibility of the consumer subject to an exception;

3. State Agencies and Authorized Entities—A record from this system may be disclosed to designated state agencies and other authorized entities, which include, but are not limited to, state public utility commissions, and their agents, as is consistent with applicable Federal and State laws, to administer the Lifeline Program on behalf of an ETC in that state and to perform other management and oversight duties and responsibilities, as necessary;

4. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of FCC Rules and Regulations by an applicant, licensee, certified or regulated entity or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. When an order or other Commission-issued document that includes consideration of an informal complaint or complaints is issued by the FCC to implement or to enforce FCC Rules and Regulations, the complainant's name may be made public in that order or document. Where a complainant in filing his or her complaint explicitly requests that confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint;

5. Congressional Inquiries—When requested by a Congressional office in response to an inquiry that an individual made to the Congressional office for the individual's own records;

6. Congressional Investigations and Inquiries—A record from this system may be disclosed to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, for the purposes of an official Congressional investigation;

7. Government-wide Program Management and Oversight—When requested by the National Archives and Records Administration (NARA), the Office of Personnel Management, the General Services Administration (GSA), and/or the Government Accountability Office (GAO) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906 (such disclosure(s) shall not be used to make a determination about individuals); when the U.S. Department of Justice (DOJ) is contacted in order to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act; or when the Office of Management and Budget (OMB) is contacted in order to obtain that office's advice regarding obligations under the Privacy Act;

8. Income and Program Eligibility Records—A record from this system may be disclosed to the appropriate Federal and/or State authorities for the purposes of determining whether a household may participate in the Lifeline Program;

9. Law enforcement and Investigation—Where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be shared with appropriate federal, state, or local authorities either for purposes of obtaining additional information relevant to a FCC decision or for referring the record for investigation, enforcement, or prosecution by another agency, *e.g.*, Internal Revenue Service (IRS) to investigate income eligibility verification;

10. Adjudication and Litigation—Where by careful review, the Agency determines that the records are both relevant and necessary to litigation and the use of such records is deemed by the Agency to be for a purpose that is compatible with the purpose for which the Agency collected the records, these records may be used by a court or adjudicative body in a proceeding when: (a) The Agency or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation;

11. Department of Justice—A record from this system of records may be disclosed to the Department of Justice (DOJ) or in a proceeding before a court or adjudicative body when:

(a) The United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and

(b) The Commission determines that the disclosure is relevant or necessary to the litigation; and

12. Breach of Federal Data—A record from this system may be disclosed to appropriate agencies, entities (including USAC), and persons when: (1) The Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity (including USAC)) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information pertaining to the Lifeline Program includes electronic records, files and data and paper documents, records, and files. Both USAC and the contractor will jointly manage and the electronic data, which will be stored in the computer network databases housed at USAC and at the contractor, and the paper documents, which will be stored in filing cabinets in their respective offices at USAC and the contractor.

RETRIEVABILITY:

Information in the Lifeline Program may be retrieved by various identifiers, including, but not limited to the individual's name, last four digits of the

Social Security Number (SSN), tribal identification number, date of birth, phone number, and residential address.

SAFEGUARDS:

Access to the electronic files is restricted to authorized USAC and the contractor's supervisors and staff. The FCC requires that these computer network databases be protected by various security protocols, which include, but are not limited to, controlled access, passwords, and other security features. In addition, data in the network servers for both USAC and the contractor will be routinely backed-up. The servers will be stored in secured environments to protect the data.

The paper documents are maintained in file cabinets that are located in the USAC and the contractor's office suites. The file cabinets are locked when not in use and at the end of the business day. Access to these files is restricted to authorized USAC and the contractor's staffs.

RETENTION AND DISPOSAL:

The National Archives and Records Administration (NARA) has not established a records schedule for the information in the Lifeline Program. Consequently, until NARA has approved a records schedule, USAC will maintain the information in the Lifeline Program in accordance with the requirements of the *Lifeline Reform Order*. The *Lifeline Reform Order* states that information in the Lifeline Program is maintained for ten years after the consumer de-enrolls from the Lifeline Program. *See Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11–42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6740, para. 195 (2012). Disposal of obsolete or out-of-date paper documents and files is by shredding. Electronic data, files, and records are destroyed by electronic erasure.

SYSTEM MANAGER(S) AND ADDRESS:

USAC maintains the Lifeline Program for the FCC.

Address inquiries to the Universal Service Administrative Company (USAC), 2000 L Street NW., Suite 200, Washington, DC 20036; or

Wireline Competition Bureau (WCB), 445 12th Street SW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Universal Service Administrative Company (USAC), 2000 L Street NW., Suite 200, Washington, DC 20036;

Wireline Competition Bureau (WCB), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554; or

Privacy Analyst, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554.

RECORD ACCESS PROCEDURES:

Universal Service Administrative Company (USAC), 2000 L Street NW., Suite 200, Washington, DC 20036;

Wireline Communications Bureau (WCB), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554; or

Privacy Analyst, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554.

CONTESTING RECORD PROCEDURES:

Universal Service Administrative Company (USAC), 2000 L Street NW., Suite 200, Washington, DC 20036;

Wireline Competition Bureau (WCB), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554; or

Privacy Analyst, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554.

RECORD SOURCE CATEGORIES:

The sources for the information in the Lifeline Program include, but are not limited to:

1. The information that the ETCs must provide prior to enrolling subscribers and/or to re-certifying subscribers (in qualifying households) for participation in the Lifeline Program; and

2. The information that individuals (in qualifying households) must provide to determine their households' eligibility for participation in the Lifeline Program, *e.g.*, participating in other qualifying programs and/or services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–29172 Filed 12–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request Re: Foreign Branching and Investment by Insured State Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of its information collection entitled *Foreign Branching and Investment by Insured State Nonmember Banks* (OMB No. 3064–0125). At the end of the comment period, any comments and recommendations received will be analyzed to determine the extent to which the collections should be modified prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before February 4, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

Title: Foreign Branching and Investment by Insured State Nonmember Banks.

OMB Number: 3064–0125.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: Recordkeeping—40; reporting—11.

Estimated Time per Response: Recordkeeping—400 hours; reporting—27 hours.

Total Estimated Annual Burden: 16,298 hours.

General Description of Collection: The Federal Deposit Insurance (FDI) Act requires state nonmember banks to obtain FDIC consent to establish or operate a branch in a foreign country, or to acquire and hold, directly or indirectly, stock or other evidence of ownership in any foreign bank or other entity. The FDI Act also authorizes the FDIC to impose conditions for such consent and to issue regulations related thereto. This collection is a direct consequence of those statutory requirements.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 2nd day of December, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–29085 Filed 12–5–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE COEPORATION

Notice to All Interested Parties of the Termination of the Receivership of 7166, The BENJ Franklin Federal Savings and Loan Association Portland, Oregon

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for The BENJ Franklin Federal Savings and Loan Association, Portland, Oregon ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of The BENJ Franklin Federal Savings and Loan Association on September 7, 1990. 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 at Washington, DC, this 2nd day of December, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–29086 Filed 12–5–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 2, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *First Security Bancorp,* Searcy,, Arkansas; to acquire additional voting shares of CrossFirst Holdings, LLC, and thereby indirectly acquire additional voting shares of CrossFirst Bank, both in Leawood, Kansas.

Board of Governors of the Federal Reserve System, December 3, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–29149 Filed 12–5–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 2, 2014.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Clifton MHC,* Clifton, New Jersey; to convert to stock form and merge with and into Clifton Bancorp, Inc., Clifton, New Jersey, which will become a savings and loan holding company by acquiring Clifton Savings Bank, Clifton, New Jersey.

Board of Governors of the Federal Reserve System, December 3, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–29150 Filed 12–5–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Pharmacy Survey on Patient Safety Culture Comparative Database." In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by February 4, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Pharmacy Survey on Patient Safety Culture Comparative Database

In 1999, the Institute of Medicine called for health care organizations to develop a "culture of safety" such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; To Err is Human: Building a Safer Health System). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the Pharmacy Survey on Patient Safety Culture with OMB approval (OMB NO. 0935–0183; Approved 08/12/2011). The survey is designed to enable pharmacies to assess staff opinions about patient and medication safety and quality-assurance issues, and includes 36 items that measure 11 dimensions of patient safety culture. AHRQ made the survey publicly available along with a Survey User's Guide and other toolkit materials in October 2012 on the AHRQ Web site.

The AHRQ Pharmacy Survey on Patient Safety Culture (Pharmacy SOPS) Comparative Database consists of data from the AHRQ Pharmacy Survey on Patient Safety Culture. Pharmacies in the U.S. are asked to voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The Pharmacy SOPS Database is modeled after three other SOPS databases: Hospital SOPS [OMB NO. 0935–0162; Approved 05/04/2010]; Medical Office SOPS [OMB NO. 0935–0196; Approved 06/12/12]; and Nursing Home SOPS [OMB NO. 0935–0195; Approved 06/12/12] that were originally developed by AHRQ in response to requests from hospitals, medical offices, and nursing homes interested in knowing how their patient safety culture survey results compare to those of other similar health care organizations.

Rationale for the information collection. The Pharmacy SOPS survey and the Pharmacy SOPS Comparative Database will support AHRQ's goals of promoting improvements in the quality and safety of health care in pharmacy settings. The survey, toolkit materials, and comparative database results are all made publicly available on AHRQ's Web site. Technical assistance is provided by AHRQ through its contractor at no charge to pharmacies, to facilitate the use of these materials for pharmacy patient safety and quality improvement.

The goal of this project is to create the Pharmacy SOPS Comparative Database. This database will:

(1) Allow pharmacies to compare their patient safety culture survey results with those of other pharmacies,

(2) Provide data to pharmacies to facilitate internal assessment and learning in the patient safety improvement process, and

(3) Provide supplemental information to help pharmacies identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, WESTAT, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve these goals the following data collections will be implemented:

(1) Registration Form—The point-of-contact (POC), the pharmacy manager or a survey participating organization, completes a number of data submission steps and forms, beginning with completion of an online Registration Form. The purpose of this form is to collect basic demographic information about the pharmacy and initiate the registration process.

(2) Pharmacy Background Characteristics Form—The purpose of this form, completed by the pharmacy manager or a participating organization, is to collect background characteristics of the pharmacy. This information will be used to analyze data collected with the Pharmacy SOPS survey.

(3) Data Use Agreement—The purpose of the data use agreement, completed by the pharmacy manager or participating organization is to state how data submitted by pharmacies will be used and provide confidentiality assurances.

(4) Data Files Submission—POCs upload their data file(s), using the pharmacy data file specifications, to ensure that users submit standardized and consistent data in the way variables are named, coded, and formatted. The number of submissions to the database is likely to vary each year because pharmacies do not administer the survey and submit data every year.

Survey data from the AHRQ Pharmacy Survey on Patient Safety Culture are used to produce three types of products: (1) A Pharmacy SOPS Comparative Database Report that is made publicly available on the AHRQ Web site, (2) Individual Pharmacy Survey Feedback Reports that are confidential, customized reports produced for each pharmacy that submits data to the database (the number of reports produced is based on the number of pharmacies submitting each year); and (3) Research data sets of individual-level and pharmacy-level de-identified data to enable researchers to conduct analyses.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the database. An estimated 150 POCs, each representing an average of 10 individual pharmacies each, will complete the database submission steps and forms annually. Completing the registration form will take about 5 minutes. The Pharmacy Background Characteristics Form is completed by all POCs for each of their pharmacies (150 × 10 = 1,500 forms in total) and is estimated to take 5 minutes to complete. Each POC will complete a data use agreement which takes 3 minutes to complete and submitting the data will take an hour on average. The total burden is estimated to be 296 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $14,392 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form Name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	150	1	5/60	13
Pharmacy Background Characteristics Form	150	10	5/60	125
Data Use Agreement	150	1	3/60	8
Data Files Submission	150	1	1	150
Total	600	NA	NA	296

EXHIBIT 2—ESTIMATED ANNUALIZED BURDEN HOURS

Form Name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate*	Total cost burden
Registration Form	150	13	$48.62	$632
Pharmacy Background Characteristics Form	150	125	48.62	6,078
Data Use Agreement	150	8	48.62	389
Data Files Submission	150	150	48.62	7,293
Total	600	296	NA	14,392

*Mean hourly wage rate of $48.62 for General and Operations Managers (SOC code 11–1021) was obtained from the May 2012 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 446110 — Pharmacies and Drug Stores located at *http://www.bls.gov/oes/current/naics5_446110.htm.*

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ health care research, quality improvement and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: November 22, 2013.

Richard Kronick,

AHRQ Director.

[FR Doc. 2013–29071 Filed 12–5–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "AHRQ Grants Reporting System (GRS)." In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520,

AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by February 4, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

AHRQ Grants Reporting System (GRS)

AHRQ has developed a systematic method for its grantees to report project progress and important preliminary findings for grants funded by the Agency. This system, the Grants Reporting System (GRS), was first approved by OMB on November 10, 2004. The system addressed the shortfalls in the previous reporting process and established a consistent and comprehensive grants reporting solution for AHRQ. The GRS provides a centralized repository of grants research progress and additional information that can be used to support initiatives within the Agency. This includes future research planning and support to administration activities such as performance monitoring, budgeting, knowledge transfer as well as strategic planning.

This Project has the following goals:

(1) To promote the transfer of critical information more frequently and efficiently and enhance the Agency's ability to support research designed to improve the outcomes and quality of health care, reduce its costs, and broaden access to effective services; and

(2) To increase the efficiency of the Agency in responding to ad-hoc information requests; and

(3) To support Executive Branch requirements for increased transparency and public reporting; and

(4) To establish a consistent approach throughout the Agency for information collection regarding grant progress and a systematic basis for oversight and for facilitating potential collaborations among grantees; and

(5) To decrease the inconvenience and burden on grantees of unanticipated ad-hoc requests for information by the Agency in response to particular (one-time) internal and external requests for information.

Method of Collection

Grants Reporting System—Grantees use the GRS to report project progress and important preliminary findings for grants funded by the Agency. Grantees submit a progress report on a quarterly basis which is reviewed by AHRQ personnel. All users access the GRS system through a secure online interface which requires a user id and password entered through the GRS Login screen. When status reports are due, AHRQ notifies Principle Investigators (PI) and Vendors via email.

The GRS is an automated user-friendly resource that is utilized by AHRQ staff for preparing, distributing, and reviewing reporting requests to grantees for the purpose of information sharing. AHRQ personnel are able to systematically search on the information collected and stored in the GRS database. Personnel will also use the information to address internal and/or external requests for information regarding grant progress, preliminary findings, and other requests, such as Freedom of Information Act requests, and producing responses related to federally mandated programs and regulations.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents. It will take grantees an estimated 10 minutes to enter the necessary data into the Grant Reporting System (GRS) and reporting will occur four times annually. The total annualized burden hours are estimated to be 333 hours.

Exhibit 2 shows the estimated annualized cost burden for the respondents. The total estimated cost burden for respondents is $11,772.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Data entry into GRS	500	4	10/60	333
Total	500	na	na	333

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Data entry into GRS	500	333	$35.35	$11,772
Total	500	333	na	$11,772

*Based upon the average wages for Healthcare Practitioner and Technical Occupations (29–0000), "National Compensation Survey: Occupational Wages in the United States, May 2012," U.S. Department of Labor, Bureau of Labor Statistics.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: November 22, 2013.

Richard Kronick,

AHRQ Director.

[FR Doc. 2013–29070 Filed 12–5–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 78 FR 70049–70057, dated November 22, 2013) is amended to reflect the reorganization of the Center for Global Health, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the mission and function statements for the Center for Global Health (CW) and insert the following:

Center for Global Health (CW): (1) Leads the coordination and execution of the Centers for Disease Control and Prevention's (CDC) global health strategy; (2) works in partnership to assist ministries of health to build capacity, maximize public health impact and promote country ownership and sustainability; (3) achieves U.S. government and international organization goals to improve health, including disease eradication and elimination targets; (4) strengthens CDC's global health programs that focus on the leading causes of mortality, morbidity and disability, including chronic disease and injuries; (5) generates and applies new knowledge to achieve health goals; and (6) strengthens health systems and their impact.

Office of the Director (CWA): (1) Provides strategic direction and guidance on the execution of CDC's global health strategy, including decision-making, policy development and program planning and evaluation; (2) leads divisions in implementing public health programs and ensures the impact and effectiveness of administration initiatives, Congressionally-mandated programs and other public health programs; (3) serves as the lead for coordination of CDC global programs and cross-cutting areas of global public health; (4) harmonizes CDC global health priorities with host country priorities and works with ministries of health to improve essential public health functions, maximize positive health outcomes and promote country ownership and sustainability; (5) provides leadership and direction to all CDC country directors in their role as a senior CDC representative with the U.S. Embassy and ministry of health and in implementing CDC's global health strategy in country; (6) measures the performance of CDC's global health programs in terms of public health impact and fiscal accountability; (7) provides scientific leadership in developing and implementing evidence-based public health interventions and promotes best scientific practice; (8) facilitates the conduct and maintenance of ethical and high quality, scientific investigations by implementing regulatory requirements, monitoring human subjects compliance and clearing scientific products; (9) harmonizes CDC's global laboratory activities to strengthen laboratory capacity globally; (10) promotes the introduction of innovative technologies and approaches to improve the diagnostic and screening capability of programs to better detect and respond to emerging pathogens; (11) provides leadership to promote growth and improvement of CDC global health programs; (12) works with divisions to strengthen surveillance systems to analyze, measure and evaluate the global burden and distribution of disease; (13) promotes scientific innovation and advances in global health surveillance, epidemiology, monitoring and evaluation, and informatics; (14) provides leadership and coordination for CDC's global health security programs, policy and partnerships; (15) provides leadership on issues management, budget formulation and performance integration and country-specific issues through triaging to programs; (16) coordinates prioritization and planning for visits of high level officials to CDC and other strategic engagements; (17) participates in defining, developing, shaping and implementing U.S. global health policy and actions; (18) manages inter-governmental and external affairs and cultivates strategic partnerships; (19) plans and executes CDC's global health communications strategy and public affairs media response/outreach; (20) provides oversight, guidance and accountability for all operations functions, human resources, workforce management, budget formulation and distribution, extramural reviews and processing, internal and domestic travel and property management responsibilities of the Center for Global Health (CGH); (21) develops and maintains an effective global health workforce for CDC through strategic and innovative personnel solutions, policies and training initiatives, while demonstrating accountability for personnel resources and results of human capital investment; (22) provides leadership and guidance on informatics, information technology systems implementation, security, governance and planning for CGH and CDC country offices; and (23) develops standardized management processes and solutions for CDC country offices.

Delete in its entirety the mission and function statements for the Division of Public Health Systems and Workforce Development (CWF) and the Division of Global Disease Detection and Emergency Response (CWJ).

After the mission and function statement for the Global Immunization Division (CWK), insert the following:

Division of Global Health Protection (CWL): (1) Provides country-based and international coordination for disease detection, International Health Regulations (IHR) implementation and public health emergency response; (2) leads the agency's efforts to address the public health emergency continuum from prevention, to detection, to response and finally through post-emergency health systems recovery; (3) provides epidemic intelligence and response capacity for early warning about international disease threats and coordinates with partners throughout the U.S. government as well as international partners to provide rapid response; (4) provides resources and assists in developing country-level epidemiology, laboratory and other capacity to ensure country emergency preparedness and response to outbreaks and incidents of local importance as well as international importance; (5) in coordination and communication with other CDC Centers, Institute, or Offices (CIOs), leads CDC activities on global Non-Communicable Disease; and (6) collaborates with other divisions in CDC, federal agencies, international agencies, partner countries and non-governmental organizations assisting ministries of health to build public

health capacity for addressing communicable diseases and Non-Communicable Diseases (NCDs).

Office of the Director (CWL1): (1) Provides leadership, management and oversight for all division activities; (2) develops the division's overall strategy and division policies on planning, evaluation, management and operations; (3) coordinates with CGH and the Office of the Chief Financial Officer on budget and spending; (4) ensures that CGH strategies are executed by the division and aligned with overall CDC goals; (5) ensures that division activities in the field are well coordinated with the CDC country office and support a "one-CDC" approach at the country level; (6) ensures scientific quality, ethics and regulatory compliance; (7) evaluates strategies, focus and prioritization of branch research, program and budget activities; (8) coordinates division policy and communication activities including liaise with other CDC policy and communications offices and those of our partner agencies; (9) develops and promotes partnerships with both national and international organizations, including other U.S. government agencies, in support of division activities; (10) serves as a liaison and coordinates with other CDC offices engaged in global activities in communicable diseases and NCDs; (11) leads CDC NCD strategic planning and prioritization and coordinates planning and communication with external stakeholders around global NCDs; (12) provides technical assistance, subject matter expertise and engages in program development and implementation of select cross-cutting or priority global NCD project areas; (13) provides CDC leadership on the development of National Public Health Institutes (NPHI); (14) ensures coordination of division's overall activities with subject matter experts (SME) across CDC; and (15) fosters an integrated and collaborative approach to research, program and policy activities.

Emergency Response and Recovery Branch (CWLB): (1) Coordinates, supervises and monitors CDC's work in international emergency settings and in refugee or displaced populations in collaboration with other U.S. government agencies (Office of Foreign Disaster Assistance and Department of State), United Nations agencies and nongovernmental organizations; (2) provides direct technical assistance to refugees, internally displaced persons and emergency-affected populations in the field, focusing on rapid health and nutrition assessments, public health surveillance, assessment of public health threats and prioritization of public health interventions, epidemic investigations, communicable disease prevention and control and supports program implementation and program evaluation; (3) develops and implements operational research projects aimed at developing the most effective public health interventions for populations in emergency settings; (4) plans, implements, and evaluates training courses and workshops to help strengthen CDC technical capacity in emergency and post-emergency public health, as well as that of other U.S. government agencies, international, non-governmental, other organizations and schools of public health; (5) develops technical guidelines on public health issues associated with international complex humanitarian emergencies; (6) serves as the CDC liaison to maintain strong working relationships with other international, bilateral and non-governmental relief organizations involved with humanitarian emergencies; (7) supports CDC's post-earthquake health systems reconstruction work in Haiti to help achieve agency objectives in Haiti and Haiti's public health legacy goals; (8) systematically applies the agency's skill set and lessons learned from Haiti and elsewhere to aid in health systems recovery after acute or protracted emergencies; and (9) leads CGH's global water, sanitation and hygiene programs.

Field Epidemiology Training Program Branch (CWLC): (1) Leads the agency in partnering with ministries of health to determine manpower needs for capacity in surveillance, epidemiology and response and to develop strategies to address those needs; (2) designs, implements and evaluates short-course training and long-term career development programs in field epidemiology and related disciplines for district, regional and national health agencies; (3) plans, implements, coordinates, supports and evaluates the Field Epidemiology Training Programs (FETPs) in partnership with ministries of health and CDC country offices; (4) provides consultation and promotes training in the development, analysis, evaluation, improvement and use of surveillance systems to provide data for evidence-based decision-making in health; (5) implements and coordinates the training and capacity building needs for specific programs such as high-impact diseases (HIV, TB, malaria), NCDs, one health and laboratory capacity building in partnership with ministries of health; (6) develops and promotes the use of competency-based training materials in field epidemiology for use by FETPs and other partners, CDC, academic programs and others; (7) maintains a training material library and Web site while utilizing innovative technologies to support training, investigation, surveillance and response activities; (8) sustains international, regional and global networks of FETP programs and graduates; (9) supports partner ministries of health's systems strengthening efforts through provision of technical assistance, including facilitating provision of assistance from relevant subject matter expert programs across the agency; (10) plans, directs, supports, implements and coordinates public health leadership and management development and organizational excellence effort; (11) serves as the World Health Organization Collaborating Center for Global Public Health Workforce Development; and (12) conducts the Sustainable Management Development Program.

Global Disease Detection Branch (CWLD): (1) Provides program support, resources and technical assistance to the Global Disease Detection (GDD) Centers around the world; (2) in collaboration and coordination with CIO partners, supports and facilitates emerging infectious disease detection and response, pandemic influenza preparedness, zoonotic disease investigation, laboratory system strengthening and biosafety, global health security and training in field epidemiology through the GDD Centers; (3) leads and administers CDC's GDD program through coordination with relevant implementing programs across the agency; (4) provides leadership, guidance and technical assistance support and resources for global infectious disease surveillance, applied epidemiology and laboratory research and response to emerging infectious disease threats through the GDD Centers; (5) provides resources and assists in developing country-level epidemiologic, laboratory, human and other capacity within GDD Centers to ensure country emergency preparedness and response to outbreaks and incidents of local and international interests; (6) facilitates work throughout CDC with SMEs engaged and providing technical assistance to GDD Center activities; (7) collaborates with other divisions and CIOs to define and promote only good public health laboratory standards and practices; (8) develops and conducts training, in collaboration with SMEs and public and private sector laboratory organizations, to facilitate timely transfer of newly emerging laboratory technology and standards for laboratory practice; and (9) in collaboration with SMEs and with public and private

sector laboratory organizations, provides technical assistance, consultation and training to GDD health centers and other international partners to develop and maintain international public health laboratories.

Global Health Security Branch (CWLE): (1) Serves as the WHO Collaborating Center for Implementation of National IHR Surveillance and Response Capacities; (2) provides leadership and coordination of CDC 's relationships with WHO for IHR international capacity development activities; (3) responsible for CDC's support to WHO's Integrated Disease Surveillance and Response (IDSR) strategy; (4) supports the implementation of IHR and IDSR at the country level; (5) assess, coordinates, implements and measures the effectiveness of international public health preparedness activities in partnership with WHO, ministries of health and United States Government (USG) security, development, and disaster response agencies in the context of IHR; (6) manages CDC's relationship and develops partnerships with U.S. government security (National Security Staff (NSS), Department of Defense, Department of State) and development agencies (USAID) engaged in global health security activities; (7) leads in the development and implementation of CDC's Global Health Strategic Goals for Global Health Security (GHS); (8) ensures CDC's activities supported by Interagency Global Health Security Partners align with CDC GHS goals and partner country public health preparedness priorities and meet CDC 'S high standard for quality and fiduciary responsibility; (9) serves as principal point of coordination for USG interagency partners involved in international disease surveillance and situational awareness activities; (10) ensures CDC's interests are represented at NSS GHS policy committees; (11) provides support, coordination and issues management services to HHS Office of Global Affairs (OGA) for U.S. government Global Health Security policy development activities; (12) provides early warning on disease threats via CDC's event based surveillance and other epidemic intelligence activities conducted in partnership with U.S. government agencies, WHO, ministries of health, other international, public health and security partners to assure compliance with IHR; (13) serves as CDC's lead for supporting and facilitating CDC's response to international outbreaks; (14) develops and implements in coordination with other CDC CIOs and U.S. government partners, information technology solutions for emergency preparedness information management, surveillance and executive decision support to enhance the effectiveness of public health emergency detection and response around the globe; and (15) coordinates international aspects of CDC's public health preparedness and emergency response activities in collaboration with the Office of Public Health Preparedness and Response, the National Center for Emerging and Zoonotic Infectious Diseases, the National Center for Environmental Health and other CDC organizational units involved in chemical, biological, radiological and nuclear hazard preparedness and emergency response activities.

Delete in its entirety the title and function statements for the Laboratory Systems Development Branch (CVLGG), Division of Preparedness and Emerging (CVLG), National Center for Emerging and Zoonotic Infectious Diseases (CVL).

Dated: November 26, 2013.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2013–29056 Filed 12–5–13; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–18F5, CMS–10120, and CMS–10346]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by *February 4, 2014.*

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:, CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ___, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–18F5 Application for Hospital Insurance and Supporting Regulations

CMS–10120 1932(a) State Plan Amendment Template, State Plan Requirements, and Supporting Regulations

CMS–10346 Appeals of Quality Bonus Payment Determinations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Application for Hospital Insurance and Supporting Regulations; *Use:* Regulations at 42 CFR 406.6 specifies the individuals who must file an application for Medicare Hospital Insurance (Part A) and those who need not file an application for Part A. Section 406.7 lists CMS–18F5 as the application form. The form elicits information that the Social Security Administration and CMS need to determine entitlement to Part A and Supplementary Medical Insurance (Part B); *Form Number:* CMS–18F5 (OCN: 0938–0251); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 50,000; *Total Annual Responses:* 50,000; *Total Annual Hours:* 12,500. (For policy questions regarding this collection contact Naomi Rappaport at 410–786–2175).

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* 1932(a) State Plan Amendment Template, State Plan Requirements, and Supporting Regulations; *Use:* Section 1932(a)(1)(A) of the Social Security Act (the Act) grants states the authority to enroll Medicaid beneficiaries on a mandatory basis into managed care entities (managed care organization (MCOs) and primary care case managers (PCCMs)). Under this authority, a state can amend its Medicaid state plan to require certain categories of Medicaid beneficiaries to enroll in managed care entities without being out of compliance with provisions of section 1902 of the Act on statewideness (42 CFR 431.50), freedom of choice (42 CFR 431.51) or comparability (42 CFR 440.230). The template may be used by states to easily modify their state plans if they choose to implement the provisions of section 1932(a)(1)(A); *Form Number:* CMS–10120 (OCN: 0938–0933); *Frequency:* Once and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 15; *Total Annual Hours:* 65. (For policy questions regarding this collection contact Camille Dobson at 410–786–7062).

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Appeals of Quality Bonus Payment Determinations; *Use:* The information collected from Medicare Advantage organizations is considered by the reconsideration official and potentially the hearing officer to review our determination of the organization's eligibility for a quality bonus payment. *Form Number:* CMS–10346 (OCN: 0938–1129; *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 350; *Total Annual Responses:* 25; *Total Annual Hours:* 200. (For policy questions regarding this collection contact Sarah Gaillot at 410–786–4637).

Dated: December 3, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–29144 Filed 12–5–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–416, CMS–R–26 and CMS–10487]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *January 6, 2014.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 *OR*, Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the

Federal Register concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Annual Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Participation Report; *Use:* The baseline data collected is used to assess the effectiveness of state early and periodic screening, diagnostic and treatment (EPSDT) programs in reaching eligible children, by age group and basis of Medicaid eligibility, who are provided initial and periodic child health screening services, referred for corrective treatment, and receiving dental, hearing, and vision services. This assessment is coupled with the state's results in attaining the participation goals set for the state. The information gathered from this report, permits federal and state managers to evaluate the effectiveness of the EPSDT law on the basic aspects of the program. The associated 30-day PRA package has been revised subsequent to the publication of the 60-day notice (78 FR 48687). *Form Number:* CMS–416 (OCN: 0938–0354); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,568. (For policy questions regarding this collection contact Marsha Lillie-Blanton at 410–786–8856.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Regulations; *Use:* The information is necessary to determine an entity's compliance with the Congressionally-mandated program with respect to the regulation of laboratory testing (CLIA). In addition, laboratories participating in the Medicare program must comply with CLIA requirements as required by section 6141 of OBRA 89. Medicaid, under the authority of section 1902(a)(9)(C) of the Social Security Act, pays for services furnished only by laboratories that meet Medicare (CLIA) requirements. *Form Number:* CMS–R–26 (OCN: 0938–0612); *Frequency:* Monthly, occasionally; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions, State, Local or Tribal Governments, and the Federal government; *Number of Respondents:* 79,175; *Total Annual Responses:* 88,886,364; *Total Annual Hours:* 15,613,299. (For policy questions regarding this collection contact Raelene Perfetto at 410–786–6876).

3. *Type of Information Collection Request:* New Collection (Request for a new OMB control number); *Title of Information Collection:* Medicaid Emergency Psychiatric Demonstration (MEPD) Evaluation; *Use:* Since the inception of Medicaid, inpatient care provided to adults ages 21 to 64 in institutions for mental disease (IMDs) has been excluded from federal matching funds. The Emergency Medical Treatment and Active Labor Act (EMTALA), however, requires IMDs that participate in Medicare to provide treatment for psychiatric emergency medical conditions (EMCs), even for Medicaid patients for whose services cannot be reimbursed. Section 2707 of the Affordable Care Act (ACA) directs the Secretary of Health and Human Services to conduct and evaluate a demonstration project to determine the impact of providing payment under Medicaid for inpatient services provided by private IMDs to individuals with emergency psychiatric conditions between the ages of 21 and 64. We will use the data to evaluate the Medicaid Emergency Psychiatric Demonstration (MEPD) in accordance with the ACA mandates. This evaluation in turn will be used by Congress to determine whether to continue or expand the demonstration. If the decision is made to expand the demonstration, the data collected will help to inform us as well as our stakeholders about possible effects of contextual factors and important procedural issues to consider in the expansion, as well as the likelihood of various outcomes. Subsequent to publication of the 60-day **Federal Register** notice (78 FR 45205), there was an increase in the burden due to an increase in time assessed for reviewing medical records and the need to obtain additional informed consents for beneficiary interviews. There have also been changes made to the "Key Informant Interview Questions" for clarification purposes. *Form Number:* CMS–10487 (OCN: 0938–NEW); *Frequency:* Annually; *Affected Public:* Individuals and households; State, Local and Tribal governments; Private sector—Business and other for-profits and Not-for-profits; *Number of Respondents:* 98; *Total Annual Responses:* 2,754; *Total Annual Hours:* 2,613. (For policy questions regarding this collection contact Negussie Tilahun at 410–786–2058.)

Dated: December 3, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–29143 Filed 12–5–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1463–N]

Medicare Program; Semi-Annual Meeting of the Advisory Panel on Hospital Outpatient Payment (HOP Panel) March 10–11, 2014

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the first semi-annual meeting of the Advisory Panel on Hospital Outpatient Payment (the Panel) for 2014. The purpose of the Panel is to advise the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (the Administrator) on the clinical integrity of the Ambulatory Payment Classification (APC) groups and their associated weights, and hospital outpatient therapeutic services supervision issues.

DATES: *Meeting Dates:* The first semi-annual meeting in 2014 is scheduled for the following dates and times. The times listed in this notice are Eastern Standard Time (EST) and are approximate times; consequently, the meetings may last longer than the times listed in this notice, but will not begin before the posted times:

- Monday, March 10, 2014, 1 p.m. to 5 p.m. EST
- Tuesday, March 11, 2014, 9 a.m. to 5 p.m. EST

Meeting Information Updates: The actual meeting hours and days will be posted in the agenda. As information and updates regarding the onsite and webcasted meeting and agenda become available, they will be posted to the CMS Web site at: *http://cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

Deadlines

Deadline for Presentations and Comments:

Presentations and Comments can be submitted by email or hard copy as follows: Presentations or comments and form CMS–20017 submitted by email, must be in the Designated Federal Official's (DFO's) email inbox (*APCPanel@cms.hhs.gov*) by 5 p.m. EST, Friday, January, 31, 2014. Presentations or comments and form CMS–20017 submitted hardcopy, must be received by the DFO on or before Friday, February 7, 2014. Presentations and comments that are not received by the due dates will be considered late and will not be included on the agenda. (See below for submission instructions for both hardcopy and electronic submissions.)

Meeting Registration Timeframe:

Monday, January 20, 2014 through Friday, February 21, 2014 at 5 p.m. EST.

Participants planning to attend this meeting in person must register online, during the above specified timeframe at: *https://www.cms.gov/apps/events/default.asp*. On this Web page, double click the "Upcoming Events" hyperlink, and then double click the "HOP Panel" event title link and enter the required information. Include any requests for special accommodations.

Note: Participants who do not plan to attend this meeting in person should not register. No registration is required for participants who plan to view the meeting via webcast.

ADDRESSES: In commenting, please refer to file code CMS–1463–N. Because of staff and resource limitations, we cannot accept comments and presentations by facsimile (FAX) transmission.

Meeting Location and Webcast:

The meeting will be held in the Auditorium, CMS Central Office, 7500 Security Boulevard, Woodlawn, Maryland 21244–1850.

Alternately, the public may view this meeting via a webcast. During the scheduled meeting, webcasting is accessible online at: *http://cms.gov/live* or *http://www.ustream.tv*. Viewers interested in receiving the webcast from *http://www.ustream.tv* will need to type "CMS Public Events" in the search bar to access the webcast.

FOR FURTHER INFORMATION CONTACT: Chuck Braver, 7500 Security Boulevard, Mail Stop: C4–05–17, Woodlawn, MD 21244–1850. Phone: (410) 786–3985. Email: *APCPanel@cms.hhs.gov*.

Mail hardcopies and email copies to the following addresses: Chuck Braver, DFO, CMS, CM, HAPG, DOC—HOP Panel 7500 Security Blvd., Mail Stop: C4–05–17, Woodlawn, MD 21244–1850. Email: *APCPanel@cms.hhs.gov*.

Note: We recommend that you advise couriers of the following information: When delivering hardcopies of presentations to CMS, call (410) 786–4532 or (410) 786–6719 to ensure receipt of documents by appropriate staff.

News Media: Representatives must contact our Public Affairs Office at (202) 690–6145.

Advisory Committees' Information Lines: The phone number for the CMS Federal Advisory Committee Hotline is (410) 786–3985.

Web sites:

For additional information on the Panel and updates to the Panel's activities, we refer readers to view our Web site at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html*.

Information about the Panel and its membership in the Federal Advisory Committee Act (FACA) database are also located at: *http://facasms.fido.gov/*.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary is required by section 1833(t)(9)(A) of the Social Security Act (the Act) and section 222 of the Public Health Service Act (PHS Act) to consult with an expert outside advisory panel regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights. The Panel (which was formerly known as the Advisory Panel on Ambulatory Payment Classification Groups) is governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), to set forth standards for the formation and use of advisory panels.

The Charter provides that the Panel shall meet up to 3 times annually. We consider the technical advice provided by the Panel as we prepare the proposed and final rules to update the outpatient prospective payment system (OPPS).

II. Agenda

The agenda for the March 2014 meeting will provide for discussion and comment on the following topics as designated in the Panel's Charter:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Evaluating APC group weights.
- Reviewing the packaging of OPPS services and costs, including the methodology and the impact on APC groups and payment.
- Removing procedures from the inpatient list for payment under the OPPS.
- Using single and multiple procedure claims data for CMS' determination of APC group weights.
- Addressing other technical issues concerning APC group structure.
- Recommending the appropriate supervision level (general, direct, or personal) for individual hospital outpatient therapeutic services.

The Agenda will be posted on the CMS Web site before the meeting.

III. Presentations

The presentation subject matter must be within the scope of the Panel designated in the Charter. Any presentations outside of the scope of this Panel will be returned or requested for amendment. Unrelated topics include, but are not limited to, the conversion factor, charge compression, revisions to the cost report, pass-through payments, correct coding, new technology applications (including supporting information/documentation), provider payment adjustments, supervision of hospital outpatient diagnostic services and the types of practitioners that are permitted to supervise hospital outpatient services. The Panel may not recommend that services be designated as nonsurgical extended duration therapeutic services.

The Panel may use data collected or developed by entities and organizations, other than DHHS and CMS in conducting its review. We recommend organizations submit data for CMS staff and the Panel's review.

All presentations are limited to 5 minutes, regardless of the number of individuals or organizations represented by a single presentation. Presenters may use their 5 minutes to represent either one or more agenda items.

All presentations will be shared with the public. Presentations may not contain any pictures, illustrations, or personally identifiable information.

In order to consider presentations and/or comments, we will need to receive the following information:

1. A *hardcopy* of the presentation; only hardcopy comments and presentations can be reproduced for public dissemination.
2. An *email copy* of the presentation sent to the DFO mailbox, *APCPanel@cms.hhs.gov*.
3. Form *CMS–20017* with complete contact information that includes name, address, phone, and email addresses for all presenters and a contact person that can answer any questions and or provide revisions that are requested for the presentation.

• Presenters must clearly explain the actions that they are requesting CMS to take in the appropriate section of the form. A presenter's relationship with the organization that they represent must also be clearly listed.

• The form is now available through the CMS Forms Web site. The Uniform Resource Locator (URL) for linking to this form is as follows: *http://www.cms.hhs.gov/cmsforms/downloads/cms20017.pdf*

IV. Oral Comments

In addition to formal oral presentations, which are limited to 5 minutes total per presentation, there will be an opportunity during the meeting for public oral comments, which will be limited to 1 minute for each individual and a total of 3 minutes per organization.

V. Meeting Attendance

The meeting is open to the public; however, attendance is limited to space available. Priority will be given to those who pre-register, and attendance may be limited based on the number of registrants and the space available.

Persons wishing to attend this meeting, which is located on Federal property, must register by following the instructions in the "*Meeting Registration Timeframe*" section of this notice. A confirmation email will be sent to the registrants shortly after completing the registration process.

VI. Security, Building, and Parking Guidelines

The following are the security, building, and parking guidelines:

• Persons attending the meeting, including presenters, must be pre-registered and on the attendance list by the prescribed date.

• Individuals who are not pre-registered in advance may not be permitted to enter the building and may be unable to attend the meeting.

• Attendees must present valid photo identification to the Federal Protective Service or Guard Service personnel before entering the building. Without a current, valid photo ID, persons may not be permitted entry to the building.

• Security measures include inspection of vehicles, inside and out, at the entrance to the grounds.

• All persons entering the building must pass through a metal detector.

• All items brought into CMS including personal items, for example, laptops and cell phones are subject to physical inspection.

• The public may enter the building 30 to 45 minutes before the meeting convenes each day.

• All visitors must be escorted in areas other than the lower and first-floor levels in the Central Building.

• The main-entrance guards will issue parking permits and instructions upon arrival at the building.

VII. Special Accommodations

Individuals requiring sign-language interpretation or other special accommodations must include the request for these services during registration.

VIII. Panel Recommendations and Discussions

The Panel's recommendations at any Panel meeting generally are not final until they have been reviewed and approved by the Panel on the last day of the meeting, before the final adjournment. These recommendations will be posted to our Web site after the meeting.

IX. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 29, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2013–29185 Filed 12–5–13; 8:45 am]

BILLING CODE 4120–01–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.

Use of Antisense Oligodeoxynucleotides (ODNs) for Inhibiting JC Virus (JCV)

Description of Technology: Progressive multifocal leukoencephalopathy (PML) is a rare, fatal demyelinating disease of the brain caused by the polyomavirus JC (JCV) under immunosuppressive conditions. It is pathologically characterized by progressive damage of white matter of the brain by destroying oligodendrocytes at multiple locations. Clinically, PML symptoms include weakness or paralysis, vision loss, impaired speech, and cognitive deterioration. The prognosis of PML is generally poor. No effective therapy for PML has been established. The current strategies to develop a PML therapy focus on blocking viral infection or inhibiting JCV replication. Antisense oligodeoxynucleotides (ODNs) that can block JCV replication and multiplication have been identified and optimized. Use of the ODNs provide a method of inhibiting JCV replication and thereby provide a treatment for PML.

Potential Commercial Applications:

• JCV/PML Therapeutics.
• JCV Diagnostics.
• JCV Kits.

Competitive Advantages:

• Low cost PML therapeutics.
• Lower cost JCV diagnostics.
• Ease of synthesis.

Development Status:

• Pre-clinical.
• In vitro data available.
• In vivo data available (animal).

Inventors: Laura B. Jaeger, Avindra Nath, Eugene O. Major (all of NINDS).

Intellectual Property: HHS Reference No. E–547–2013/0—US Provisional Application No. 61/879,833, filed 19 Sep 2013.

Licensing Contact: Peter Soukas, J.D.; 301–435–4646; *ps193c@nih.gov*.

Collaborative Research Opportunity: The National Institute of Neurological Disorders and Stroke is seeking statements of capability or interest from parties interested in collaborative

research to further develop, evaluate or commercialize anti-JCV antisense cocktails. For collaboration opportunities, please contact Melissa Maderia, Ph.D. at *maderiam@mail.nih.gov* or 240–276–5533.

A Novel HIV–1 Anti-HIV and Anti-Retroviral Compound

Description of Technology: The subject invention describes the thioether prodrug that targets the highly conserved nucleocapsid protein 7 (NCp7) of HIV. In contrast to clinically approved anti-retroviral drugs used to treat HIV, the virus is not able to develop resistance to the drug in this invention. In addition, the prodrug is stable at room temperature, crystalline, easily synthesized in two steps on the kilogram scale from inexpensive starting materials, orally bioavailable, and is non-toxic in all animal models investigated to date. There is potential to use the molecule described in the invention as an orally administered systemic drug for the treatment of HIV infection either alone or in combination with other approved anti-retroviral therapies.

Animal safety testing is in process as are efficacy studies.

Potential Commercial Applications:

- HIV therapeutics.
- Prophylactics.
- Topical application.

Competitive Advantages:

- Does not develop resistance due to the high sequence conservation of the target.
- More stable than thioesters.

Development Stage:

- Early-stage.
- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: Daniel Appella, Pankaj Kumar, Nathaniel Shank, Matthew Hassink (all of NIDDK).

Publications:

1. Goudreau N, et al. Discovery and structural characterization of a new inhibitor series of HIV–1 nucleocapsid function: NMR solution structure determination of a ternary complex involving a 2:1 inhibitor/NC stoichiometry. J Mol Biol. 2013 Jun 12;425(11):1982–98. [PMID 23485336]
2. Ouyang W, et al. Probing the RNA Binding Surface of the HIV–1 Nucleocapsid Protein by Site-Directed Mutagenesis. Biochemistry 2013;52(19):3358–68. [PMID 23594178]

Intellectual Property: HHS Reference No. E–539–2013/0—US Provisional Application No. 61/874,182 filed 05 September 2013.

Related Technologies: HHS Reference No. E–177–2010 family which is abandoned. However, the subject compound was described in PCT Application No. PCT/US2011/039909 (E–177–2010/0–PCT–02).

Licensing Contact: Sally H. Hu, Ph.D., M.B.A.; 301–435–5606; *hus@mail.nih.gov.*

Collaborative Research Opportunity: The NIDDK Technology Advancement Office is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this anti-retroviral drug that targets the nucleocapsid protein 7 (NCp7). For collaboration opportunities, please contact Marguerite J. Miller at *Marguerite.Miller@nih.gov* or 301–496–9003.

Mouse Model for Methylmalonic Acidemia, an Inherited Metabolic Disorder

Description of Technology: Methylmalonic Acidemia (MMA) is a metabolic disorder affecting 1 in 25,000 to 48,000 individuals globally. MMA is characterized by increased acidity in the blood and tissues due to toxic accumulation of protein and fat by-products resulting in seizures, strokes, and chronic kidney failure. About 60% of MMA cases stem from mutations in the methylmalonyl CoA mutase (MUT) gene encoding a key enzyme required to break down amino acids and lipids. Previous efforts to develop mice with null mutations in MUT have been unsuccessful, as such mutations result in neonatal death.

The inventors have developed the first transgenic mouse model available for the long-term study of Mut deficiency, in which low level liver-specific expression of the MUT enzyme confers rescue from neonatal lethality and replicates induction of the severe renal symptoms consistent with human MMA. This model could serve as a valuable research tool for designing treatments for MMA renal disease or a platform for pre-clinical toxicology screening of compounds with potential renal side effects.

Potential Commercial Applications:

- Model for examining renoprotective antioxidants or treatments for kidney failure resulting from drug toxicity, mitochondrial dysfunction, environmental exposure, or aging.
- Used in investigating renoprotective effects of nutritional supplements from drugs known to cause kidney damage.
- Used in discovery of MMA biomarkers.

Competitive Advantages: The model system provides a relatively non-invasive means of assessing the efficacy of renal-targeted therapies of all classes and biological types (gene therapy, small molecules, nutritional supplements, repurposed drugs).

Development Stage:

- Early-stage.
- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: Charles P. Venditti and Eirini Manoli (NHGRI).

Publication: Manoli I, et al. Targeting proximal tubule mitochondrial dysfunction attenuates the renal disease of methylmalonic acidemia. Proc Natl Acad Sci U S A. 2013 Aug 13;110(33):13552–7. [PMID 23898205]

Intellectual Property: HHS Reference No. E–285–2011/1—Research Material. Patent protection is not being pursued for this technology.

Licensing Contact: Vince Contreras, Ph.D.; 301–435–4711; *vince.contreras@nih.gov.*

Collaborative Research Opportunity: The National Human Genome Research Institute, Organic Acid Research Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize renotherapeutic or renoprotective small molecules, gene and/or cell therapies to treat MMA. For collaboration opportunities, please contact Charles P. Venditti, M.D., Ph.D. at *venditti@mail.nih.gov* or 301–496–6213.

Reporter Plasmid To Identify Cancer Stem Cells

Description of Technology: Scientists at the NIH have developed a research tool, an efficient lentiviral plasmid to visualize and purify cancer stem cells, which is useful for screening compounds that specifically kill or inhibit cancer stem cells. Cancer stem cells are a minority population of cells that initiate and sustain tumors. These cells are resistant to therapy and may cause tumors to recur after curative treatment. Current therapies generally do not target cancer stem cells. The key feature of the plasmid is a reporter system that only detects cells expressing the core stem cell transcription factors Sox2 and Oct4. The plasmid can identify the putative cancer stem cell population through the expression of fluorescent or luminescent proteins and has the potential to advance new therapies.

Potential Commercial Applications:

- Laboratory tool to visualize, quantify and purify cancer stem cells.
- Research tool to monitor cancer stem cells in transplanted tumors in vivo.
- Research tool to identify cancer stem cells in high through-put screening

of libraries for compounds that specifically inhibit or kill cancer stem cells.

• Research tool to optimize therapeutic regimens in preclinical models.

• Potential to support precision medicine approach by screening therapeutics for efficacy against cancer stem cells in patient-derived xenografts.

Competitive Advantages:

• Efficient visualization of cancer stem cells by functional property rather than by use of highly variable cell surface markers.

• Flexible modular Gateway cloning technology allows constructs with alternative reporters to be readily generated.

• Approach is independent of cell-of-origin of tumor.

• Cancer stem cell behavior can be monitored in real-time.

Development Stage:

• Pre-clinical.

• In vitro data available.

• In vivo data available (animal).

Inventors: Lalage Wakefield and Binwu Tang (NCI).

Publication: Manuscript under review. Text available on request.

Intellectual Property: HHS Reference No. E–141–2011/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Contact: Eggerton Campbell, Ph.D.; 301–435–5282; *eggerton.campbell@nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Laboratory of Cancer Biology and Genetics, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize a cancer stem cell reporter construct for use in drug screens and therapy selection. For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

AAV-Aquaporin-1 Gene Therapy for Sjögren's Syndrome

Description of Technology: Sjögren's syndrome is a chronic inflammatory disease affecting over 2 million Americans, whereby moisture-producing glands are attacked by the body's immune system. The disease is marked by disabling dryness of the mouth and eyes as well as fatigue and pain. Researchers at the National Institute of Dental and Craniofacial Research have developed a therapy that alleviates xerostomia in an animal model of Sjögren's syndrome. This technology consists of local delivery of adeno-associated virus (AAV) mediated aquaporin-1 (AQP1) fusion protein to salivary glands. Using a murine model that mimics Sjögren's dry mouth symptoms, it was discovered that treatment restored salivary fluid movement upon expression of AQP1. Targeted delivery of the AAV–AQP1 system makes this invention a novel and potential long-term therapeutic for restoration of exocrine gland function and prevention of xerostomia-associated pain associated with Sjögren's syndrome.

Potential Commercial Applications: Prevention of dry mouth (xerostomia) associated with salivary gland dysfunction in patients with Sjögren's syndrome.

Competitive Advantages:

• AAV gene transfer to salivary glands is highly efficient.

• AAV–AQP1 promotes de novo salivary flow.

Development Stage:

• Pre-clinical.

• In vitro data available.

• In vivo data available (animal).

Inventor: John (Jay) Chiorini (NIDCR).

Intellectual Property: HHS Reference No. E–139–2011/1—US Provisional Application No. 61/695,753 filed 31 August 2012; PCT Application No. PCT/US13/57632 filed 30 August 2013.

Related Technologies:

• HHS Reference No. E–179–2005/0—US Patent No. 8,283,151 issued 09 October 2012.

• HHS Reference No. E–087–2011/0—US Provisional Application No. 61/476,168 filed 15 April 2011.

• HHS Reference No. E–127–1998/0—US Provisional Application No. 60/087,029 filed 28 May 1998; US Patent No. 7,479,554 issued 20 January 2009; US Patent No. 6,984,517 issued 10 January 2006.

• HHS Reference No. E–142–2011/0—US Provisional Application No. 61/477,523 filed 20 April 2011.

Licensing Contact: Vince Contreras, Ph.D.; 301–435–4711; *vince.contreras@nih.gov.*

Collaborative Research Opportunity: The National Institute of Dental and Craniofacial Research, AAV Biology Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize AAV-Aquaporin-1 Gene Therapy for Sjögren's. For collaboration opportunities, please contact David Bradley at *bradleyda@nidcr.nih.gov.*

Dated: December 2, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–29096 Filed 12–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Digestive Diseases Ancillary Study.

Date: December 17, 2013

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 760, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@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. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 29, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–29098 Filed 12–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: January 24, 2014.

Closed: 8:30 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Open: 10:00 a.m. to 2:00 p.m.

Agenda: Staff reports on divisional, programmatic, and special activities.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, Ph.D., Director, Division of Extramural Activities, NIDCD, NIH, Room 8345, MSC 9670, 6001 Executive Blvd., Bethesda, MD 20892–9670, 301–496–8693, *jordanc@nidcd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nidcd.nih.gov/about/groups/ndcdac/ndcdac.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 2, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–29103 Filed 12–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute On Alcohol Abuse and Alcoholism; National Institute On Drug Abuse; and National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism, National Advisory Council on Drug Abuse, and the National Cancer Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Persons listed below in advance of the meeting. The meeting will also be available via webcast at *http://videocast.nih.gov/summary.asp?live=13398.*

Any interested person may file written comments with the committees by forwarding the statement to one of the Contact Persons listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Name of Committees: National Advisory Council on Alcohol Abuse and Alcoholism; National Advisory Council on Drug Abuse; National Cancer Advisory Board.

Date: February 5, 2014.

Time Closed: February 5, 2014, 8:30 a.m. to 9:00 a.m.

Agenda: Review and evaluation of CRAN-related grant applications.

Time Open: February 5, 2014, 9:15 a.m. to 12:30 p.m.

Agenda: Director's report on CRAN activities, presentations and discussion with the Council members of NIAAA, NIDA, and NCI.

Place: National Institutes of Health, 9000 Rockville Pike, Building 1, Wilson Hall, Bethesda, MD 20892.

Contact Person: Abraham P. Bautista, Ph.D., Director, Office of Extramural Activities, National Institute On Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, RM 2085, Rockville, MD 20892, 301–443–9737, *bautista@mail.nih.gov.*

Contact Person: Mark Swieter, Ph.D., Acting Director, Office of Extramural Activities, National Institute On Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Rm 4243, Rockville, MD 20892, 301–435–1389, *mswieter@nida.nih.gov.*

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Shady Grove West, 9609 Medical Center Drive, Rockville, MD 20892, 240–276–6340, *grayp@dea.nci.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx. http://www.drugabuse.gov/about-nida/advisory-boards-groups/national-advisory-council-drug-abuse-nacda/council-roster,* and *http://deainfo.nci.nih.gov/advisory/ncab/ncabpublicroster.pdf,* where an agenda and any additional information for the meeting will be posted when available.

http://videocast.nih.gov/summary.asp?live=13398

(Catalogue of Federal Domestic Assistance Program Nos. 93.273, Alcohol Research Programs, National Institutes of Health, HHS).

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 2, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–29097 Filed 12–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Development of Cripto-1 Point of Care (POC) Tests and Kits for the Detection of Colon and Rectal Cancer, Breast Cancer, and Lung Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR Part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in the following U.S. Patents and Patent Applications to Beacon Biomedical LLC ("Beacon") located in Scottsdale, AZ, USA.

Intellectual Property: U.S. Patent No.7,078,176 issued July 18, 2006 entitled "Detection and Quantification of Cripto-1" [HHS Ref. No. E–290–2000/0–US–03] and foreign equivalents thereof.

The patent rights in these inventions have been assigned to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use will be limited to the use of Licensed Patent Rights to develop FDA approved and/or 510K cleared Point of Care (POC) tests and kits for the purpose of disease state recognition, detection, diagnosis, monitoring, association and risk-stratification of colon and rectal cancer, breast cancer, and lung cancer.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before January 6, 2014 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated exclusive license should be directed to: Eggerton Campbell, Ph.D. Licensing and Patenting Manager, Cancer Branch, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5282; Facsimile: (301) 435–4013; Email: *Eggerton.Campbell@.nih.gov.*

SUPPLEMENTARY INFORMATION: Cripto-1 (CR1) is a member of the epidermal growth factor (EGF)-related families of peptides and is involved in the development and progression of various human carcinomas. In particular, CR1 overexpression has been detected in 50–90% of carcinomas of the colon, pancreas, stomach, gallbladder, breast, lung, endometrium and cervix. Current methodologies of cancer detection, e.g. immunohistochemistry, can be time consuming, inconvenient and oftentimes, inaccurate, and therefore, a need exists for more efficient, reliable and less time consuming methods of detection. The invention relates to such a method of detection. This test could be used to more effectively screen and perhaps stage cancers. Additionally, should particular tumor cells, e.g. breast tumor cells, express a sufficiently high level of CR1, it may be possible to use the disclosed assay to detect and measure CR1 in human serum and/or plasma and possibly other physiological fluids.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive license may be granted unless within thirty (30) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: December 2, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–29099 Filed 12–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request

ACTION: 30-Day Notice of Information Collection for Review; Form No. I–246, Application for Stay of Removal or Deportation; OMB Control No. 1653–0021.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. The information collection was previously published in the **Federal Register** on September 16, 2013, Vol. 78 No. 23447 allowing for a 60 day comment period. USICE received no comments during this period. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, with non-substantive change of a currently approved collection.

(2) *Title of the Form/Collection:* Application for a Stay of Deportation or Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–246, U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information collected on the Form I–246 is necessary for U.S. Immigration and Customs Enforcement (ICE) to make a determination that the eligibility requirements for a request for a stay of deportation or removal are met by the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,000 responses at 30 minutes (.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual burden hours.

Dated: November 26, 2013.

Scott Elmore,

Program Manager, Forms Management Office, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2013–29119 Filed 12–5–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5681–N–47]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Office of Enterprise Support Programs, Program Support Center, HHS, room 12–07, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; ENERGY: Mr. Mark Price, Department of Energy, Office of Engineering & Construction Management, MA–50, 1000 Independence Ave. SW., Washington, DC 20585: (202) 586–5422; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202)685–9426; (These are.not toll-free numbers).

Dated: November 28, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/06/2013

Suitable/Available Properties

Building

Oregon

Allingham Guard House (0765700)
Bldg. # 1060, Region 06, Forest 01
Camp Sherman OR 97730
Landholding Agency: Agriculture
Property Number: 15201340001
Status: Excess
Directions: NF Road 1217 near Smiling River
Comments: Off-site removal only; 1040 sq. ft.; residential; very conditions;

Unsuitable Properties

Building

California

Building 270, NAS. N. Island
Naval Base Coronado, PO Box 357040
San Diego CA 92135
Landholding Agency: Navy
Property Number: 77201340005
Status: Excess
Comments: Due to anti-terrorism/force protection public denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Massachusetts

Navy Operational Support Ctr.
640 Plantation Street
Worcester MA 01606
Landholding Agency: Navy
Property Number: 77201340004
Status: Excess
Directions: 2 Bldgs.; 6 Structures; 3 Utilities
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

New Mexico

4 Buildings
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201340001
Status: Excess
Directions: TA03–2209; TA16–1485; TA16–1486; and TA46–0059
Comments: Highly classified area; public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

[FR Doc. 2013–29068 Filed 12–5–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–FHC–2013–N258; FVHC98130406900–XXX–FF04G01000]

Deepwater Horizon Oil Spill; Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement

AGENCY: Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies (Trustees) have prepared a Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement (Draft Phase III ERP/PEIS). The Draft Phase III ERP/PEIS considers programmatic alternatives to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The restoration alternatives are comprised of early restoration project types; the Trustees additionally propose forty-four specific early restoration projects that are consistent with the proposed early restoration program alternatives. The Trustees have developed restoration alternatives and projects to utilize funds for early restoration being provided under the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement) discussed below. Criteria and evaluation standards under the OPA natural resource damage assessment regulations and the Framework Agreement guided the Trustees' consideration of programmatic restoration alternatives. The Draft Phase III ERP/PEIS evaluates these restoration alternatives and projects under criteria set forth in the OPA natural resource damage assessment regulations and the Framework Agreement. The Draft Phase III ERP/PEIS also evaluates the environmental consequences of the restoration alternatives and projects under NEPA. The purpose of this notice is to inform the public of the availability of the Draft Phase III ERP/PEIS and to seek public comments on the document.

This Notice of Availability also serves as notice that the Trustees intend to use components of existing restoration projects, as further described in the Draft Phase III ERP/PEIS, as required by 15 CFR 990.56(b)(3). In those instances, the projects were previously developed with public review and comment and are subject to current public review and comment; are adequate to compensate the environment and public as part of the Trustees' ongoing early restoration efforts; address resources that have been identified by Trustees as being injured by the *Deepwater Horizon* oil spill; and are reasonably scalable for early restoration purposes.

DATES:

Comments Due Date: We will consider public comments received on or before February 4, 2014.

Public Meetings: The Trustees have scheduled a series of public meetings to facilitate public review and comment on the Draft Phase III ERP/PEIS. Both written and verbal public comments will be taken at each public meeting. The Trustees will hold an open house for each meeting followed by a formal meeting. Each public meeting will include a presentation of the Draft Phase III ERP/PEIS. The public meeting schedule is as follows:

Date	Time	Location
Mon., Dec. 16, 2013	6:00 PM Open House 6:30 PM Public Meeting	Mobile, AL.
Tues., Dec. 17, 2013	6:00 PM Open House 6:30 PM Public Meeting	Long Beach, MS.
Tues., Jan. 14, 2014	5:30 PM Open House 6:00 PM Public Meeting	Belle Chasse, LA.
Wed., Jan. 15, 2014	5:30 PM Open House 6:00 PM Public Meeting	Thibodaux, LA.
Thurs., Jan. 16, 2014	5:30 PM Open House 6:00 PM Public Meeting	Lake Charles, LA.
Tues., Jan. 21, 2014	6:00 PM Open House 6:30 PM Public Meeting	Port Arthur, TX.
Wed., Jan. 22, 2014	6:00 PM Open House 6:30 PM Public Meeting	Galveston, TX.

Date	Time	Location
Thurs., Jan. 23, 2014	6:00 PM Open House 6:30 PM Public Meeting	Corpus Christi, TX.
Tues., Jan. 28, 2014	6:00 PM Open House 6:30 PM Public Meeting	Pensacola, FL.
Wed., Jan. 29, 2014	6:00 PM Open House 6:30 PM Public Meeting	Panama City, FL.

ADDRESSES:

Obtaining Documents: You may download the Draft Phase III ERP/PEIS at *http://www.gulfspillrestoration.noaa.gov* or *http://www.doi.gov/deepwaterhorizon.*

Alternatively, you may request a CD of the Draft Phase III ERP/PEIS (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

Submitting Comments: You may submit comments on the Draft Phase III ERP/PEIS by one of following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov.*
- *U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado at *nanciann_regalado@fws.gov mailto:fw4coastalDERPcomments@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252—MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of eighty-seven days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The State and Federal natural resource trustees (Trustees) are conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses, and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship; including the loss of use and services from those resources from the time of injury until the time restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete. Pursuant to the process articulated in the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), the Trustees have previously selected, and BP has agreed to fund, a total of 10 early restoration projects, expected to cost a total of approximately $71 million, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP) and Phase II Early Restoration Plan/Environmental Review (Phase II ERP). These plans are available at: *http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/*

The Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);[1]
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

[1] Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not currently participate in Trustee decision-making.

Background

On April 20, 2011, BP agreed to provide up to $1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources. This agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together "to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable" prior to the resolution of the Trustees' natural resource damages claim. Early restoration is not intended to, and does not fully address all injuries caused by the *Deepwater Horizon* oil spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses including recreational use losses from the *Deepwater Horizon* oil spill.

The Trustees actively solicited public input on restoration project ideas through a variety of mechanisms including public meetings, electronic communication, and creation of a Trustee-wide public Web site and database to share information and receive public project submissions. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is underway. The Trustees released, after

public review of a draft, a Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA) in April 2012. Subsequently, the Trustees released, after public review of a draft, a Phase II Early Restoration Plan/Environmental Review (Phase II ERP/ER) in December 2012.

In addition to the 10 projects contained in the Phase I and Phase II Early Restoration Plans, the Trustees are proposing 44 additional early restoration projects in Phase III to address injuries from the *Deepwater Horizon* oil spill. The Trustees are proposing these projects at this time while continuing to work with BP to develop additional restoration projects in accordance with the Framework Agreement. The Draft Phase III ERP/PEIS is not intended to, and does not fully address all injuries caused by the spill or provide the extent of restoration needed to make the public and the environment whole.

Overview of the Draft Phase III ERP/PEIS

The Draft Phase III ERP/PEIS is being released in accordance with the Oil Pollution Act (OPA), the Natural Resources Damage Assessment (NRDA) regulations found in the Code of Federal Regulations (CFR) at 15 CFR 990, the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.

On June 4, 2013, the Trustees announced their intent to prepare an Early Restoration Plan, as well as a Programmatic Environmental Impact Statement (PEIS) under OPA and the National Environmental Policy Act (NEPA) to evaluate the environmental consequences of early restoration project types, as well as the early restoration projects the Trustees have proposed in the Draft Phase III ERP/PEIS. In accordance with NEPA, the Trustees conducted scoping to identify the concerns of the affected public and Federal agencies, States, and Indian tribes; involve the public in the decision making process; facilitate efficient early restoration planning and environmental review; define the issues and alternatives that will be examined in detail; and save time by ensuring that draft documents adequately address relevant issues. A scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. To gather public input, the Trustees hosted six public meetings. The Trustees also accepted written comment electronically and via U.S. mail during the scoping period.

The Draft Phase III ERP/PEIS proposes early restoration programmatic alternatives and evaluates the potential environmental effects and cumulative effects of those alternatives. The Draft Phase III ERP/PEIS groups 12 project types into two categories: (1) Contribute to Restoring Habitats and Living Coastal and Marine Resources, and (2) Contribute to Providing and Enhancing Recreational Opportunities. These categories provide the basis for defining the list of four proposed alternatives included in the document:

- Alternative 1: No Action (No Additional Early Restoration);
- Alternative 2: Contribute to Restoring Habitats and Living Coastal and Marine Resources;
- Alternative 3: Contribute to Providing and Enhancing Recreational Opportunities; and
- Alternative 4 (Preferred Alternative): Contribute to Restoring Habitats, Living Coastal and Marine Resources, and Recreational Opportunities

The Trustees are considering 44 projects in the Draft Phase III ERP/PEIS. The total estimated cost for proposed Phase III projects is approximately $625 million. Details regarding expenditures on projects are provided in the Draft Phase III ERP/PEIS.

The proposed restoration projects are intended to continue the process of using early restoration funding to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees considered hundreds of projects leading to the identification of a potential 28 future early restoration projects announced in the May 6, 2013 **Federal Register** notice (78 FR 26319), and the document now proposes these 28 projects plus additional early restoration projects agreed upon by the Trustees and BP subsequent to the announcement. They considered both ecological and recreational use restoration projects to restore injuries caused by the *Deepwater Horizon* oil spill, addressing both the physical and biological environment, as well as the relationship people have with the environment.

Early restoration actions are not intended to provide the full extent of restoration needed to make the public and the environment whole. The Trustees anticipate that additional early restoration projects will be proposed in the future as the early restoration process continues.

Next Steps

As described above, public meetings are scheduled to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing a Final Programmatic and Phase III Early Restoration Plan and Final Early Restoration Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS). After issuing a Final Phase III ERP/PEIS, the Trustees will file negotiated stipulations for approved projects with the court. Approved projects will then proceed to implementation, pending compliance with all applicable State and Federal laws.

Invitation to Comment

The Trustees seek public review and comment on the Draft Phase III ERP/PEIS. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be publicly available at any time.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: *http://www.doi.gov/deepwaterhorizon.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990.

Cynthia K. Dohner,

DOI Authorized Official.

[FR Doc. 2013–28792 Filed 12–5–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2013–N160; FXRS1265080000–145–FF08R00000]

Guadalupe-Nipomo Dunes National Wildlife Refuge, San Luis Obispo County, CA: Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to

prepare a Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for the Guadalupe-Nipomo Dunes National Wildlife Refuge located in San Luis Obispo County of California. We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, we must receive your written comments by February 4, 2014.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

Email: hoppermountain@fws.gov. Include "GND CCP" in the subject line of the message.

Fax: Attn: GND CCP, 805–644–1732.

U.S. Mail: Hopper Mountain National Wildlife Refuge Complex, 2493 Portola Road, Suite A, Ventura, CA 93003.

In-Person Drop-off: You may drop off comments during regular business hours; please call 805–644–5185 for directions.

FOR FURTHER INFORMATION CONTACT: Winnie Chan, Refuge Planner at 510–792–0222 or *hoppermountain@fws.gov,* or Glenn Greenwald, Wildlife Refuge Manager, at 805–343–9151. Further information may also be found at *http://www.fws.gov/hoppermountain/GuadalupeNDNWR/GuadalupeNipomoDunesNWR.html.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Guadalupe-Nipomo Dunes National Wildlife Refuge (Refuge) in San Luis Obispo County, California. This notice complies with our CCP policy to (1) advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals, objectives, and strategies that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides opportunities for participation by Tribal, State, and local governments; agencies; organizations; and the public. We will be contacting identified stakeholders and individuals at this time for initial input. If you would like to meet with planning staff or would like to receive periodic updates, please contact us (see ADDRESSES section). We anticipate holding public meetings for initial comments and potentially when alternative management scenarios have been identified. At this time we encourage comments in the form of issues, concerns, ideas, and suggestions for the management of the Refuge.

We will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 et seq.); NEPA regulations (40 CFR parts 1500–1508 and 43 CFR part 46); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Guadalupe-Nipomo Dunes National Wildlife Refuge

Guadalupe-Nipomo Dunes National Wildlife Refuge was established in 2000 under the Endangered Species Act of 1973 (16 U.S.C. 1537) to preserve and conserve Central California coastal dune and associated wetlands habitats and assist in the recovery of native plants and animals that are federally listed as threatened or endangered. Interim Refuge management goals include protecting federally listed species and critical habitat, protecting and restoring biodiversity, creating and leading conservation partnerships, and providing safe and high-quality opportunities for compatible wildlife-dependent educational and recreational activities. The 2,553-acre Refuge currently is bordered to the west by the Pacific Ocean, lands owned by private agricultural interests to the east, Oso Flaco Lake Natural Area (a management unit of the Oceano Dunes State Vehicular Recreation Area) to the north, and Chevron Guadalupe Restoration Project (former Guadalupe Oil Fields) to the south.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. These include: wildlife management, habitat management, wildlife-dependent recreation, environmental education, and cultural resources. During public scoping, we may identify additional issues.

Public Meetings

We will give the public an opportunity to provide input at a public meeting (or meetings). You may contact the Refuge Planner or Wildlife Refuge Manager to be added to our contact list for meeting announcements (see **FOR MORE INFORMATION CONTACT**). You may also submit comments during the planning process by mail, email, or fax (see **ADDRESSES**). There will be additional opportunities to provide public input once we have prepared a draft CCP.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2013–29126 Filed 12–5–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B814.IA001213]

Renewal of Agency Information Collection for Reporting Systems for Demonstration Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Reporting System for the Indian Employment, Training, and Related Services Demonstration Act of 1992 (as amended) Demonstration Project authorized by OMB Control Number 1076–0135. This information collection expires December 31, 2013.

DATES: Interested persons are invited to submit comments on or before January 6, 2014.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov*. Please send a copy of your comments to Jack Stevens, Division Chief, Office of Indian Energy and Economic Development, Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW., MS–20 SIB, Washington, DC 20240; facsimile: (202) 208–4564; email: *Jack.Stevens@bia.gov*.

FOR FURTHER INFORMATION CONTACT: Jack Stevens, (202) 208–6764.

You may review the information collection request online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Assistant Secretary—Indian Affairs is seeking renewal of the approval for the information collection conducted under OMB Control Number 1076–0135, Reporting System for Indian Employment, Training, and Related Services Demonstration Act of 1992 (as amended) (Pub. L. 102–477) Demonstration Project. This information allows the Office of Indian Energy and Economic Development (IEED) to document satisfactory compliance with statutory, regulatory, and other requirements of the various integrated programs. Public Law 102–477 authorizes tribal governments to integrate Federally funded employment, training, and related services and programs into a single, coordinated, comprehensive service delivery plan. Funding agencies include the Department of the Interior, the Department of Labor, and the Department of Health and Human Services. The Bureau of Indian Affairs (BIA) is statutorily required to serve as the lead agency and provides a single report format for use by tribal governments to report on integrated activities and expenditures. The IEED shares the information collected from these reports with the Department of Labor and the Department of Health and Human Services. No third party notification or public disclosure burden is associated with this collection.

II. Request for Comments

The Assistant Secretary—Indian Affairs 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: 1076–0135.

Title: Reporting System for Public Law 102–477 Demonstration Project.

Brief Description of Collection: Public Law 102–477 authorizes tribal governments to integrate Federally-funded employment, training and related services programs into a single, coordinated, comprehensive delivery plan. BIA has made available a single format for Statistical Reports (IA 7702) for tribal governments to report on integrated activities undertaken within their projects, and a single format for Financial Reports (IA 7703) for tribal governments to report on all project expenditures. BIA will accept Standard Form 425 (OMB# 4040–0014) in lieu of IA 7703—Financial Status Report. Respondents that participate in Temporary Assistance for Needy Families (TANF) must provide information on an additional form (IA 7703A). A response is required to obtain or retain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian tribes participating in Public Law 102–477.

Number of Respondents: 62 on average.

Number of Responses: 62 on average.

Frequency of Response: Each respondent must supply the information for the Financial Status Report and Public Law 102–477 Demonstration Project Statistical Report once.

Estimated Time per Response: Ranges from 2 to 40 hours.

Estimated Total Annual Hour Burden: 3,566 hours.

Estimated Total Annual Non-Hour Dollar Cost: $310.

Dated: November 26, 2013.

John Ashley,

Acting Assistant Director for Information Resources.

[FR Doc. 2013–29169 Filed 12–5–13; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–GRTE–14044; PX.PD202594.A.00.1]

Moose-Wilson Corridor Comprehensive Management Plan, Environmental Impact Statement, Grand Teton National Park, Wyoming

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service is preparing a Comprehensive Management Plan and Environmental Impact Statement (EIS) for the Moose-Wilson Corridor, Grand Teton National Park, Wyoming.

DATES: The National Park Service will accept comments from the public through February 4, 2014. In addition, a public scoping meeting will be conducted in the Jackson, Wyoming area. Please check local newspapers and the Web site below for additional information.

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov/MooseWilson*, at the Grand Teton National Park Headquarters Building, 1 Teton Park Road, Moose, Wyoming, and at the Reference Desk of the Teton County Library, 125 Virginian Lane, Jackson, Wyoming.

FOR FURTHER INFORMATION CONTACT: Mary Gibson Scott, Superintendent, Grand Teton National Park, P.O. Drawer 170; Moose, Wyoming 83012–0170, telephone (307) 739–3410, or by email at *GRTE_Superintendent@nps.gov*, or Daniel Noon, Chief of Planning and Environmental Compliance, P.O. Drawer 170, Moose, Wyoming 83012–0170, telephone (307) 739–3465, or by email at *Daniel_Noon@nps.gov*.

SUPPLEMENTARY INFORMATION: In recent years, the Moose-Wilson corridor and surrounding areas in Grand Teton National Park have experienced changes in ecological conditions, development patterns, and use by visitors and local residents. As a result, the National Park Service is beginning a comprehensive planning and environmental impact statement process to determine how best to protect park resources and values while providing appropriate opportunities for visitor use, experience, and enjoyment of the corridor. The plan will: (1) Evaluate the importance and purpose of the Moose-Wilson corridor as a visitor destination within the park; (2) distinguish the corridor's fundamental and other important resources and values; (3) clearly define the necessary conditions for park visitors to understand, experience, and appreciate these resources and values; (4) identify the desired conditions linked to these resources and values; and (5) establish indicators and standards for maintaining these desired conditions.

If you wish to provide comments, you may do so by any one of several methods. You may mail comments to the Superintendent's Office, Attention: Moose-Wilson EIS, P.O. Drawer 170, Moose, Wyoming 83012–0170. You may comment via the Internet at *http://parkplanning.nps.gov/MooseWilson*. Finally, you may hand-deliver comments to the Grand Teton National Park Headquarters at Moose, Wyoming. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 30, 2013.

Laura E. Joss,

Acting Regional Director, Intermountain Region, National Park Service.

[FR Doc. 2013–29190 Filed 12–5–13; 8:45 am]

BILLING CODE 4312–CB–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–448 and 731–TA–1117 (Review)]

Certain Off-The-Road Tires From China; Scheduling of an Expedited Five-Year Review Concerning the Countervailing Duty Order and Antidumping Duty Order On Certain Off-The-Road Tires From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the countervailing duty order and antidumping duty order on certain off-the-road tires from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* November 20, 2013.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On November 20, 2013, the Commission determined that the domestic interested party group response to its notice of institution (78 FR 46607, August 1, 2013) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on December 18, 2013, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before December 23, 2013 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Titan Tire Corporation ("Titan") and Specialty Tires America, Inc. ("Specialty Tires") to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

submit a brief written statement (which shall not contain any new factual information) pertinent to the review by December 23, 2013. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov*.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: December 3, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–29181 Filed 12–5–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–452 and 731–TA–1129–1130 (Review)]

Raw Flexible Magnets From China and Taiwan; Scheduling of Expedited Five-Year Reviews Concerning the Countervailing Duty Order on Raw Flexible Magnets From China and the Antidumping Duty Orders on Raw Flexible Magnets From China and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the countervailing duty order on raw flexible magnets from China and the antidumping duty orders on raw flexible magnets from China and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* November 20, 2013.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–205–3169), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On November 20, 2013, the Commission determined that the domestic interested party group response to its notice of institution (78 F.R. 46604, August 1, 2013) of the subject five-year reviews was adequate and that the respondent interested party group responses were inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on December 18, 2013, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before December 23, 2013 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by December 23, 2013. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing*, available on the Commission's Web site at *http://edis.usitc.gov*, elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: December 3, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–29182 Filed 12–5–13; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found that the domestic group response for these reviews was adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–506–508 and 731–TA–1238–1243 (Preliminary)]

Non-Oriented Electrical Steel From China, Germany, Japan, Korea, Sweden, and Taiwan; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China, Germany, Japan, Korea, Sweden, and Taiwan of non-oriented electrical steel, provided for in subheadings 7225.19.00 and 7226.19.10, and 7226.19.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV"), and by reason of imports of non-oriented electrical steel that are allegedly subsidized by the Governments of China, Korea, and Taiwan.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On September 30, 2013, a petition was filed with the Commission and Commerce by AK Steel Corp., West Chester, Ohio, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of non-oriented electrical steel from China, Korea, and Taiwan and LTFV imports of non-oriented electrical steel from China, Germany, Japan, Korea, Sweden, and Taiwan. Accordingly, effective September 30, 2013, the Commission instituted countervailing duty investigation Nos. 701–TA–506–508 and antidumping duty investigation Nos. 731–TA–1238–1243 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 22, 2013 (78 FR 62660). The conference was held in Washington, DC, on November 6, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on December 2, 2013. The views of the Commission are contained in USITC Publication 4441 (December 2013), entitled *Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan: Investigation Nos. 701–TA–506–508 and 731–TA–1238–1243 (Preliminary).*

By order of the Commission.

Issued: December 2, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–29116 Filed 12–5–13; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Shara L. Aranoff and F. Scott Kieff did not participate.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–739 (Enforcement Proceeding)]

Certain Ground Fault Circuit Interrupters and Products Containing Same Final Commission Determination; Issuance of Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue cease and desist orders against certain respondents found in default. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov/*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the investigation underlying this enforcement proceeding on October 8, 2010, based on a complaint filed by Leviton Manufacturing Co., Inc., of Melville, New York ("Leviton"). 75 FR 62420 (Oct. 8, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of, *inter alia,* U.S. Patent No. 7,737,809 ("the '809 patent").

On April 27, 2012, the Commission issued a general exclusion order barring entry of ground fault circuit interrupters

that infringe certain claims of the '809 patent. The Commission also entered cease and desist orders against several respondents, including defaulting domestic and foreign respondents: Menard, Inc., of Eau Claire, Wisconsin; Garvin Industries, Inc., of Franklin Park, Illinois; Aubuchon Co., Inc., of Westminster, Massachusetts, Westside Wholesale Electric & Lighting, Inc., of Los Angeles, California; New Aspen Devices Corporation, of Brooklyn, New York; American Ace Supply Inc., of San Francisco, California; Contractor Lighting & Supply, Inc., of Columbus, Ohio; Littman Bros. Energy Supplies, Inc, of Schaumburg, Illinois; Safety Plus, Inc., of McFarland, Wisconsin; Norcross Electric Supply Co. of Suwanee, Georgia; Royal Pacific Ltd. of Albuquerque, New Mexico; and Zhejiang Easting House Electric Co. of Zhejiang, China.

On November 1, 2012, the Commission instituted a proceeding for the enforcement of the Commission's remedial orders based on an enforcement complaint filed by Leviton. 77 FR 66080 (Nov. 1, 2012). The enforcement complaint alleged that domestic respondent American Electric Depot Inc. ("AED"); and foreign respondents Shanghai ELE Manufacturing Corp. ("Shanghai ELE"), and Shanghai Jia AO Electrical Co., Ltd. ("Shanghai Jia AO") violated the general exclusion order. The enforcement complaint also alleged that other respondents violated cease and desist orders. On February 14, 2013, the presiding administrative law judge ("ALJ") issued an initial determination finding AED, Shanghai ELE, and Shanghai Jia AO in default. All other respondents settled. On April 10, 2013, the Commission determined not to review the initial determination with respect to the defaulting respondents.

On April 16, 2013, complainant Leviton filed a motion requesting that the Commission issue (1) a cease and desist order against AED; and (2) seizure and forfeiture orders against ground fault circuit interrupters imported or sold by AED, Shanghai ELE, and Shanghai Jia AO. On April 26, 2013, the Commission investigative attorney ("IA") filed a response supporting Leviton's motion with respect to a cease and desist order against AED. None of the defaulting respondents filed a response.

On May 22, 2013, the ALJ issued a recommended determination ("RD") on remedy. The ALJ drew an inference from AED's refusal to participate in the enforcement proceeding that AED has commercially significant inventories of infringing articles. Accordingly, the ALJ recommended that the Commission issue a cease and desist order prohibiting AED from selling or distributing infringing articles in the United States. The ALJ declined to recommend seizure and forfeiture orders because he found Leviton failed to show evidence that infringing articles were previously denied entry, as required under Commission Rule 210.75(b)(6)(ii).

On July 31, 2013, the Commission requested briefing on the remedy, bonding and the public interest. On August 16, 2013, the Commission received submissions from Leviton and the IA. The Commission did not receive any comments from the defaulting respondents or the public. On August 30, 2013, the IA filed a reply submission. On September 3, 2013, the IA filed an unopposed motion to file a substitute submission. The Commission hereby grants the IA's motion to file a substitute submission.

The Commission has determined that the appropriate form of relief consists of cease and desist orders prohibiting defaulting respondents AED, Shanghai ELE, and Shanghai Jia AO from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for ground fault circuit interrupters and products containing the same that infringe one or more of claims 1–4, 6, 8–11, 13, 15–16, 35–37, 39, and 41–46 of the '809 patent. The Commission has determined that there are sufficient allegations in the enforcement complaint of domestic activities by the defaulting respondents to support issuance of cease and desist orders. *See Certain Digital Photo Frames and Image Display Devices and Components Thereof,* Inv. 337–TA–807, Comm'n Op. (March 27, 2013).

The Commission has further determined that the public interest factors enumerated in subsection (g)(1) (19 U.S.C. 1337 (g)(1)) do not preclude issuance of the cease and desist orders. Finally, the Commission has determined to set a bond of $0.25 per unit for temporary activities otherwise prohibited by the cease and desist orders with respect to the articles in question during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated the investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 2, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–29114 Filed 12–5–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–878]

Certain Electronic Devices Having Placeshifting or Display Replication Functionality and Products Containing Same; Issuance of a Limited Exclusion Order and Cease and Desist Orders Against Respondents Found in Default; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued (1) a limited exclusion order against infringing electronic devices and products of respondents Monsoon Multimedia, Inc. of San Mateo, California ("Monsoon") and C2 Microsystems, Inc. of San Jose, California ("C2 Microsystems") (collectively "the Defaulting Respondents"); and (2) cease and desist orders directed against the Defaulting Respondents. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by

contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 17, 2013, based on a complaint filed on behalf of Sling Media, Inc. of Foster City, California ("Sling") on March 12, 2013. 78 FR 22899 (April 17, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of U.S. Patent Nos. 7,877,776 ("the '776 patent"); 8,051,454 ("the '454 patent"); 8,060,909 ("the '909 patent"); 7,725,912 ("the '912 patent"); 8,266,657 ("the '657 patent"); and 8,365,236 ("the '236 patent"). The notice of investigation named the Defaulting Respondents and Belkin International, Inc. of Playa Vista, California ("Belkin"), as respondents. The Office of Unfair Import Investigations is not participating as a party in this investigation.

On May 20, 2013, complainant Sling and respondent Belkin jointly filed a motion to terminate the investigation as to Belkin based on a settlement agreement. On June 5, 2013, the ALJ issued an initial determination ("ID") granting the motion. *See* Order No. 4 (June 5, 2013). On July 5, 2013, the Commission determined not to review the ID terminating Belkin from the investigation.

On June 11, 2013, the ALJ ordered Monsoon to show cause by June 26, 2013, why it should not be held in default for failing to respond to the Complaint and Notice of Investigation. *See* Order No. 5 (June 11, 2013). On June 26, 2013, Monsoon did not respond to the show cause order, and instead moved to terminate the investigation based on a consent order. On July 8, 2013, the ALJ issued an ID, finding Monsoon to be in default for failing to respond to the show cause order. *See* Order No. 7 (July 8, 2013). The ALJ found that Monsoon's motion to terminate on consent was defective and did not respond to the show cause order. *Id.* On July 15, 2013, Monsoon filed a contingent petition for review on the grounds that the ID affects Commission policy. The petition argued that the default finding should be reversed or remanded because Commission policy favors consent orders over default judgments. Additionally, the petition argued that Monsoon believed that its motion to terminate the investigation rendered the show cause order moot. On July 22, 2013, Sling opposed Monsoon's petition. On August 7, 2013, the Commission determined not to review the ID finding Monsoon in default.

On July 11, 2013, the ALJ ordered C2 Microsystems to show cause by July 25, 2013, why it should not be held in default for failing to respond to the Complaint and Notice of Investigation. *See* Order No. 9 (July 11, 2013). No response to Order No. 9 was filed. On July 29, 2013, the ALJ issued an ID, finding C2 Microsystems to be in default under Commission Rule 210.16. *See* Order No. 11 (July 29, 2013). On August 15, 2013, the Commission determined not to review the ID finding C2 Microsystems in default. 78 FR 52211 (Aug. 22, 2013). The Commission requested briefing from the parties and the public on the issues of remedy, the public interest, and bonding. On August 30, 2013, Sling filed responsive briefing, and submitted a proposed limited exclusion order and proposed cease and desist orders against Monsoon and C2 Microsystems. No other responses to the Commission notice were received.

The Commission finds that the statutory requirements of section 337(g) (19 U.S.C. 1337(g)) and Commission rule 210.16(a) (19 CFR 210.16(a)) are met with respect to the Defaulting Respondents. Accordingly, pursuant to section 337(g)(1) (19 U.S.C. 1337(g)(1)) and Commission rule 210.16(c) (19 CFR 210.16(c)), the Commission presumes the facts alleged in the complaint to be true and finds that Monsoon and C2 Microsystems are in violation of section 337.

The Commission has determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of electronic devices having placeshifting or display replication functionality and products containing the same that are manufactured abroad by or on behalf of, or imported by or on behalf of, the Defaulting Respondents by reason of infringement of one or more of claims 18–24, 26, 28–30, 32–40, 42, and 43 of the '776 patent; claims 7, 9–12, 14, 15, and 17 of the '909 patent; claims 1, 2, 4, and 6–20 of the '454 patent; claims 58–68, 70, 71, 73, 74, 103, 104, 106, and 108 of the '912 patent; claim 81 of the '657 patent; and claims 1–8 and 15–20 of the '236 patent. The Commission has also determined to issue cease and desist orders directed against Monsoon and C2 Microsystems, which prohibit, *inter alia*, the importation, sale, advertising, marketing, and distribution of covered products in the United States by the Defaulting Respondents. The Commission has further determined that the public interest factors enumerated in section 337(f)(1) and (g)(1) (19 U.S.C. §§ 1337(f)(1), (g)(1)) do not preclude issuance of the remedial orders. Finally, the Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of 100 percent of the entered value of the imported subject articles of the Defaulting Respondents. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 2, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–29115 Filed 12–5–13; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Washington, DC, on January 13–14, 2014.

DATES: Monday, January 13, 2014, from 9:00 a.m. to 5:00 p.m., and Tuesday, January 14, 2014, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 703–414–2173.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, on Monday, January 13, 2014, from 9:00 a.m. to 5:00 p.m., and Tuesday, January 14, 2014, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to

review the November 2013 Pension (EA–2F) Joint Board Examination in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the May 2014 Basic (EA–1) Examination and the May 2014 Pension (EA–2L) Examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions that may appear on the Joint Board's examinations and the review of the November 2013 Pension (EA–2F) Joint Board Examination fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1:00 p.m. on January 13, 2014, and will continue for as long as necessary to complete the discussion, but not beyond 3:00 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and should submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All persons planning to attend the public session should notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be sent electronically, by no later than January 6, 2014, to *Patrick.Mcdonough@irs.gov*. Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to: Internal Revenue Service; Attn: Patrick W. McDonough, Executive Director; Joint Board for the Enrollment of Actuaries SE:RPO; REFM, Park 4, Floor 4; 1111 Constitution Avenue NW., Washington, DC 20224.

Dated: December 2, 2013.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2013–29112 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Vehicle Infrastructure Integration Consortium

Notice is hereby given that, on October 17, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Vehicle Infrastructure Integration Consortium ("VIIC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, General Motors Holdings LLC, Detroit, MI, has succeeded General Motors Corporation, Detroit, MI; and Chrysler Group LLC, Auburn Hills, MI, has succeeded Chrysler, LLC, Auburn Hills, MI, as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VIIC intends to file additional written notifications disclosing all changes in membership.

On May 1, 2006, VIIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 2006 (71 FR 32128).

The last notification was filed with the Department on March 21, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 15, 2013 (78 FR 22297).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–29065 Filed 12–5–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities: Proposed Collection, Comments Requested, New Collection; National Incident-Based Reporting System (NIBRS)

ACTION: 60-day Notice.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until February 4, 2014.

This process is conducted in accordance with 5 CFR 1320.10.

All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile to (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of This Information Collection

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* National Incident-Based Reporting System.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Criminal Justice Information Services

Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, tribal, and federal law enforcement agencies. Abstract: Under U.S. Code, Title 28, Section 534, Acquisition, Preservation, and Exchange of Identification Records; Appointment of Officials, June 11, 1930; Public Law 109–177 (H.R. 3199), March 9, 2006, USA Patriot Improvement and Reauthorization Act of 2005; Public Law110–457, Title II, Section 237(a), (b), December 23, 2008, the William Wilberforce Trafficking Victims Reauthorization Act of 2008, and Matthew Shepard Hate Crimes Prevention Act, April 28, 2009, this collection requests Incident data from city, county, state, tribal and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of incident data and to publish these statistics in Crime in the United States, Hate Crime Statistics, and Law Enforcement Officers Killed and Assaulted. NIBRS is an incident-based reporting system in which law enforcement collects data on each crime occurrence. Designed to be generated as a byproduct of local, state, and federal automated records systems, currently, the NIBRS collects data on each incident and arrest within 23 crime categories made up of 49 specific crimes called Group A offenses. For each of the offenses coming to the attention of law enforcement, various facts about the crime are collected. In addition to the Group A offenses, there are 10 Group B offense categories for which only arrest data are reported. The most significant difference between NIBRS and the traditional Summary Reporting System (SRS) is the degree of detail in reporting. In reporting data via the traditional SRS, law enforcement agencies tally the occurrences of eight Part I crimes. NIBRS is capable of producing more detailed, accurate, and meaningful data because data are collected about when and where crime takes place, what form it takes, and the characteristics of its victims and perpetrators. Although most of the general concepts for collecting, scoring, and reporting UCR data in the SRS apply in the NIBRS, such as jurisdictional rules, there are some important differences in the two systems. The most notable differences that give the NIBRS an advantage over the SRS are: No Hierarchy Rule, in a multiple-offense incident NIBRS reports every offense occurring during the incident where SRS would report just the most serious offense and the lower-listed offense would not be reported; NIBRS provides revised, expanded, and new offense definitions; NIBRS provides more specificity in reporting offenses, using NIBRS offense and arrest data for 23 Group A offense categories can be reported while in the SRS eight Part I offenses can be reported; NIBRS can distinguish between attempted and completed Group A crimes; NIBRS also provides crimes against society while the SRS does not; the victim-to-offender data, circumstance reporting, drug related offenses, offenders suspected use of drugs, and computer crime is expanded in NIBRS; the NIBRS update reports are directly tied to the original incident submitted. The Group A offense categories include arson, assault offenses, bribery, burglary/breaking and entering, counterfeiting/forgery, destruction/damage/vandalism of property, drug/narcotic offenses, embezzlement, extortion/blackmail, fraud offenses, gambling offenses, homicide offenses, human trafficking, kidnapping/abduction, larceny/theft offenses, motor vehicle theft, pornography/obscene material, prostitution offenses, robbery, sex offenses, sex offenses/nonforcible, stolen property offenses, and weapon law violations. The Group B offense categories include bad checks, curfew/loitering/vagrancy violations, disorderly conduct, DUI, drunkenness, family offenses/nonviolent, liquor law violations, peeping tom, trespass of real property, and all other offenses.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 6,038 law enforcement agencies. The amount of time estimated for an average respondent to respond is two hours monthly which totals to an annual hour burden of 24 hours. The 2 hours to respond is the time it takes for the agencies records management system (RMS) to download the NIBRS and send to the FBI. By design, law enforcement agencies generate NIBRS data as a by-product of their RMS. Therefore, a law enforcement agency builds its system to suit its own individual needs, including all of the information required for administration and operation; then forwards only the data required by the NIBRS to participate in the FBI UCR Program.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 144,912 hours, annual burden, associated with this information collection. The total number of respondents is 6,038 with a total annual hour burden of 24 hours, (6,038 × 24 = 144,912 total annual hours).

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE. Room 3W–1407B, Washington, DC 20530.

Dated: December 2, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–29093 Filed 12–5–13; 8:45 am]

BILLING CODE 4410–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0264]

Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–3042, "Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility." This draft regulatory guide is proposed revision 2 of Regulatory Guide 3.50, which provides a format that the NRC considers acceptable for submitting the information for license applications to store spent nuclear fuel, high-level radioactive waste, and/or reactor-related Greater than Class C waste.

DATES: Submit comments by January 24, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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–2013–0264. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN- 06A–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jazel Parks, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Research, telephone 301–251–7690, email: *Jazel.Parks@nrc.gov* or Josh Goshen, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–287–9250, email: *Josh.Goshen@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0264 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0264.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft regulatory guide is available electronically under ADAMS Accession Number ML12087A035. The regulatory analysis may be found in ADAMS under Accession No. ML12087A039.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

• *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–2013–0264 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Further Information

The NRC is issuing for public comment a draft guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

This regulatory guide provides a format that the NRC considers acceptable for submitting the information for license applications to store spent nuclear fuel, high-level radioactive waste, and/or reactor-related Greater than Class C (GTCC) waste. Part 72 of Title 10 of the Code of Federal Regulations (10 CFR), "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste" (Ref. 1), Subpart B, "License Application, Form, and Contents," specifies the information that must be in an application for a license to store spent nuclear fuel, high-level radioactive waste, and/or power-reactor-related GTCC waste in an independent spent fuel storage installation (ISFSI) or to store spent nuclear fuel, high-level radioactive waste, and GTCC waste in a monitored retrievable storage (MRS) facility.

The draft regulatory guide, entitled "Standard Format and Content for a License Application for an Independent Spent Fuel Storage Installation or a Monitored Retrievable Storage Facility," is temporarily identified by its task number, DG–3042. The DG–3042 is proposed revision 2 of Regulatory Guide 3.50, dated September 1989.

This revision to RG 3.50 (Revision 2) was issued to conform to the format and content requirements in 10 CFR part 72, which has been revised several times since Revision 1 was issued, and to update guidance on electronic submissions of applications. In addition, Revision 2 includes editorial changes to improve clarity.

II. Backfitting and Issue Finality

This draft regulatory guide, if finalized, will provide guidance on one possible means for meeting NRC's regulatory requirements in 10 CFR 72.22–34 regarding the format and content for license applications for an ISFSI or MRS. This draft regulatory guide may be applied to license applications for ISFSIs and MRSs docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for such licenses submitted after the issuance of the regulatory guide. This regulatory guide does not apply to current license applications for ISFSIs, and there are no current applications for an MRS.

This draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 72.62(a). The regulatory guide applies only to future applicants, who are not within the scope of entities protected by § 72.62. In addition, the subject matter of this regulatory guide does not concern matters dealing with either the structures, systems and components of an ISFSI or MRS, or the procedures or organization for operating an ISFSI or MRS. Therefore, the matters addressed in this draft regulatory guide are not within the scope of the backfitting provisions in § 72.62(a)(1) or (2).

This draft regulatory guide, if finalized, would not apply to entities

protected by issue finality provisions in 10 CFR part 52 with respect to the matters addressed in this regulatory guide. Although part 52 combined license applicants and holders may apply for specific ISFSI licenses, the guidance in this regulatory guide is directed to ISFSI applicants and does not make a distinction between, and presents no more onerous guidance for, ISFSI applicants who are also combined license applicants or holders, than for ISFSI applicants who are not combined license applicants and holders.

Accordingly, the NRC concludes that this draft regulatory guide, if finalized, would not be inconsistent with any part 52 issue finality provision.

Dated at Rockville, Maryland, this 18th day of November, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–29163 Filed 12–5–13; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Senior Executive Service-Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the OPM Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Carmen Garcia, Employee Services—OPM Human Resources, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, (202) 606–4999.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and considers recommendations to the appointing authority regarding the performance of the senior executive.

Office of Personnel Management.

Katherine Archuleta,

Director.

The following have been designated as members of the Performance Review Board of the U.S. Office of Personnel Management:

Ann Marie Habershaw, Chief of Staff
Angela Bailey, Chief Operating Officer
Elizabeth Montoya, Senior Advisor to the Director
Jonathan Foley, Director—Office of Planning and Policy Analysis
Dennis Coleman, Chief Financial Officer
Joseph Kennedy, Associate Director for Human Resources Solutions
Mark Reinhold, Chief Human Capital Officer and Acting Associate Director for Employee Services

[FR Doc. 2013–29179 Filed 12–5–13; 8:45 am]

BILLING CODE 6325–45–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30815; 812–14201]

VTL Associates, LLC, et al.; Notice of Application

December 2, 2013.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: *Summary of Application:* Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares ("Shares") redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares. The order would supersede a prior order.[1]

[1] Applicants previously received an order of exemption from the Commission with respect to the offering of funds based on indexes of domestic equity securities. See Investment Company Act Rel. Nos. 28123 (Jan. 18, 2008) (notice) and 28151 (Feb. 13, 2008) (order) (the "Prior VTL Order").

Applicants: RevenueShares ETF Trust (the "Trust"), VTL Associates, LLC ("Current Adviser"), and Foreside Fund Services, LLC (the "Distributor").

DATES: *Filing Dates:* The application was filed on August 12, 2013, and amended on October 18, 2013 and November 29, 2013.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 27, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: VTL Associates, LLC and RevenueShares ETF Trust, One Commerce Square, 2005 Market Street, Suite 2020, Philadelphia, PA 19103; Foreside Fund Services, LLC, Three Canal Plaza, Suite 100, Portland, ME 04101.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series. Applicants state that the Trust currently offers a number of Funds (as defined below), each of which has a distinct investment objective, tracks a particular index and utilizes either a replication or

representative sampling strategy (the "Current Funds"). Each Fund operates or will operate as an exchange-traded fund ("ETF").

2. The Current Adviser is the investment adviser to the Funds. The Current Adviser is, and any other Adviser (as defined below) will be, registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a "Sub-Adviser"). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Distributor serves as the principal underwriter and distributor for each of the Funds. The Distributor is not an affiliated person of the Current Adviser within the meaning of section 2(a)(3)(C) of the Act. Applicants request that the order also apply to any other future principal underwriter and distributor to Future Funds (defined below) ("Future Distributor"), provided that any such Future Distributor complies with the terms and conditions of the application. The Distributor is not, and no Future Distributor will be, affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the Current Funds and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future ("Future Funds" and together with the Current Funds, "Funds"), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an "Underlying Index"). Any Future Fund will (a) be advised by the Current Adviser or an entity controlling, controlled by, or under common control with the Current Adviser (each, an "Adviser") and (b) comply with the terms and conditions of the application.[2]

5. Each Fund holds or will hold certain securities ("Portfolio Securities") selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities ("Foreign Funds").

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index ("Component Securities") and TBA Transactions,[3] and in the case of Foreign Funds, Component Securities and Depositary Receipts[4] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. Each Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies ("130/30 Funds") or other long/short investment strategies ("Long/Short Funds"). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index[5] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day (as defined below), for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site ("Web site") by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[6] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an "Index Provider") or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[7] A "Self-Indexing

[2] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. In addition, all of the applicants to the Prior VTL Order have been named as applicants, and applicants will not continue to rely on the Prior VTL Order if the requested order is issued. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[3] A "to-be-announced transaction" or "TBA Transaction" is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities ("Depositary Receipts") include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a "depositary bank") and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as "Long/Short Indexes."

[6] Under accounting procedures followed by each Fund, trades made on the prior Business Day ("T") will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[7] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (as defined below), or in case of a sub-licensing agreement, the Adviser, must provide the use of the Affiliated Indexes (as defined below) and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

Fund" is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of such person ("Second-Tier Affiliate"), of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an "Affiliated Index Provider") will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an "Affiliated Index").[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an affiliated person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

11. Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an "Exchange") on which the Fund's Shares are primarily listed ("Listing Exchange") are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a "Business Day"), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day ("Portfolio Holdings"). Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will also provide an additional mechanism for addressing any such potential conflicts of interest.

12. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[9]

13. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)-7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Current Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Current Adviser or an associated person ("Inside Information Policy"). Any other Adviser or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics[10] and Inside Information Policy of each Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit[11] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

14. To the extent the Self-Indexing Funds transact with an affiliated person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees ("Board") will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, an Adviser, affiliated persons of the Adviser ("Adviser Affiliates") and affiliated persons of any Sub-Adviser ("Sub-Adviser Affiliates") may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by an Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[12]

15. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be "investment companies" in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser ("Affiliated Accounts") as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser ("Unaffiliated Accounts"). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.*, Rule 17j-1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)-7 under the Advisers Act.

[10] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j-1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j-1) from engaging in any conduct prohibited in Rule 17j-1 ("Code of Ethics").

[11] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the "Portfolio Deposit."

[12] *See, e.g.*, Guggenheim Funds Investment Advisors, LLC, Investment Company Act Release Nos. 30560 (June 14, 2013) (notice) and 30598 (July 10, 2013) (order); Sigman Investment Advisors, LLC, Investment company Act Release Nos. 30559 (June 14, 2013) (notice) and 30597 (July 10, 2013) (order).

deposit of specified instruments ("Deposit Instruments"), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments ("Redemption Instruments").[13] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[14] except: (a) in the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[15] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[16] will be excluded from the Deposit Instruments and the Redemption Instruments;[17] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[18] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a "Rebalancing"). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the "Cash Amount").

16. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) to the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant (as defined below), the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[19] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[20]

17. Creation Units will consist of specified large aggregations of Shares (e.g., 25,000 Shares) as determined by the Adviser, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an "Authorized Participant" which is either (1) a "Participating Party," i.e., a Broker or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company ("DTC") ("DTC Participant"), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

18. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

19. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees ("Transaction Fees") in connection with effecting such purchases or redemptions of Creation Units. In all cases, such

[13] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 ("Securities Act"). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[14] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[15] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[16] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[17] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[18] A Fund may only use sampling for this purpose if the sample: (i) is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[19] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[20] A "custom order" is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[21] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

20. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a "Market Maker") and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

21. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[22] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

22. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

23. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a "mutual fund." Instead, each such Fund will be marketed as an "ETF." All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c-1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c-1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c-1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c-1, appear to have been designed to (a) prevent dilution caused by certain riskless

[21] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[22] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[23]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts ("UITs") that are not advised or sponsored by the Adviser, and not part of the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as "Investing Management Companies," such UITs are referred to as "Investing Trusts," and Investing Management Companies and Investing Trusts are collectively referred to as "Funds of Funds"), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the "Fund of Funds Adviser") and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, a "Fund of Funds Sub-Adviser"). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor ("Sponsor").

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[24] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor ("Fund of Funds Advisory Group") from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of

[23] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[24] A "Fund of Funds Affiliate" is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A "Fund Affiliate" is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser ("Fund of Funds Sub-Advisory Group").

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting"). An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("disinterested directors or trustees"), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[25]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund ("FOF Participation Agreement"). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an "Affiliated Fund"). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are affiliated persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions "in-kind."

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making "in-kind" purchases or "in-kind" redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for "in-kind" purchases of Creation Units and the redemption procedures for "in-kind" redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Securities currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer.

[25] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Applicants do not believe that "in-kind" purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that "in-kind" purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Securities held by a Fund is identical to that used for calculating "in-kind" purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Securities held by a Fund as are used for calculating "in-kind" redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions "in-kind" will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[26] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[27] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV ("Bid/Ask Price"), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for the Self-Indexing Fund through a transaction in which the Self-Indexing Fund could not engage directly.

B. Fund of Funds Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of

[26] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[27] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

the Fund, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("non-interested Board members"), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-1 under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–29117 Filed 12–5–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70964; File No. SR–BATS–2013–060]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Risk Monitoring Functionality Offered by the Exchange

December 2, 2013.

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 November 18, 2013, 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 filed a proposal to amend Rule 21.16, entitled "Risk Monitor Mechanism", in order to modify the risk monitoring functionality offered to all Users[5] of the BATS equity options trading platform ("BATS Options") and to make a clarifying change to the rule text.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule changes are: (1) to amend Exchange Rule 21.16(b)(ii) in order add a new percentage-based Specified Engagement Trigger[6] to the Risk Monitor Mechanism; (2) to amend BATS Rule 21.16(c) in order to provide more granular cancellation of orders under the Risk Monitor Mechanism; (3) to make a clarifying change to BATS Rule 22.11; and (4) to add BATS Rule 21.16(e). Specifically, the Exchange proposes to amend Rule 21.16(b)(ii), entitled "Specified Engagement Triggers", in order to adopt a new type of Specified Engagement Trigger that will be triggered whenever a trade counter has calculated that the User has traded a certain percentage within a time period specified by the Exchange against the User's orders in a specified class. The Exchange also proposes to amend Rule 21.16(c) such that an incoming order that is received prior to the time that the Risk Monitor Mechanism is engaged and is executable against a User's quotation will execute up to the entire size of the User's quotation that would cause executions in excess of the User's Specified Engagement Trigger, but any additional executable quotations will be cancelled. The Exchange further proposes to amend Rule 22.11 in order to clarify the functionality of mass cancellation of trading interest, and to add Rule 21.16(e) in order to make clear that a User may engage the Risk Monitor Mechanism in order to implement such mass cancellation functionality.

Overview

Currently, the Exchange's Risk Monitor Mechanism operates by the System maintaining a counting program for each User. A single User may configure a single counting program or multiple counting programs to govern its trading activity (i.e., on a port by port basis). The counting program will count executions of contracts traded by each User and in specific Option Categories (as defined below) by each User. The counting program counts executions, contract volume, and notional value, within a specified time period established by each User (the "specified time period") and on an absolute basis for the trading day ("absolute limits"). The specified time period commences for an option when a transaction occurs in any series in such option. The counting program also counts a User's executions, contract volume, and notional value across all options which a User trades. The counting program counts executions in the following "Options Categories": front-month puts, front-month calls, back-month puts, and back month calls (each an "Option Category"). The counting program also counts a User's executions, contract volume, and notional value across all options which a User trades ("Firm Category"). For the purposes of the Risk Monitor Mechanism, a front-month put or call is an option that expires within the next two calendar months, including weeklies and other non-standard expirations, and a back-month put or call is an option that expires in any month more than two calendar months away from the current month.

The System engages the Risk Monitor Mechanism in a particular option when the counting program has determined that a User's trading has reached a Specified Engagement Trigger established by such User during the specified time period or on an absolute basis. When a Specified Engagement Trigger is reached in an Options Category, the Risk Monitor Mechanism will automatically remove such User's orders in all series of the particular option and reject any additional orders from a User in such option until the counting program has been reset in accordance with paragraph (d) of Rule 21.16. The Risk Monitor Mechanism also attempts to cancel any orders that have been routed away to other options exchanges on behalf of the User.

As provided in subparagraph (b)(ii) of BATS Rule 21.16, each User can, optionally, establish Specified Engagement Triggers in each Options Category, per option, or in the Firm Category. Specified Engagement Triggers can be set as follows: (A) a contract volume trigger, measured against the number of contracts executed (the "volume trigger"); (B) a notional value trigger, measured against the notional value of executions[7] (the "notional trigger"); and (C) an execution count trigger, measured against the number of executions ("count trigger").

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[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] As defined in Exchange Rule 16.1(a)(63), a User is any Exchange member or sponsored participant authorized to obtain access to the Exchange.

[6] As defined in Exchange Rule 21.16(b)(ii).

[7] Notional value is calculated as the sum of all premiums paid times the number of contracts executed. For example, an option executed with a premium of $3.00 for 5 contracts would count as $15.00 notional value.

Each of these triggers can be established in isolation (e.g., a User may choose only to implement a volume trigger) or a User can establish multiple separate triggers with different parameters. Also, as described above, the triggers can be implemented either as absolute limits or over a specified period of time.

Rule 22.11, entitled "Mass Cancellation of Trading Interest" currently provides that a User may simultaneously cancel all its bids, offers, and orders in all series of options by requesting the Exchange staff to effect such cancellation. The form of such requests includes but is not limited to email or phone call from authorized individuals, and the Risk Monitor Mechanism. As part of Rule 22.11, a User may submit a request to cancel a subset or the entirety of its outstanding orders.

Percentage-Based Engagement Trigger

The Exchange proposes to create a new Specified Engagement Trigger to the Risk Monitor Mechanism based on percentage under BATS Rule 21.16(b)(ii) (the "percentage trigger"). The proposed percentage trigger would be triggered whenever a trade counter has calculated that the User has traded a set percentage (designated by the User) within a set time period (designated by the Exchange) against the User's orders in a specified class. The set percentage is specified by the User (the "Specified Percentage") and will be calculated as follows (and as shown in the examples below): (1) a counting program would first calculate, for each series of an option class, the percentage of a User's combined order and quote size that is executed on each side of the market, including both displayed and non-displayed size; and (2) a counting program would then sum the overall series percentages for the entire option class to calculate the percentage.

Example 1

For Examples 1 and 2, if a User enters orders at the National Best Bid or Offer ("NBBO") in four series of a class and its Specified Percentage is 100%, a counting program would calculate such percentage as follows:

Series	Quote size	# of Contracts executed	Series percentage (%)
Series 1	100	40	40
Series 2	50	20	40
Series 3	200	20	10
Series 4	150	15	10
Total	500	95	100

In Example 1, the aggregate number of contracts executed among all series during the time period specified by the Exchange that equals the specified percentage of 100% is 95 contracts, at which point the percentage trigger would be triggered and the User's remaining orders in the appointed class would be cancelled.

Example 2

Series	Quote size	# of Contracts Executed	Series Percentage (%)
Series 1	100	0	0
Series 2	50	0	0
Series 3	200	0	0
Series 4	150	150	100
Total	500	150	100

In Example 2, the aggregate number of contracts executed among all series during the time period specified by the Exchange that equals the specified percentage of 100% is 150 contracts, at which point the percentage trigger would be triggered and the User's remaining quotes in the appointed class would be cancelled.

Example 3

For Example 3, if a User is quoting at the NBBO in four series of a particular option class, and specifies its percentage trigger at 200%, a trade counter would calculate such percentage as follows:

Series	Quote size	# of Contracts executed	Series percentage (%)
Series 1	100	80	80
Series 2	50	40	80
Series 3	200	40	20
Series 4	150	30	20
Total	500	190	200

In Example 3, the aggregate number of contracts executed among all series during the time period specified by the Exchange that equals the specified percentage of 200% is 190 contracts, at which point the percentage trigger would be triggered and the User's remaining quotes in the appointed class would be cancelled.

Order Cancellation

The Exchange also proposes to amend Rule 21.16(c) regarding what will happen to marketable orders that are executable against a User's quotation that are received prior to the time that the Risk Monitor Mechanism is engaged. Specifically, the Exchange is proposing to amend the rule such that where there are marketable orders that are executable against a User's order or quotation that are received prior to the

time that the Risk Monitor Mechanism is engaged will be automatically executed up to the size of the User's quotation (but not *all* of the User's quotations, as currently implemented). For example, where a single User's Specified Engagement Trigger is 150 contracts, the User has entered the following sell orders in a given series that are resting at the Exchange, and the next most aggressively priced sell order in the series is 10.04:

Price Level	Quoted Size
10.01	100
10.02	100
10.03	150

Where another User then enters a 300 contract buy order priced at 10.03, the Exchange will allow the orders priced at 10.01 and 10.02 to execute in full, even though the execution of the 10.02 order will result in an execution of a total of 200 contracts, which will exceed the Specified Engagement Trigger of 150 contracts. The Exchange will then cancel the entirety of the 10.03 order and the remaining portion of the buy order will behave as indicated by the other User indicated upon entry. Under the current implementation, the Exchange would allow the entirety of the buy order to execute before cancelling any of the User's orders, meaning that the orders priced at 10.01 and 10.02 would execute in full and 100 shares of the order priced at 10.03 would execute, at which point the remaining 50 shares of the order priced at 10.03 would be cancelled. The Exchange believes that this change in the implementation of the Risk Monitor Mechanism will provide an appropriate level of additional protection for firms using the mechanism such that, while their risk limits can be exceeded to satisfy an incoming order, such limits will be better protected by cancelling interest after the first quotation has been executed that equals or exceeds the User's Specified Engagement Trigger (i.e., the Exchange will not allow an incoming order to execute against all of a User's quotations even after their risk limits have been breached).

Clarifying Changes

The Exchange also proposes to make a clarifying amendment to Rule 22.11 in order to make the mass cancellation functionality more clear. As described above, a User may submit a request to cancel any subset or the entirety of its outstanding orders. The Exchange is proposing to clarify Rule 22.11 in order to make clear that a User may request to cancel orders for a specified underlying security.

Similarly, the Exchange proposes to make a clarifying change by adding paragraph 21.16(e) in order to make clear that a User may engage the Risk Monitor Mechanism in order to use the mass cancellation functionality from Rule 22.11.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[9] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the proposal is appropriate and reasonable because it offers additional functionality for Users to manage their risk. Offering the percentage trigger and more granular order cancellation as part of the Risk Monitor Mechanism will provide Market Makers and other Users with greater control and flexibility with respect to managing risk and the manner in which they enter orders and quotes, allowing them to quote more aggressively, which removes impediments to a free and open market and benefits all Users of BATS Options. The Exchange notes that a similar functionality is offered by NYSE Arca, Inc. ("NYSE Arca Options") and NYSE Amex Options, Inc. ("NYSE Amex Options").[10]

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the current variances between the Exchange's Risk Monitor Mechanism and the risk monitoring available at other exchanges limit competition in that other exchanges are able to employ their risk management tools using a percentage-based trigger, while the Exchange cannot employ such a trigger. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users similar percentage triggers as are available at other exchanges and thus compete with other exchanges for order flow that a User may not have directed to the Exchange if the percentage trigger was not available.

(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 foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) 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)(iii) thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–BATS–2013–060 on the subject line.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* NYSE Arca Options Rule 6.40(d); *see also* NYSE Amex Options Rule 928NY(d).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2013–060. 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 changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2013–060 and should be submitted on or before December 27, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–29092 Filed 12–5–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13790 and #13791]

Pennsylvania Disaster Number PA–00065

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Pennsylvania (FEMA–4149–DR), dated 10/01/2013.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 06/26/2013 through 07/11/2013.

Effective Date: 11/22/2013.

Physical Loan Application Deadline Date: 12/02/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 07/01/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Pennsylvania, dated 10/01/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Allegheny.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–29183 Filed 12–5–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13829 and #13830]

Illinois Disaster #IL–00043

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–4157–DR), dated 11/26/2013.

Incident: Severe Storms, Straight-line Winds, and Tornadoes.

Incident Period: 11/17/2013.

Effective Date: 11/26/2013.

Physical Loan Application Deadline Date: 01/27/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 08/26/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/26/2013, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Champaign, Douglas, Fayette, Grundy, Jasper, La Salle, Massac, Pope, Tazewell, Vermilion, Wabash, Washington, Wayne, Will, Woodford.

Contiguous Counties (Economic Injury Loans Only): Illinois: Bond, Bureau, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, Dekalb, Dupage, Edgar, Edwards, Effingham, Ford, Fulton, Hamilton, Hardin, Iroquois, Jefferson, Johnson, Kankakee, Kendall, Lawrence, Lee, Livingston, Logan, Marion, Marshall, Mason, McLean, Montgomery, Moultrie, Peoria, Perry, Piatt, Pulaski, Putnam, Randolph, Richland, Saint Clair, Saline, Shelby, White, Williamson.

Indiana:

Benton, Gibson, Knox, Lake, Vermillion, Warren.

Kentucky:

Livingston, McCracken,

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.500
Homeowners Without Credit Available Elsewhere	2.250
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13829C and for economic injury is 138300.

[13] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–29191 Filed 12–5–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13809 and # 13810]

New Mexico Disaster Number NM–00035

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Mexico (FEMA–4152–DR), dated 10/29/2013.

Incident: Severe Storms, Flooding, and Mudslides.

Incident Period: 09/09/2013 through 09/22/2013.

Effective Date: 11/27/2013.

Physical Loan Application Deadline Date: 12/30/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 07/29/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New Mexico, dated 10/29/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: De Baca, Dona Ana, Harding, Lincoln, Otero, Rio Arriba, San Juan, and Isleta, Sandia and Taos Pueblos and the Navajo Nation.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–29194 Filed 12–5–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13827 and #13828]

Nebraska Disaster #NE–00055

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–4156–DR) dated 11/26/2013.

Incident: Severe Storms, Winter Storms, Tornadoes, and Flooding.

Incident Period: 10/02/2013 through 10/06/2013.

Effective Date: 11/26/2013.

Physical Loan Application Deadline Date: 01/27/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 08/26/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/26/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Adams, Dawes, Dixon, Howard, Sheridan, Sherman, Sioux, Thurston, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.875
Non-Profit Organizations without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13827B and for economic injury is 13828B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–29186 Filed 12–5–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13826]

Massachusetts Disaster #MA–00057 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the Commonwealth of Massachusetts, dated 11/26/2013.

Incident: Russell Street Fire.

Incident Period: 10/27/2013.

Effective Date: 11/26/2013.

EIDL Loan Application Deadline Date: 08/26/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Hampshire.

Contiguous Counties: Massachusetts: Berkshire, Franklin, Hampden, Worcester.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 138260.

The Commonwealth which received an EIDL Declaration # is Massachusetts.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: November 26, 2013.

Jeanne Hulit,

Acting Administrator.

[FR Doc. 2013–29178 Filed 12–5–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8544]

Presidential Permit for Kinder Morgan Cochin, LLC

November 27, 2013.

AGENCY: Department of State.

ACTION: Notice of Issuance of a Presidential Permit for Kinder Morgan Cochin, LLC.

SUMMARY: The Department of State issued a Presidential Permit to Kinder Morgan Cochin, LLC ("KM Cochin") on November 19, 2013, authorizing KM Cochin to connect, operate, and maintain existing pipeline facilities it acquired at the border of the United States and Canada at a point in Renville County, North Dakota, as a common carrier, for the transport of light liquid hydrocarbons between the United States and Canada. The Department of State determined that issuance of this permit would serve the national interest. In making this determination and issuing the permit, the Department of State followed the procedures established under Executive Order 13337, and provided public notice and opportunity for comment.

FOR FURTHER INFORMATION CONTACT: Office of Europe, Western Hemisphere and Africa, Bureau of Energy Resources, U.S. Department of State (ENR/EDP/EWA). 2201 C St. NW., Ste. 4843, Washington DC 20520. Attn: Michael Brennan. Tel: 202–647–7553.

SUPPLEMENTARY INFORMATION: Additional information concerning the KM Cochin pipeline and documents related to the Department of State's review of the application for a Presidential Permit can be found at *http://www.state.gov/e/enr/applicant/applicants/c54799.htm*. Following is the text of the issued permit:

PRESIDENTIAL PERMIT

AUTHORIZING KINDER MORGAN COCHIN, LLC TO CONNECT, OPERATE, AND MAINTAIN PIPELINE FACILITIES AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND CANADA

By virtue of the authority vested in me as Deputy Secretary of State, including those authorities under Executive Order 13337, 69 Fed. Reg. 25299 (2004), and Department of State Delegation of Authority 245–1 of February 13, 2009; having requested and received the views of members of the public and various federal agencies; I hereby grant permission, subject to the conditions herein set forth, to Kinder Morgan Cochin, LLC (hereinafter referred to as the "permittee"), a Delaware limited liability company, to connect, operate, and maintain pipeline facilities at the border of the United States and Canada at a point in Renville County, North Dakota, as a common carrier for the transport of light liquid hydrocarbons between the United States and Canada.

The term "facilities" as used in this permit means the relevant portion of the pipeline and any land, structures, installations or equipment appurtenant thereto.

The term "United States facilities" as used in this permit means those parts of the facilities located in the United States. The United States facilities consist of a 12.75 inch diameter pipeline extending from the international border between the United States and Canada at a point near Sherwood in Renville County, North Dakota, to the first block valve in the United States, located at milepost 636 of the pipeline, approximately 14.5 miles south of the international boundary. The United States facilities also include certain appurtenant facilities.

This permit is subject to the following conditions:

Article 1. (1) The United States facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any amendment thereof. This permit may be terminated or amended at any time at the discretion of the Secretary of State or the Secretary's delegate or upon proper application therefor. The permittee shall make no substantial change in the United States facilities, the location of the United States facilities, or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

(2) The connection, operation and maintenance of the United States facilities shall be in all material respects as described in the permittee's November 14, 2012 application for a Presidential Permit (the "Application").

Article 2. The standards for, and the manner of, the operation and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal, state and local agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 3. The permittee shall comply with all applicable federal, state, and local laws and regulations regarding the connection, operation, and maintenance of the United States facilities and with all applicable industrial codes. The permittee shall obtain all requisite permits from state and local government entities and relevant federal agencies.

Article 4. Connection, operation, and maintenance of the United States facilities hereunder shall be subject to the limitations, terms, and conditions issued by any competent agency of the United States Government. The permittee shall continue the operations hereby authorized and conduct maintenance in accordance with such limitations, terms, and conditions. Such limitations, terms, and conditions could address, for example, environmental protection and mitigation measures, safety requirements, export or import and customs regulations, measurement capabilities and procedures, requirements pertaining to the pipeline's capacity, and other pipeline regulations.

Article 5. The permittee shall notify the Commissioner of Customs and Border Protection immediately if it plans to inject foreign merchandise into the United States facilities.

Article 6. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other action with respect to, this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other action taken, at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession, removal, or other action.

Article 7. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the United States Department of State, including the submission of information identifying the transferee. This permit shall remain in force subject to all the conditions, permissions and requirements of this permit and any amendments thereto unless subsequently terminated or amended by the Secretary of State or the Secretary's delegate.

Article 9. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary and appropriate.

(2) The permittee shall save harmless and indemnify the United States from any

claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the facilities, including but not limited to environmental contamination from the release or threatened release or discharge of hazardous substances and hazardous waste.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations.

Article 10. The permittee shall take all necessary measures to prevent or mitigate adverse environmental impacts or disruption of archeological resources in connection with connection, operation and maintenance of the United States facilities. Such measures will include any mitigation and control plans that are already approved or that are approved in the future by the Department of State or other relevant federal agencies, and any other measures deemed prudent by the permittee.

Article 11. The permittee shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or permittee's activities and operations in connection therewith, as are now or may hereafter be required under any laws or regulations of the United States Government or its agencies. The permittee shall file electronic Export Information where required.

Article 12. The permittee shall provide information upon request to the Department of State with regard to the United States facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the U.S. facilities.

IN WITNESS WHEREOF, I, the Deputy Secretary of State have hereunto set my hand this 19th day of November 2013 in the City of Washington, District of Columbia.

William J. Burns
Deputy Secretary of State

Date: November 27, 2013.

Michael F. Brennan,

Energy Officer, Office of Europe, Western Hemisphere and Africa, Bureau of Energy Resources, U.S. Department of State.

[FR Doc. 2013–29184 Filed 12–5–13; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance With Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment and reply comment.

SUMMARY: Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ('Section 1377'), the Office of the United States Trade Representative ("USTR") is reviewing and requests comments on the operation, effectiveness, and implementation of, and compliance with the following agreements regarding telecommunications products and services of the United States: The World Trade Organization ("WTO") General Agreement on Trade in Services; The North American Free Trade Agreement ("NAFTA"); U.S. free trade agreements ("FTAs") with Australia, Bahrain, Chile, Colombia, Korea, Morocco, Oman, Panama, Peru, and Singapore; the Dominican Republic–Central America–United States Free Trade Agreement ("CAFTA–DR"); and any other telecommunications trade agreements, such as Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment. The USTR will conclude the review by March 31, 2014.

DATES: Comments are due on January 3, 2014 and reply comments on January 24, 2014.

ADDRESSES: Submissions should be made via the Internet at *www.regulations.gov* docket number USTR–2013–0039. For alternatives to on-line submissions please contact Yvonne Jamison (202–395–3475). The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

FOR FURTHER INFORMATION CONTACT: Jonathan McHale, Office of Services and Investment, (202) 395–9533; or Ashley Miller, Office of Market Access and Industrial Competitiveness, (202) 395–9476.

SUPPLEMENTARY INFORMATION: Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a trade agreement or other telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities for telecommunications products and services. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its obligations under WTO agreements affecting market opportunities for telecommunications products or services, *e.g.*, the WTO General Agreement on Trade in Services ("GATS"), including the Agreement on Basic Telecommunications Services, the Annex on Telecommunications, and any scheduled commitments including the Reference Paper on Pro-Competitive Regulatory Principles; the WTO Agreement on Subsidies and Countervailing Measures; the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights; or the plurilateral WTO Agreement on Government Procurement.

(2) Whether Canada or Mexico has failed to comply with its telecommunications obligations under the NAFTA;

(3) Whether Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras or Nicaragua has failed to comply with its telecommunications obligations under the CAFTA–DR;

(4) Whether Australia, Bahrain, Chile, Colombia, Korea, Morocco, Oman, Panama, Peru, or Singapore has failed to comply with its telecommunications obligations under its FTA with the United States (see *http://www.ustr.gov/trade-agreements/free-trade-agreements* for links to U.S. FTAs);

(5) Whether any country has failed to comply with its obligations under telecommunications trade agreements with the United States other than FTAs, *e.g.*, Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment (see *http://ts.nist.gov/standards/conformity/mra/mra.cfm* for links to certain U.S. telecommunications MRAs);

(6) Whether any act, policy, or practice of a country cited in a previous section 1377 review remains unresolved (see *http://www.ustr.gov/trade-topics/services-investment/telecom-ecommerce/section-1377-review* for recent reviews); and

(7) Whether any measures or practices of a country that is a WTO member or for which an FTA or telecommunications trade agreement has entered into force with respect to the United States impede access to its telecommunications markets or otherwise deny market opportunities to telecommunications products and services of United States firms. Measures or practices of interest include, for example, efforts by a foreign government or a telecommunications service provider to block services delivered over the Internet (including, but not limited to voice over Internet protocol services, social networking, and search services); requirements for access to or use of networks that limit the products or services U.S. suppliers

can offer in specific foreign markets; the imposition of excessively high licensing fees; unreasonable wholesale roaming rates that mobile telecommunications service suppliers in specific foreign markets charge U.S. suppliers that seek to supply international mobile roaming services to their U.S. customers; allocating access to spectrum or other scarce resources through discriminatory procedures or contingent on the purchase of locally-produced equipment; subsidies provided to equipment manufactures which are contingent upon exporting or local content, or have caused adverse effects to domestic equipment manufacturers and the imposition by foreign governments of unnecessary or discriminatory technical regulations or standards for telecommunications products or services. In all cases, commenters should provide any available documentary evidence, including relevant legal measures where available, translated into English where necessary, to facilitate evaluation.

Public Comment and Reply Comment: Requirements for Submission

Comments in response to this notice must be written in English, must identify (on the first page of the comments) the telecommunications trade agreement(s) discussed therein, and must be submitted no later than January 3, 2014. Any replies to comments submitted must also be in English and must be submitted no later than January 24, 2014. Comments and reply comments must be submitted using *http://www.regulations.gov,* docket number USTR–2013–0039. In the unusual case where submitters are unable to make submissions through regulations.gov, the submitter must contact Yvonne Jamison at (202) 395–3475 to make alternate arrangements.

To submit comments using *http://www.regulations.gov,* enter docket number USTR–2013–0039 under "Key Word or ID" on the home page and click "Search". The site will provide a search results page listing all documents associated with this docket. Locate the reference to this notice, and click on "Comment Now!" Follow the instructions given on the screen to submit a comment. The *http://www.regulations.gov* Web site offers the option of providing comments by filling in a "Type Comment" field or by attaching a document using the "Upload File(s) option. While both options are acceptable, USTR prefers submissions in the form of an attachment. If you attach a comment, it is sufficient to type "see attached" in the comment section. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files. (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on "How to Use This Site" on the left side of the home page.)

Submitters should provide updated information on all issues they cite in their filings; USTR will not review submissions that are copies of earlier submissions.

Business Confidential Submissions

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC". The top of any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL". Any person filing comments that contain business confidential information must also file in a separate submission a public version of the comments. The file name of the public version of the comments should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments. The submitter must include in the comments a written explanation of why the information should be protected. The submission must indicate, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be marked either "PUBLIC VERSION" or "NON–CONFIDENTIAL".

Public Inspection of Submissions

Comments will be placed in the docket and open to public inspection, except confidential business information. Comments may be viewed on the *http://www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Laurie-Ann Agama,

Acting Chair, Trade Policy Staff Committee.

[FR Doc. 2013–29201 Filed 12–5–13; 8:45 am]

BILLING CODE 3290–F4–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35784]

CSX Transportation, Inc.—Corporate Family Merger Exemption—Buffalo, Rochester and Pittsburgh Company

CSX Transportation, Inc. (CSXT) and Buffalo, Rochester and Pittsburgh Company (BR&P) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction pursuant to which BR&P would be merged into CSXT.

Applicants state that CSXT directly controls and operates BR&P, which is a subsidiary of CSXT. According to the applicants, CSXT owns 99.9% of the issued and outstanding shares of common stock of BR&P and 100% of the issued and outstanding shares of the preferred stock of BR&P.[1]

Under the proposed transaction, BR&P will be merged with and into CSXT. Applicants state that the purpose of the corporate transaction is to simplify the corporate structure and reduce overhead costs, and that the transaction will reduce corporate overhead and duplication by eliminating one corporation while retaining the same assets to serve customers.

Unless stayed, the exemption will be effective on December 21, 2013 (30 days after the verified notice was filed). Applicants state that CSXT intends to merge BR&P into CSXT on or after that date.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction

[1] Applicants state that one share of common stock is outstanding in the name of Walston Hill Brown, who died in 1928 and whose beneficiaries, if any, have not been located. Pursuant to the Pennsylvania Abandoned and Unclaimed Property Act, the applicants state that CSXT will take such action and execute and deliver all such instruments and documents as may be required for the purpose of escheating the merger consideration payable with respect to the one share to the Pennsylvania Bureau of Unclaimed Property.

will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn District Eastern Terminal*, 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than December 13, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35784, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: December 3, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–29130 Filed 12–5–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35785]

The Three Rivers Railway Company—Corporate Family Merger Exemption—Mahoning State Line Railroad Company

The Three Rivers Railway Company (TRRC) and Mahoning State Line Railroad Company (MSLR) (collectively, applicants) have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction.

According to applicants, TRRC is a Class III railroad and a subsidiary of CSX Transportation, Inc. (CSXT).[1] TRRC directly controls and operates MSLR, a Class III carrier and wholly owned subsidiary of TRRC.

Under the proposed transaction, MSLR will be merged with and into TRRC. Applicants state that the purpose of the corporate transaction is to simplify the corporate structure and reduce overhead costs, and that the transaction will reduce corporate overhead and duplication by eliminating one corporation while retaining the same assets to serve customers.

Unless stayed, the exemption will be effective on December 21, 2013 (30 days after the verified notice was filed). Applicants state that TRRC intends to merge MSLR into TRRC on or after that date.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because CSXT, which controls TRRC directly and MSLR indirectly, is a Class I carrier, any employees adversely affected by this transaction will, as a condition to the use of this exemption, be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn District Eastern Terminal*, 360 I.C.C. 60 (1979).[2]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than December 13, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35785, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: December 3, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–29189 Filed 12–5–13; 8:45 am]

BILLING CODE 4915–01–P

[1] *See CSX Transp., Inc.—Continuance in Control Exemption—The Three Rivers Ry.*, FD 32056 (ICC served Oct. 23, 1992).

[2] *See Genessee & Wyo., Inc.—Corporate Family Transaction Exemption*, FD 35764 (STB served Sept. 13, 2013) (making a corporate family transaction subject to labor protection that applies to transactions involving a Class II carrier because the corporate family included a Class II carrier).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1068 (Sub-No. 2X); Docket No. AB 1070 (Sub-No. 2X)]

Missouri Central Railroad Company—Discontinuance of Trackage Rights Exemption—in Cass and Jackson Counties, MO; Central Midland Railway Company—Discontinuance of Trackage Rights Exemption—in Cass and Jackson Counties, MO

Missouri Central Railroad Company (MCRR) and Central Midland Railway Company (CMR) jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue trackage rights over a rail line owned by the Union Pacific Railroad Company (UP) between Pleasant Hill, Mo. (milepost 263.5), and Leeds Junction, Mo. (milepost 288.3) (the Line). The Line traverses United States Postal Service Zip Codes 64080, 64034, 64082, 64081, 64138, 64133, and 64129. This notice replaces both a Notice of Exemption filed by MCRR on October 17, 2013, and an Amended Notice of Exemption filed by MCRR on October 30, 2013, in Docket No. AB 1068 (Sub-No. 2X).[1]

MCRR and CMR have certified that: (1) MCRR and CMR have not moved any local traffic over the Line for at least two years; (2) they have not moved any overhead traffic over the Line for at least two years, and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending before the Surface Transportation Board or before any U.S. District Court or has been decided in

[1] MCRR obtained trackage rights over the Line as part of the transaction involved in *Missouri Central Railroad—Acquisition & Operation Exemption—Lines of Union Pacific Railroad*, FD 33508 (STB served Jan. 27, 1998). CMR obtained rights to the Line when it filed a notice of operation exemption in *Central Midland Railway—Operation Exemption—Lines of Missouri Central Railroad*, FD 33988 (STB served Jan. 29, 2001). Neither MCRR nor CMR has ever utilized these trackage rights. Upon discontinuance of service by MCRR and CMR over the Line, UP will continue to be a common carrier authorized to operate on the Line.

favor of the complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on January 7, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by December 16, 2013.[3] Petitions to reopen must be filed by December 26, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to MCRR's representative: Sandra L. Brown, Thompson Hine LLP, 1919 M St NW., Suite 700, Washington, DC 20036. A copy of any petition filed with the Board also should be sent to CMR's representative: Lon Van Gemert, Central Railway Company, c/o Progressive Rail Incorporated, 21778 Highview Avenue, Lakeville, MN 55044.

If the notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: December 3, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–29187 Filed 12–5–13; 8:45 am]

BILLING CODE 4915–01–P

[2] Because this is a discontinuance and not an abandonment, only OFAs to subsidize continued rail service are permitted. Each OFA must be accompanied by the filing fee, which currently is set at $1,600. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR. 1105.6(c) and 49 CFR 1105.8(b), respectively.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership

AGENCY: Surface Transportation Board, DOT.

ACTION: Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership.

SUMMARY: Effective immediately, the membership of the PRB and ERB is as follows:

Performance Review Board

Leland L. Gardner, Chairman
Rachel D. Campbell, Member
Craig M. Keats, Member
Lucille Marvin, Alternate Member

Executive Resources Board

Rachel D. Campbell, Chairman
Lucille Marvin, Member
Joseph H. Dettmar, Alternate Member

These changes to the PRB and ERB membership are due to the departure of STB General Counsel, Raymond Atkins and the subsequent appointment of Craig Keats to the General Counsel position.

FOR FURTHER INFORMATION CONTACT: If you have any questions regarding this matter, please contact Paula Chandler at (202) 245–0340.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–29124 Filed 12–5–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Taxpayer Advocacy Panel Meeting Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting cancellation.

SUMMARY: Notice is hereby given of the cancellation of the open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee scheduled Tuesday, December 10, 2013, at 2:00 p.m. Eastern Time via teleconference, which was originally published in the **Federal Register** on November 21, 2013, (Volume 78, Number 225, Page 69940).

The meeting is cancelled pending appointment of new members for the Panel.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

Dated: December 2, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–29110 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held December 11, 2013.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held at 999 North Capitol Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth M. Vriend, C:AP:SO:ART, 1111 Constitution Ave. NW., Washington, DC 20224. Telephone (202) 317–8853 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held at 999 North Capitol Street, Washington, DC 20002.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), of the Government in Sunshine Act and that the meeting will not be open to the public.

Kirsten B. Wielobob,

Acting Chief, Appeals.

[FR Doc. 2013–29113 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Taxpayer Advocacy Panel Meeting Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting Cancellation.

SUMMARY: Notice is hereby given of the cancellation of the open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee scheduled for Wednesday, December 11, 2013, at 12 p.m. Eastern Time via teleconference, which was originally published in the **Federal Register** on November 21, 2013, (Volume 78, Number 225, Page 69940).

The meeting is cancelled pending appointment of new members for the Panel.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

Dated: December 2, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–29109 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Taxpayer Advocacy Panel Meeting Cancellation

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of Meeting Cancellation.

SUMMARY: Notice is hereby given of the cancellation of the open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee scheduled for Tuesday, December 17, 2013 at 11:00 a.m. Eastern Time via teleconference, which was originally published in the **Federal Register** on November 21, 2013, (Volume 78, Number 225, Page 69939).

The meeting is cancelled pending appointment of new members for the Panel.

FOR FURTHER INFORMATION CONTACT: Linda Rivera at 1–888–912–1227 or (202) 317–3337.

Dated: December 2, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–29107 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Taxpayer Advocacy Panel Meeting Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting cancellation.

SUMMARY: Notice is hereby given of the cancellation of the open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee scheduled for Wednesday, December 11, 2013 at 11:00 a.m. Eastern Time via teleconference, which was originally published in the **Federal Register** on November 21, 2013, (Volume 78, Number 225, Page 69940).

The meeting is cancelled pending appointment of new members for the Panel.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–834–2203.

Dated: December 2, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–29108 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Taxpayer Advocacy Panel; Meeting Cancellation.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting cancellation.

SUMMARY: Notice is hereby given of the cancellation of the open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee scheduled for Thursday, December 19, 2013, at 2:00 p.m. Eastern Time via teleconference, which was originally published in the **Federal Register** on November 21, 2013, (Volume 78, Number 225, Page 69940).

The meeting is cancelled pending appointment of new members for the Panel.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley or Patti Robb at 1–888–912–1227 or 414–231–2360.

Dated: December 2, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–29111 Filed 12–5–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Energy

10 CFR Part 431
Energy Conservation Program: Energy Conservation Standards for Commercial and Industrial Electric Motors; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2010–BT–STD–0027]

RIN 1904–AC28

Energy Conservation Program: Energy Conservation Standards for Commercial and Industrial Electric Motors

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 commercial and industrial electric motors. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this notice, DOE proposes energy conservation standards for a number of different groups of electric motors that DOE has not previously regulated. For those groups of electric motors currently regulated, the proposed standards would maintain the current energy conservation standards for some electric motor types and amend the energy conservation standards for other electric motor types. The document also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: DOE will hold a public meeting on Wednesday, December 11, 2013, 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 NOPR before and after the public meeting, but no later than February 4, 2014. See section VII Public Participation for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures. Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. Persons can attend the public meeting via webinar. For more information, refer to the Public Participation section near the end of this notice.

Any comments submitted must identify the NOPR for Energy Conservation Standards for electric motors, and provide docket number EE–2010–BT–STD–2027 and/or regulatory information number (RIN) number 1904–AC28. 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: ElecMotors-2010-STD-0027@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-2010-BT-STD-0027.* 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: James Raba, 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) 586–8654. Email: *Jim.Raba@ee.doe.gov.*

Ms. Ami Grace-Tardy, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–5709. Email: *Ami.Grace-Tardy@hq.doe.gov.*

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1. The authority citation for part 431 continues to read as follows:
2. Revise § 431.25 to read as follows:

I. Summary of the Proposed Rule

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Part C of Title III of EPCA (42 U.S.C. 6311–6317) established a similar program for "Certain Industrial Equipment," including certain electric motors.[1] (Within this preamble, DOE will use the terms "electric motors" and "motors" interchangeably.) Pursuant to EPCA, any new or amended energy conservation standard that DOE may prescribe for certain equipment, such as electric motors, shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(a)). Furthermore, any new or amended standard must result in a significant

[1] For editorial reasons, upon codification in the U.S. Code, Parts B and C were redesignated as Parts A and A–1, respectively.

conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6316(a)).

In accordance with these and other statutory provisions discussed in this notice, the U.S. Department of Energy (DOE) proposes amending the energy conservation standards for electric motors by applying the standards currently in place to a wider scope of electric motors for which DOE does not currently regulate. In setting these standards, DOE is proposing to address a number of different groups of electric motors that have, to date, not been required to satisfy the energy conservation standards currently set out in 10 CFR part 431. In addition, with the exception of fire pump electric motors, the proposal would require all currently regulated motors to satisfy the efficiency levels prescribed in Table 12–12 and Table 20–B [2] of MG1–2011, published by the National Electrical Manufacturers Association; fire pump motors would continue to meet the current standards that apply. All other electric motors that DOE is proposing to regulate would also need to meet these efficiency levels (i.e. Tables 12–12 and 20–B). As a practical matter, the many currently regulated motors would continue to be required to meet the standards that they already meet, but certain motors, such as those that satisfy the general purpose electric motors (subtype II) ("subtype II") or that are NEMA Design B motors from 201 through 500 horsepower, would need to meet the more stringent levels prescribed by MG1–2011 Tables 12–12 and 20–B. These proposed efficiency levels are shown in Table I.1. If adopted, the proposed standards would apply to all covered motor types listed in Table I.1 that are manufactured in, or imported into, the United States starting on December 19, 2015. DOE may, however, depending on the nature of the comments it receives, revisit this proposed compliance date.

TABLE I.1—PROPOSED ENERGY CONSERVATION STANDARDS FOR ELECTRIC MOTORS

[Compliance starting December 19, 2015]

Equipment class group	Electric motor design type	Horsepower rating	Pole configuration	Enclosure	Proposed TSL
1	NEMA Design A & B*	1–500	2, 4, 6, 8	Open	2
				Enclosed	2
2	NEMA Design C*	1–200	4, 6, 8	Open	2
				Enclosed	2
3	Fire Pump*	1–500	2, 4, 6, 8	Open	2
				Enclosed	2
4	Brake Motors*	1–30	4, 6, 8	Open	2
				Enclosed	2

* Indicates IEC equivalent electric motors are included.

The following tables (Tables I.2 to I.5) detail the various proposed standard levels that comprise TSL 2 and that DOE would apply to each group of motors. In determining where a particular motor with a certain horsepower (hp) or kilowatt rating would fall within the requirements, as in DOE's current regulations, DOE would apply the following approach in determining which rating would apply for compliance purposes:

(1) A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

(2) A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; or

(3) A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula 1 kilowatt = (1/0.746) horsepower. The conversion should be calculated to three significant decimal places, and the resulting horsepower shall be rounded in accordance with the rules listed in (1) and (2).

TABLE I.2—PROPOSED ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B ELECTRIC MOTORS (EXCLUDING FIRE PUMP ELECTRIC MOTORS, INTEGRAL BRAKE ELECTRIC MOTORS, AND NON-INTEGRAL BRAKE ELECTRIC MOTORS)

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	77.0	77.0	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	84.0	84.0	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	85.5	85.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	86.5	85.5	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	88.5	86.5	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	89.5	88.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	90.2	89.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	91.0	90.2	92.4	93.0	91.7	91.7	89.5	90.2
20/15	91.0	91.0	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	91.7	91.7	93.6	93.6	93.0	93.0	90.2	91.0
30/22	91.7	91.7	93.6	94.1	93.0	93.6	91.7	91.7

[2] Table 20–B of MG1–2011 provides nominal full-load efficiencies for ratings without nominal full-load efficiencies in Table 12–12 of MG1–2011.

TABLE I.2—PROPOSED ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B ELECTRIC MOTORS (EXCLUDING FIRE PUMP ELECTRIC MOTORS, INTEGRAL BRAKE ELECTRIC MOTORS, AND NON-INTEGRAL BRAKE ELECTRIC MOTORS)—Continued

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
40/30	92.4	92.4	94.1	94.1	94.1	94.1	91.7	91.7
50/37	93.0	93.0	94.5	94.5	94.1	94.1	92.4	92.4
60/45	93.6	93.6	95.0	95.0	94.5	94.5	92.4	93.0
75/55	93.6	93.6	95.4	95.0	94.5	94.5	93.6	94.1
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0
300/224	95.8	95.4	96.2	95.8	95.8	95.8	95.0	95.0
350/261	95.8	95.4	96.2	95.8	95.8	95.8	95.0	95.0
400/298	95.8	95.8	96.2	95.8	95.8	95.8	95.0	95.0
450/336	95.8	96.2	96.2	96.2	95.8	96.2	95.0	95.0
500/373	95.8	96.2	96.2	96.2	95.8	96.2	95.0	95.0

TABLE I.3—PROPOSED ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN C ELECTRIC MOTORS (EXCLUDING NON-INTEGRAL BRAKE ELECTRIC MOTORS AND INTEGRAL BRAKE ELECTRIC MOTORS)

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7
40/30	94.1	94.1	94.1	94.1	91.7	91.7
50/37	94.5	94.5	94.1	94.1	92.4	92.4
60/45	95.0	95.0	94.5	94.5	92.4	93.0
75/55	95.4	95.0	94.5	94.5	93.6	94.1
100/75	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.8	95.8	95.8	95.4	94.1	94.1
200/150	96.2	95.8	95.8	95.4	94.5	94.1

TABLE I.4—PROPOSED ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	75.5	75.5	82.5	82.5	80.0	80.0	74.0	74.0
1.5/1.1	82.5	82.5	84.0	84.0	85.5	84.0	77.0	75.5
2/1.5	84.0	84.0	84.0	84.0	86.5	85.5	82.5	85.5
3/2.2	85.5	84.0	87.5	86.5	87.5	86.5	84.0	86.5
5/3.7	87.5	85.5	87.5	87.5	87.5	87.5	85.5	87.5
7.5/5.5	88.5	87.5	89.5	88.5	89.5	88.5	85.5	88.5
10/7.5	89.5	88.5	89.5	89.5	89.5	90.2	88.5	89.5
15/11	90.2	89.5	91.0	91.0	90.2	90.2	88.5	89.5
20/15	90.2	90.2	91.0	91.0	90.2	91.0	89.5	90.2

TABLE I.4—PROPOSED ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS—Continued

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
25/18.5	91.0	91.0	92.4	91.7	91.7	91.7	89.5	90.2
30/22	91.0	91.0	92.4	92.4	91.7	92.4	91.0	91.0
40/30	91.7	91.7	93.0	93.0	93.0	93.0	91.0	91.0
50/37	92.4	92.4	93.0	93.0	93.0	93.0	91.7	91.7
60/45	93.0	93.0	93.6	93.6	93.6	93.6	91.7	92.4
75/55	93.0	93.0	94.1	94.1	93.6	93.6	93.0	93.6
100/75	93.6	93.0	94.5	94.1	94.1	94.1	93.0	93.6
125/90	94.5	93.6	94.5	94.5	94.1	94.1	93.6	93.6
150/110	94.5	93.6	95.0	95.0	95.0	94.5	93.6	93.6
200/150	95.0	94.5	95.0	95.0	95.0	94.5	94.1	93.6
250/186	95.4	94.5	95.0	95.4	95.0	95.4	94.5	94.5
300/224	95.4	95.0	95.4	95.4	95.0	95.4	94.5	94.5
350/261	95.4	95.0	95.4	95.4	95.0	95.4	94.5	94.5
400/298	95.4	95.4	95.4	95.4	95.0	95.4	94.5	94.5
450/336	95.4	95.8	95.4	95.8	95.0	95.4	94.5	94.5
500/373	95.4	95.8	95.8	95.8	95.0	95.4	94.5	94.5

TABLE I.5—PROPOSED ENERGY CONSERVATION STANDARDS FOR INTEGRAL BRAKE ELECTRIC MOTORS AND NON-INTEGRAL BRAKE ELECTRIC MOTORS

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)					
	4 Pole	6 Pole	8 Pole			
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7

A. Benefits and Costs to Consumers

Table I.6 presents DOE's evaluation of the economic impacts of the proposed standards on consumers of electric motors, as measured by the weighted average life-cycle cost (LCC) savings and the weighted average median payback period.

TABLE I.6—IMPACTS OF PROPOSED STANDARDS ON CONSUMERS OF ELECTRIC MOTORS

	Weighted average LCC savings* (2012$)	Weighted average median payback period* (years)
Equipment Class Group 1.	132	3.3
Equipment Class Group 2.	38	5.0
Equipment Class Group 3.	N/A**	N/A**
Equipment Class Group 4.	259	1.9

*The results for each equipment class group (ECG) are a shipment weighted average of results for the representative units in the group. ECG 1: Representative units 1, 2, and 3; ECG 2: Representative units 4 and 5; ECG 3: Representative units 6, 7, and 8; ECG 4: Representative units 9 and 10. The weighted average lifetime in each equipment classes is 15 years and ranges from 8 to 29 years depending on the motor horsepower and application.

**For equipment class group 3, the proposed standard level is the same as the baseline; thus, no customers are affected.

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 (2013 to 2044). Using a real discount rate of 9.1 percent, DOE estimates that the industry net present value (INPV) for manufacturers of electric motors is $3,371.2 million in 2012$. Under the proposed standards, DOE expects that manufacturers may lose up to 8.4 percent of their INPV, which corresponds to approximately $283.5 million. Additionally, based on DOE's interviews with the manufacturers of electric motors, DOE does not expect any plant closings or significant loss of employment based on the energy conservation standards chosen in today's Notice of Proposed Rulemaking (NOPR).

C. National Benefits and Costs[3]

DOE's analyses indicate that the proposed standards would save a significant amount of energy. Estimated lifetime savings for electric motors purchased over the 30-year period that begins in the year of compliance with new and amended standards (2015–2044) would amount to 7.0 quads (full-fuel-cycle energy).[4] The annualized energy savings (0.23 quads) are equivalent to one percent of total U.S. industrial primary energy consumption in 2011.[5]

The estimated cumulative net present value (NPV) of total consumer costs and savings attributed to the proposed standards for electric motors ranges from $8.7 billion (at a 7-percent discount rate) to $23.3 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased equipment costs for equipment purchased in 2015–2044.

In addition, the proposed standards would have significant environmental benefits. Estimated energy savings would result in cumulative emission reductions of 396 million metric tons (Mt)[6] of carbon dioxide (CO_2), 674 thousand tons of sulfur dioxide (SO_2), 499 thousand tons of nitrogen oxides (NO_X) and 0.8 tons of mercury (Hg).[7] Through 2030, the estimated energy savings would result in cumulative emissions reductions of 96 Mt of CO_2.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon (SCC) developed by an interagency process).[8] The derivation of the SCC values is discussed in section IV.M. DOE estimates the present monetary value of the CO_2 emissions reduction is between $2.5 and $36.6 billion. DOE also estimates the present monetary value of the NO_X emissions reduction is $0.3 billion at a 7-percent discount rate and $0.6 billion at a 3-percent discount rate.[9]

Table I.7 summarizes the national economic costs and benefits expected to result from the proposed standards for electric motors.

TABLE I.7—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF ELECTRIC MOTORS ENERGY CONSERVATION STANDARDS, PRESENT VALUE FOR MOTORS SHIPPED IN 2015–2044 IN BILLION 2012$

Category	Present value billion 2012$	Discount rate (%)
Benefits:		
Consumer Operating Cost Savings	14.8	7
	34.9	3
CO_2 Reduction Monetized Value ($11.8/t case)*	2.5	5
CO_2 Reduction Monetized Value ($39.7/t case)*	11.8	3
CO_2 Reduction Monetized Value ($61.2/t case)*	18.9	2.5
CO_2 Reduction Monetized Value ($117.0/t case)*	36.6	3
NO_X Reduction Monetized Value (at $2,639/ton)**	0.3	7
	0.6	3
Total Benefits†	26.9	7
	47.4	3
Costs:		
Consumer Incremental Installed Costs	6.1	7
	11.7	3
Net Benefits:		

[3] All monetary values in this section are expressed in 2012 dollars and are discounted to 2013.

[4] One quad (quadrillion Btu) is the equivalent of 293.1 billion kilowatt hours (kWh) or 172.3 million barrels of oil.

[5] Based on U.S. Department of Energy, Energy Information Administration, Annual Energy Outlook (AEO) 2013 data.

[6] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[7] DOE calculates emissions reductions relative to the *AEO2013* reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of December 31, 2012.

[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] DOE is currently investigating valuation of avoided Hg and SO_2 emissions.

TABLE I.7—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF ELECTRIC MOTORS ENERGY CONSERVATION STANDARDS, PRESENT VALUE FOR MOTORS SHIPPED IN 2015–2044 IN BILLION 2012$—Continued

Category	Present value billion 2012$	Discount rate (%)
Including CO_2 and NO_X Reduction Monetized Value	20.8	7
	35.7	3

* The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor.

** The value represents the average of the low and high NO_X values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to SCC value of $39.7/t in 2015.

The benefits and costs of today's proposed standards for electric motors, sold in years 2015–2044, 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 operation of the commercial and industrial equipment that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[10]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured over the lifetime of electric motors shipped in years 2015–2044. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards for electric motors are shown in Table I.8. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $462 million per year in increased equipment costs; while the estimated benefits are $1,114 million per year in reduced equipment operating costs, $586 million in CO_2 reductions, and $21.5 million in reduced NO_X emissions. In this case, the net benefit would amount to $957 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated cost of the standards proposed in today's rule is $577 million per year in increased equipment costs; while the estimated benefits are $1,730 million per year in reduced operating costs, $586 million in CO_2 reductions, and $31.5 million in reduced NO_X emissions. In this case, the net benefit would amount to approximately $1,354 million per year.

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR ELECTRIC MOTORS, IN MILLION 2012$

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
		million 2012$/year		
Benefits:				
Consumer Operating Cost Savings	7%	1,114	924	1,358
	3%	1,730	1,421	2,134
CO_2 Reduction Monetized Value ($11.8/t case) *	5%	155	134	179
CO_2 Reduction Monetized Value ($39.7/t case) *	3%	586	506	679
CO_2 Reduction Monetized Value ($61.2/t case) *	2.5%	882	762	1022
CO_2 Reduction Monetized Value ($117.0/t case) *	3%	1,811	1,565	2,098
NO_X Reduction Monetized Value (at $2,639/ton) **	7%	21.46	18.55	24.68
	3%	31.48	27.20	36.39
Total Benefits †	7% plus CO_2 range	1,290 to 2,947	1,077 to 2,507	1,562 to 3,481
	7%	1,721	1,449	2,061
	3% plus CO_2 range	1,916 to 3,572	1,583 to 3,014	2,350 to 4,268
	3%	2,347	1,955	2,849
Costs:				

[10] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2013, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2015 through 2044) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR ELECTRIC MOTORS, IN MILLION 2012$—Continued

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Incremental Installed Costs	7%	462	492	447
	3%	577	601	569
Net Benefits:				
Total †	7% plus CO_2 range	585 to 2,016	1,115 to 3,033	1,353 to 3,438
	7%	957	1,614	1,887
	3% plus CO_2 range	982 to 2,413	1,781 to 3,700	1,957 to 4,043
	3%	1,354	2,280	2,492

* This table presents the annualized costs and benefits associated with electric motors shipped in 2015–2044. These results include benefits to consumers which accrue after 2044 from the equipment purchased in years 2015–2044. Costs incurred by manufacturers, some of which may be incurred in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates are in view of projections of energy prices from the Annual Energy Outlook (AEO) 2013 Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium constant projected equipment price in the Primary Estimate, a declining rate for projected equipment price trends in the Low Benefits Estimate, and an increasing rate for projected equipment price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE 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 equipment achieving these standard levels are already commercially available for most equipment classes covered by today's 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 still 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. Depending on the comments that DOE receives in response to this notice and related information collected and analyzed during the course of this rulemaking, 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 today's proposed rule, as well as some relevant historical background related to the establishment of standards for electric motors.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163, as amended (42 U.S.C. 6291–6309) established the "Energy Conservation Program for Consumer Products Other Than Automobiles." Part C of Title III of EPCA (42 U.S.C. 6311–6317) established a similar program for "Certain Industrial Equipment," including electric motors.[11] The Energy Policy Act of 1992 (EPACT 1992) (Pub. L. 102–486) amended EPCA by establishing energy conservation standards and test procedures for certain commercial and industrial electric motors (in context, "motors") manufactured (alone or as a component of another piece of equipment) after October 24, 1997. In December 2007, Congress passed into law the Energy Independence and Security Act of 2007 (EISA 2007) (Pub. L. 110–140). Section 313(b)(1) of EISA 2007 updated the energy conservation standards for those electric motors already covered by EPCA and established energy conservation standards for a larger scope of motors not previously covered by standards. (42 U.S.C. 6313(b)(2)) EPCA directs the Secretary of Energy to publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards already in effect. Any such amendment shall apply to electric motors manufactured after a date which is five years after either: (1) The effective date of the previous amendment or (2) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective. (42 U.S.C. 6313(b)(4)(B))

DOE is issuing today's proposal pursuant to Part C of Title III, which establishes an energy conservation program for covered equipment that consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. For those electric motors for which Congress established standards, or for which DOE amends or establishes standards, the DOE test procedure must be the prescribed procedures that currently appear at 10 CFR part 431 that apply to electric motors. The test procedure is subject to review and revision by the Secretary in accordance with certain criteria and conditions. (See 42 U.S.C. 6314(a))

Section 343(a)(5)(B)–(C) of EPCA, 42 U.S.C. 6314(a)(5)(B)–(C), provides in part that if the NEMA- and IEEE-developed test procedures are amended, DOE shall so amend the test procedures

[11] For editorial reasons, upon codification in the U.S. Code, Parts B and C were redesignated as Parts A and A–1, respectively.

under 10 CFR part 431, unless the Secretary determines, by rule, that the amended industry procedures would not meet the requirements for test procedures to produce results that reflect energy efficiency, energy use, and estimated operating costs of the tested motor, or, would be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)–(3), (a)(5)(B)) As newer versions of the NEMA and IEEE test procedures for electric motors were developed, DOE updated 10 CFR part 431 to reflect these changes. Manufacturers of covered equipment must use the prescribed DOE test procedure as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of such equipment. (42 U.S.C. 6314(d)) Similarly, DOE must use these test procedures to determine whether the equipment comply with standards adopted pursuant to EPCA. *Id.*

DOE must follow specific statutory criteria for prescribing new and amended standards for covered equipment. In the case of electric motors, the criteria set out in relevant subsections of 42 U.S.C. 6295, which normally applies to standards related to consumer products, also apply to the setting of energy conservation standards for motors via 42 U.S.C. 6316(a). As indicated above, new and amended standards must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S C. 6295(o)(2)(A) and 6316(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) and 6316(a)) Moreover, DOE may not prescribe a standard: (1) For certain equipment, including electric motors, if no test procedure has been established for the product, or (2) if DOE determines by rule that the proposed standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–6316(a)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the 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) and 6316(a))

EPCA, as codified, also contains what is known as an "anti-backsliding" provision, which prevents the Secretary from prescribing any new or amended standards that either increase the maximum allowable energy use or decrease the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1) and 6316(a)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4) and 6316(a))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a))

Additionally, 42 U.S.C. 6295(q)(1), as applied to covered equipment via 42 U.S.C. 6316(a), 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 equipment for any group of covered equipment that have the same function or intended use if DOE determines that equipment within such group: (A) Consume a different kind of energy from that consumed by other covered equipment within such type (or class); or (B) have a capacity or other performance-related feature which other equipment within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6294(q)(1) and 6316(a)). In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2) and 6316(a))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c) and 6316(a)) 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)).

B. Background

1. Current Standards

An electric motor is a device that converts electrical power into rotational mechanical power. The outside structure of the motor is called the frame, which houses a rotor (the spinning part of the motor) and the stator (the stationary part that creates a magnetic field to drive the rotor). Although many different technologies exist, DOE's rulemaking is concerned with squirrel-cage induction motors, which represent the majority of electric motor energy use. In squirrel-cage induction motors, the stator drives the rotor by inducing an electric current in the squirrel-cage, which then reacts with the rotating magnetic field to propel the rotor in the same way a person can repel one handheld magnet with another. The squirrel-cage used in the rotor of induction motors consists of longitudinal conductive bars (rotor bars) connected at both ends by rings (end rings) forming a cage-like shape. Among other design parameters, motors can vary in horsepower, number of "poles" (which determines how quickly the motor rotates), and torque characteristics. Most motors have "open" frames that allow cooling airflow through the motor body, though

some have enclosed frames that offer added protection from foreign substances and bodies. DOE regulates various motor types from between 1 and 500 horsepower, with 2, 4, 6, and 8 poles, and with both open and enclosed frames.

EPACT 1992 amended EPCA by establishing energy conservation standards and test procedures for certain commercial and industrial electric motors manufactured either alone or as a component of another piece of equipment after October 24, 1997. Section 313 of EISA 2007 amended EPCA by: (1) Striking the definition of "electric motor" provided under EPACT 1992, (2) setting forth definitions for "general purpose electric motor (subtype I)" and "general purpose electric motor (subtype II)," and (3) prescribing energy conservation standards for "general purpose electric motors (subtype I)," "general purpose electric motors (subtype II), "fire pump electric motors," and "NEMA Design B general purpose electric motors" with a power rating of more than 200 horsepower but not greater than 500 horsepower. (42 U.S.C. 6311(13), 6313(b)). The current standards for these motors, which are reproduced in the proposed regulatory text at the end of this notice, are divided into four tables that prescribe specific efficiency levels for each of those groups of motors.

2. History of Standards Rulemaking for Electric Motors

On October 5, 1999, DOE published in the **Federal Register**, a final rule to implement the EPACT 1992 electric motor requirements. 64 FR 54114. In response to EISA 2007, on March 23, 2009, DOE updated, among other things, the corresponding electric motor regulations at 10 CFR part 431 with the new definitions and energy conservation standards. 74 FR 12058. On December 22, 2008, DOE proposed to update the test procedures under 10 CFR part 431 both for electric motors and small electric motors. 73 FR 78220. DOE finalized key provisions related to small electric motor testing in a 2009 final rule at 74 FR 32059 (July 7, 2009), and further updated the test procedures for electric motors and small electric motors at 77 FR 26608 (May 4, 2012). The May 2012 final rule primarily focused on updating various definitions and incorporations by reference related to the current test procedure. In that rule, DOE promulgated a regulatory definition of "electric motor" to account for EISA 2007's removal of the previous statutory definition of "electric motor." DOE also clarified definitions related to those motors that EISA 2007 laid out as part of EPCA's statutory framework, including motor types that DOE had not previously regulated. See generally, id. at 26613–26619. DOE published a new proposed test procedure rulemaking on June 26, 2013, that proposes to further refine some existing electric motor definitions and add certain definitions and test procedure preparatory steps to address a wider variety of electric motor types than are currently regulated. 78 FR 38456.

Regarding the compliance date that would apply to the requirements of today's proposed rule, EPCA directs the Secretary of Energy to publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such equipment. Any such amendment shall apply to electric motors manufactured after a date which is five years after: (i) The effective date of the previous amendment; or (ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective. (42 U.S.C. 6313(b)(4))

As described previously, EISA 2007 constitutes the most recent amendment to EPCA and energy conservation standards for electric motors. Because these amendments required compliance on December 19, 2010, DOE had indicated during the course of public meetings held in advance of today's proposal that motors manufactured after December 19, 2015, would need to comply with any applicable new standards that DOE may set as part of this rulemaking. Today's proposed standards would apply to motors manufactured starting on December 19, 2015. As noted in detail later in this notice, however, DOE is interested in receiving comments on the ability of manufacturers to meet this deadline.

DOE received numerous comments from interested parties who provided significant input to DOE in response to the framework document and preliminary analysis that the agency had issued. See 75 FR 59657 (Sept. 28, 2010) (framework document notice of availability) and 77 FR 43015 (July 23, 2012) (preliminary analysis notice of availability). During the framework document comment period for this rulemaking, several interested parties urged DOE to consider including additional motor types currently without energy conservation standards in DOE's analyses and establishing standards for such motor types. In the commenters' view, this approach would more effectively increase energy savings than setting more stringent standards for currently regulated electric motors. In response, DOE published a Request for Information (RFI) seeking public comments from interested parties regarding establishment of energy conservation standards for several types of definite and special purpose motors for which EISA 2007 did not provide energy conservation standards. 76 FR 17577 (March 30, 2011). DOE received comments responding to the RFI advocating that DOE regulate many of the electric motors discussed in the RFI, as well as many additional motor types.

Then, on August 15, 2012, a group of interested parties (the "Motor Coalition" [12]) submitted a Petition to DOE asking the agency to adopt a consensus stakeholder proposal that would amend the energy conservation standards for electric motors. The Motor Coalition's proposal advocated expanding the scope of coverage to a broader range of motors than what DOE currently regulates and it recommended that energy conservation standards for all covered electric motors be set at levels that are largely equivalent to what DOE proposes in today's NOPR (i.e., efficiency levels in NEMA MG1–2011 Tables 12–12 and 20–B).[13]

DOE received several comments from NEMA regarding the December 19, 2015, compliance date. First, NEMA pointed out that all publications and presentations prior to that preliminary analysis public meeting on August 21, 2012, indicated that DOE's statutory deadline for any final rule was December 19, 2012, but at the public meeting DOE showed a final rule completion date as the end of 2013. (NEMA, No. 54 at pp. 2, 6–7) NEMA questioned the authority by which DOE has decided to delay the Final Rule beyond the date of December 19, 2012, as stipulated in EPCA. (NEMA, No. 54 at p. 2)

Second, NEMA commented that shortening the time to comply with any new standards from three years to two years would place additional burdens on manufacturers considering all of the electric motors types that DOE is considering in the preliminary TSD, the burdensome candidate standard levels that DOE is considering, and the

[12] The members of the Motor Coalition include: National Electrical Manufacturers Association, American Council for an Energy-Efficient Economy, Appliance Standards Awareness Project, Alliance to Save Energy, Earthjustice, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, Northeast Energy Efficiency Partnerships, and Northwest Power and Conservation Council.

[13] DOE's proposal differs from that of the Motor Coalition in that DOE's proposal covers brake motors and does not set separate standards for U-frame motors. It also seeks supplemental information regarding certain 56-frame motors. See section IV.A.2 for details.

possibility of expanding the scope of energy conservation standards. (NEMA, No. 54 at pp. 2, 7; NEMA, Public Meeting Transcript, No. 60 at p. 30)

Third, NEMA also noted that when EPACT 1992 first added electric motors as covered equipment, motor manufacturers were allowed five years to modify motor designs and certify compliance to the new standards. (NEMA, No. 54 at p. 7) It further noted that NEMA MG 1–1998 subsequently introduced NEMA Premium efficiency standards, and between 1998 and 2007 manufacturers voluntarily increased the number of NEMA Premium efficiency motor models available. (NEMA, No. 54 at p. 7) NEMA commented that this transition period eased the burden of satisfying the added stringency of the standards set by EISA 2007, which allowed three years to update energy conservation standards to mandatory NEMA Premium levels for certain motor ratings. (NEMA, No. 54 at p. 7) NEMA added that adhering to the statutory deadline for setting any new and amended standards would minimize any disruption in the electric motor market. (NEMA, No. 54 at p. 8) NEMA also commented that since the EISA 2007 standards were enacted, only a limited number of motor ratings above NEMA Premium have been offered, because there is not sufficient space available in most frame ratings to increase the efficiency. (NEMA, No. 54 at p. 7) NEMA added that any standards above NEMA Premium would force manufacturers to redesign entire product lines and go through the process of certification and compliance, all of which would be expected to take longer than three years. (NEMA, No. 54 at pp. 7, 8)

Finally, NEMA also attempted to illustrate the difficulty of reaching NEMA Premium levels in IEC frame motors, noting that a comparison of certificates of compliance before and after EISA 2007 standards went into effect would demonstrate that some manufacturers were forced to abandon the U.S. electric motor market for some period of time before they could update their IEC frame motor product line. (NEMA, No. 54 at p. 8) NEMA added that increasing the efficiency of subtype II motors to NEMA Premium efficiency and expanding the scope of motors subject to energy conservation standards (many of which currently have efficiency levels below EPACT 1992 energy conservation levels) will also require extensive redesign, and manufacturers would be forced to comply in only three years. (NEMA, No. 54 at p. 8)

During the course of preparing for the electric motors energy conservation standards rulemaking, information was submitted to DOE by NEMA, ASAP, and CDA in response to DOE's RFI and then later in the Petition from the Motors Coalition [14] that caused DOE to reevaluate the scope of electric motors it was considering in this rulemaking. That Petition, and related supporting information, suggested that DOE apply the NEMA Premium efficiency levels ("NEMA Premium") to a much broader swath of electric motors than are currently regulated by DOE, rather than increase the stringency of the standards that had only recently come into effect (i.e., EISA 2007 standards). As part of its routine practice, DOE reviewed the information and the merits of the Petition. With the potential prospect of expanding the types of motors that would be regulated by standards, DOE recognized the need to amend its test procedures to add the necessary testing preparatory steps (i.e. test set-up procedures) to DOE's regulations. The inclusion of these steps would help ensure that manufacturers of these new motor types would be performing the same steps as are performed when testing currently regulated motors.

The compliance date prescribed by statute would require manufacturers to begin manufacturing compliant motors by December 19, 2015. Accordingly, DOE is proposing a December 19, 2015, compliance date. DOE, however, recognizes that the statute also contemplated a three-year lead time for manufacturers in order to account for the potential logistical and production hurdles that manufacturers may face when transitioning to the new standards. Accordingly, while DOE is proposing a December 19, 2015 compliance deadline, it is also interested in comments that detail any hurdles with meeting this compliance deadline along with the merits of receiving the three-year lead-time also set out in the statute.

3. Process for Setting Energy Conservation Standards

Section 325(o) provides criteria for prescribing new or amended standards which are designed to achieve the maximum improvement in energy efficiency and for which the Secretary of Energy determines are technologically feasible and economically justified. Consequently, DOE must consider, to the greatest extent practicable, the following seven factors: (1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard; (2) the savings in operating costs throughout the estimated average life of the products compared to any increase in the prices, initial costs, or maintenance expenses for the products that are likely to result from the imposition of the standard; (3) the total projected amount of energy 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 conservation; and (7) other factors the Secretary considers relevant. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a))

Other statutory requirements are set forth in 42 U.S.C. 6295(o)(1)–(2)(A), (2)(B)(ii)–(iii), and (3)–(4). These criteria apply to the setting of standards for electric motors through 42 U.S.C. 6316(a).

III. General Discussion

DOE developed today's proposed rule after considering input, including verbal and written comments, data, and information from interested parties that represent a variety of interests. All commenters, along with their corresponding abbreviations and affiliations, are listed in Table III.1 below. The issues raised by these commenters are addressed in the discussions that follow.

TABLE III.1—SUMMARY OF COMMENTERS

Company or organization	Abbreviation	Affiliation
Air Movement and Control Association International, Inc.	AMCAI	Trade Association.

[14] The Petition is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0027-0035.*

TABLE III.1—SUMMARY OF COMMENTERS—Continued

Company or organization	Abbreviation	Affiliation
Alliance to Save Energy	ASE	Energy Efficiency Advocates.
American Council for an Energy-Efficient Economy.	ACEEE	Energy Efficiency Advocates.
Appliance Standards Awareness Project	ASAP	Energy Efficiency Advocates.
Baldor Electric Co.	Baldor	Manufacturers.
BBF & Associates	BBF	Representative for Trade Association.
California Investor Owned Utilities	CA IOUs	Utilities.
Copper Development Association	CDA	Trade Association.
Earthjustice	Earthjustice	Energy Efficiency Advocates.
Electric Apparatus Service Association	EASA	Trade Association.
Flolo Corporation	Flolo	Other.
Industrial Energy Consumers of America	IECA	Trade Association.
Motor Coalition*	MC	Energy Efficiency Advocates, Trade Associations, Manufacturers, Utilities.
National Electrical Manufacturers Association	NEMA	Trade Association.
Northwest Energy Efficiency Alliance	NEEA	Energy Efficiency Advocates.
Northwest Power & Conservation Council	NPCC	Utilities.
SEW-Eurodrive, Inc.	SEWE	Manufacturer.
UL LLC	UL	Testing Laboratory.

*The members of the Motor Coalition include: National Electrical Manufacturers Association (NEMA), American Council for an Energy-Efficient Economy (ACEEE), Appliance Standards Awareness Project (ASAP), Alliance to Save Energy (ASE), Earthjustice, Natural Resources Defense Council (NRDC), Northwest Energy Efficiency Alliance (NEEA), Northeast Energy Efficiency Partnerships (NEEP), and Northwest Power and Conservation Council (NPCC).

Subsequent to DOE's preliminary analysis public meeting, several other interested parties submitted comments supporting the Petition. Those supporters included: BBF and Associates, the Air Movement and Control Association International, Inc., U.S. Senators Lisa Murkowski and Jeff Bingaman, the Hydraulic Institute, the Arkansas Economic Development and Commission-Energy Office, and the Power Transmission Distributors Association.

A. Test Procedure

On June 26, 2013, DOE published a notice that proposed to incorporate definitions for certain motor types not currently subject to energy conservation standards (78 FR 38456). The notice also proposed to clarify several definitions for motor types currently regulated by energy conservation standards and adding some necessary steps to facilitate the testing of certain motor types that DOE does not currently require to meet standards. During its preliminary analysis stage, DOE received comments concerning definitions and test procedure set-up steps suggested for testing motors under an expanded scope approach. DOE addressed the comments as part of the test procedure NOPR. For additional details, see 78 FR 38456 (June 26, 2013).

B. Equipment Classes and Current Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered equipment into equipment classes by the type of energy used or by capacity or other performance-related features that would justify a different standard. In making a determination whether a performance-related feature would justify a different standard, DOE must consider factors such as the utility to the consumer of the feature and other factors that DOE determines are appropriate. (42 U.S.C. 6295(q) and 6316(a))

Existing energy conservation standards cover electric motors that fall into four categories based on physical design features of the motor. These four categories are: General purpose electric motors (subtype I), general purpose electric motors (subtype II), fire pump electric motors, and NEMA Design B motors (with a horsepower rating from 201 through 500). Definitions for each of these terms can be found at 10 CFR 431.12.

C. Expanded Scope of Coverage

DOE has the authority to set energy conservation standards for a wider range of electric motors than those classified as general purpose electric motors (e.g., definite or special purpose motors). EPACT 1992 amended EPCA to include, among other things, a definition for the term "electric motor"—which the statute defined as including certain "general purpose" motors. (42 U.S.C. 6311(13)(A) (1992)) The amendments also defined the terms "definite purpose motors" and "special purpose motor." (42 U.S.C. 6311(13)(C) and (D)) (1992)) EPACT 1992 initially prescribed energy conservation standards for "electric motors" (i.e., subtype I general purpose electric motors) and explicitly stated that these standards did not apply to definite purpose or special purpose motors. (42 U.S.C. 6313(b)(1) (1992)) However, EISA 2007 struck the narrow EPACT 1992 definition of "electric motor." With the removal of this definition, the term "electric motor" became broader in scope. As a result of these changes, both definite and special purpose motors fell under the broad heading of "electric motors" that previously only applied to "general purpose" motors. While EISA 2007 prescribed standards for general purpose motors, the Act did not apply those standards to definite or special purpose motors. (42 U.S.C. 6313(b) (2012))

Although DOE believes that EPCA, as amended through EISA 2007, provides sufficient statutory authority for the regulation of special purpose and definite purpose motors as "electric motors," DOE notes it has additional authority under section 10 of the American Energy Manufacturing Technical Corrections Act, Public Law 112–210, which amended DOE's authority to regulate commercial and industrial equipment under section 340(2)(B) of EPCA to include "other motors," in addition to "electric motors". (42 U.S.C. 6311(2)(B)(xiii)). Therefore, even if special and definite purpose motors were not "electric motors," special and definite purpose motors would be considered as "other

motors" that EPCA already treats as covered industrial equipment.[15]

Consistent with EISA 2007's reworking of the definition, the 2012 test procedure final rule broadly defined the term "electric motor." at 10 CFR 431.12. (77 FR 26608 (May 4, 2012)). That definition covers "general purpose," "special purpose" and "definite purpose" electric motors (as defined by EPCA). As noted above, EPCA did not require either "special purpose" or "definite purpose" motor types to meet energy conservation standards because they were not considered "general purpose" under the EPCA definition of "general purpose motor"—a necessary element to meet the pre-EISA 2007 "electric motor" definition. See 77 FR 26612. Because of the restrictive nature of the prior electric motor definition, along with the restrictive definition of the term "industrial equipment," DOE would have been unable to set standards for such motors without this change. (See 42 U.S.C. 6311(2)(B) (2006) (limiting the scope of equipment covered under EPCA)) In view of the changes introduced by EISA 2007 and the absence of energy conservation standards for special purpose and definite purpose motors, as noted in chapter 2 of DOE's July 2012 electric motors preliminary analysis technical support document (TSD),[16] it is DOE's view that both of these motors are categories of "electric motors" covered under EPCA, as currently amended. Accordingly, DOE is proposing standards for certain definite purpose and special purpose motors. To this end, DOE is considering setting energy conservation standards for those motors that exhibit all of the following nine characteristics:

- Is a single-speed, induction motor,
- Is rated for continuous duty (MG 1) operation or for duty type S1 (IEC),
- Contains a squirrel-cage (MG 1) or cage (IEC) rotor,
- Operates on polyphase alternating current 60-hertz sinusoidal line power,
- Is rated 600 volts or less,
- Has a 2-, 4-, 6-, or 8-pole configuration,
- Has a three-digit NEMA frame size (or IEC metric equivalent) or an enclosed 56 NEMA frame size (or IEC metric equivalent),
- Has no more than 500 horsepower, but greater than or equal to 1 horsepower (or kilowatt equivalent), and
- Meets all of the performance requirements of a NEMA Design A, B, or C electric motor or an IEC design N or H electric motor.

However, motor types that exhibit all of the characteristics listed above, but that DOE does not believe should be subject to energy conservation standards at this time because of the current absence of a reliable and repeatable method to test them for efficiency, would be listed as motors that would not at this time be subject to energy conservation standards. Once a test procedure becomes available, DOE may consider setting standards for these motors at that time. See generally, 78 FR 38456 (June 26, 2013). DOE requests comment on these nine characteristics and their appropriateness for outlining scope of coverage.

To facilitate the potential application of energy conservation standards to special and definite purpose motors, DOE proposed to define such motors and provide certain preparatory test procedure steps. 78 FR 38456 (June 26, 2013). The definitions under consideration would address motors currently subject to standards, specific motors DOE is considering requiring to meet standards, and some motors that will continue to not be required to meet particular energy conservation standards. Some of the clarifying definitions, such as the definitions for NEMA Design A and C electric motors, come from NEMA Standards Publication MG 1–2009, "Motors and Generators." DOE understands that some of the motors addressed, such as partial motors and integral brake motors, do not have standard industry-accepted definitions. For such motor types, DOE worked with subject-matter experts (SMEs), manufacturers, and the Motor Coalition to create the working definitions that are proposed in the test procedure NOPR. (8 FR 38456 (June 26, 2013).

D. Technological Feasibility

1. General

EPCA requires that any new or amended energy conservation standard that DOE prescribes shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible. (42 U.S.C. 6295(o)(2)(A) and 6316(a)). In each 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.

Where DOE determines that particular technology options are technologically feasible, it further evaluates each technology option in view of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. Section IV.B of this notice addresses the results of the screening analysis for electric motors, 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 TSD.

[15] EPCA specifies the types of industrial equipment that can be classified as covered in addition to the equipment enumerated in 42 U.S.C. 6311(1). This equipment includes "other motors" (to be codified at 42 U.S.C. 6311(2)(B)). Industrial equipment must also, without regard to whether such equipment is in fact distributed in commerce for industrial or commercial use, be of a type that: (1) In operation consumes, or is designed to consume, energy in operation; (2) to any significant extent, is distributed in commerce for industrial or commercial use; and (3) is not a covered product as defined in 42 U.S.C. 6291(a)(2) of EPCA, other than a component of a covered product with respect to which there is in effect a determination under 42 U.S.C. 6312(c). (42 U.S.C. 6311 (2)(A)). Data from the 2002 United States Industrial Electric Motor Systems Market Opportunities Assessment estimated total energy use from industrial motor systems to be 747 billion kWh. Based on the expansion of industrial activity, it is likely that current annual electric motor energy use is higher than this figure. Electric motors are distributed in commerce for both the industrial and commercial sectors. According to data provided by the Motor Coalition, the number of electric motors manufactured in, or imported into, the United States is over five million electric motors annually, including special and definite purpose motors. Finally, special and definite purpose motors are not currently regulated under Title 10 of the Code of Federal Regulations, part 430 (10 CFR part 430).

To classify equipment as covered commercial or industrial equipment, the Secretary must also determine that classifying the equipment as covered equipment is necessary for the purposes of Part A–1 of EPCA. The purpose of Part A–1 is to improve the efficiency of electric motors, pumps and certain other industrial equipment to conserve the energy resources of the nation. (42 U.S.C. 6312(a)–(b)) In today's proposal, DOE has tentatively determined that the regulation of special and definite purpose motors is necessary to carry out the purposes of part A–1 of EPCA because regulating these motors will promote the conservation of energy supplies. Efficiency standards that may result from coverage would help to capture some portion of the potential for improving the efficiency of special and definite purpose motors.

[16] The preliminary TSD published in July 2012 is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0027-0023.*

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt a new or 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)) This requirement also applies to DOE proposals to amend the standards for electric motors. See 42 U.S.C. 6316(a). Accordingly, in its engineering analysis, DOE determined the maximum technologically feasible ("max-tech") improvements in energy efficiency for electric motors, using the design parameters for the most efficient motors available on the market or in working prototypes. (See chapter 5 of the NOPR TSD.) The max-tech levels that DOE determined for this rulemaking are described in section IV.C.3 of this proposed rule.

E. Energy Savings

1. Determination of Savings

Section 325(o) of EPCA also provides that any new or amended energy conservation standard that DOE prescribes shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is economically justified. (42 U.S.C. 6295(o)(2)(A)–(B) and 6316(a)). In addition, in determining whether such standard is technologically feasible and economically justified, DOE may not prescribe standards for certain types or classes of electric motors if such standards would not result in significant energy savings. (42 U.S.C. 6295(o)(3)(B) and 6316(a)). For each TSL, DOE projected energy savings from the motors that would be covered under this rulemaking and that would be purchased in the 30-year period that begins in the year of compliance with the new and amended standards (2015–2044). The savings are measured over the entire lifetime of equipment purchased in the 30-year period.[17] 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 or amended mandatory efficiency standards, and considers market forces and policies that affect demand for more efficient equipment.

DOE used its national impact analysis (NIA) spreadsheet model to estimate the energy savings from new and amended standards for the equipment that would be subject to this rulemaking. The NIA spreadsheet model (described in section IV.H of this notice) calculates energy savings in site energy, which is the energy directly consumed by motors at the locations where they are used. For electricity, DOE reports national energy savings in terms of the savings in the energy that is used to generate and transmit the site electricity. To calculate source energy, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) *Annual Energy Outlook (AEO).*

DOE has begun to also estimate full-fuel-cycle energy savings. 76 FR 51282 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012). The full-fuel-cycle (FFC) metric includes the energy consumed in extracting, processing, and transporting primary fuels, and thus presents a more complete picture of the impacts of energy efficiency standards. DOE's evaluation of FFC savings is driven in part by the National Academy of Science's (NAS) report on FFC measurement approaches for DOE's Appliance Standards Program.[18] The NAS report discusses that FFC was primarily intended for energy efficiency standards rulemakings where multiple fuels may be used by a particular product. In the case of this rulemaking pertaining to electric motors, only a single fuel—electricity—is consumed by the equipment. DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered equipment. The methodology for estimating FFC does not project how fuel markets would respond to this particular standard rulemaking. The FFC methodology simply estimates how much additional energy, and in turn how many tons of emissions, may be displaced if the estimated fuel were not consumed by the equipment covered in this rulemaking. It is also important to note that inclusion of FFC savings does not affect DOE's choice of proposed standards.

2. Significance of Savings

As noted above, 42 U.S.C. 6295(o)(3)(B) prevents DOE from adopting a standard for a covered product unless such standard would result in "significant" energy savings. Although the term "significant" is not explicitly defined in EPCA, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended "significant" energy savings in this context to be savings that were not "genuinely trivial." DOE believes that the energy savings for all of the TSLs considered in this rulemaking (presented in section V.A) 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 detail how DOE addresses each of those factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of a new or amended standard on manufacturers, 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.[19] The industry-wide impacts analyzed include industry net present value (INPV), which values the industry on the basis of expected future cash flows; cash flows by year; changes in revenue and income; and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in life-cycle cost (LCC) and payback period (PBP) associated with new or amended standards. The LCC, addressed

[17] In the past DOE, presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of equipment purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

[18] "Review of Site (Point-of-Use) and Full-Fuel-Cycle Measurement Approaches to DOE/EERE Building Appliance Energy-Efficiency Standards," (Academy report) was completed in May 2009 and included five recommendations. A copy of the study can be downloaded at: *http://www.nap.edu/catalog.php?record_id=12670.*

[19] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

as "savings in operating costs" at 42 U.S.C. 6295(o)(2)(B)(i)(II), is one of seven factors considered in determining the economic justification for a new or amended standard and is discussed 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.

b. Life-Cycle Costs

The LCC is the sum of the purchase price of a piece of equipment (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of that equipment. The LCC savings for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of new or amended standards. The LCC analysis requires a variety of inputs, such as equipment prices, equipment energy consumption, energy prices, maintenance and repair costs, equipment lifetime, and consumer discount rates. For its analysis, DOE assumes that consumers, as users of electric motors, will purchase the considered equipment in the first year of compliance with new or amended standards.

To account for uncertainty and variability in specific inputs, such as equipment lifetime and discount rate, DOE uses a distribution of values with probabilities attached to each value. 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 also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for imposing 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, DOE uses the NIA spreadsheet to project national energy savings.

d. Lessening of Utility or Performance

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE evaluates standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) As noted earlier, the substance of this provision applies to the equipment at issue in today's proposal as well. DOE has determined that the standards proposed in today's notice will not reduce the utility or performance of the equipment under consideration in this rulemaking. One piece of evidence for this claim includes the fact that many motors are already commonly being sold at the proposed levels (NEMA's "Premium" designation). A second piece of evidence is that the proposed standards closely track the recommendations of NEMA, which represents manufacturers who understand deeply the design compromises entailed in reaching higher efficiencies and who would be acting against the interest of their customers in recommending standards that would harm performance or utility.

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 the imposition of a 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 of Energy within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(ii)) DOE will transmit a copy of today's proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOE will address the Attorney General's determination in the final rule.

f. Need for National Energy Conservation

The energy savings from the proposed standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the Nation's needed power generation capacity.

The proposed standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production. DOE reports the emissions impacts from today's standards, and from each TSL it considered, in section V.B.4 of this notice. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs.

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))

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 three-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.F.12 of this proposed rule.

IV. Methodology and Discussion of Related Comments

DOE used four spreadsheet tools to estimate the impact of today's proposed standards. The first spreadsheet calculates LCCs and PBPs of potential new energy conservation standards. The second provides shipments forecasts and the third calculates national energy savings and net present value impacts of potential new energy conservation standards. The fourth tool helps assess manufacturer impacts, largely through use of the Government Regulatory Impact Model (GRIM).

Additionally, DOE estimated the impacts of energy conservation standards for electric motors on utilities

and the environment. DOE used a version of EIA's National Energy Modeling System (NEMS) for the utility and environmental analyses. The NEMS model simulates the energy sector of the U.S. economy. EIA uses NEMS to prepare its *Annual Energy Outlook (AEO)*, a widely known energy forecast for the United States. The version of NEMS used for appliance standards analysis is called NEMS–BT [20] and is based on the *AEO* version with minor modifications.[21] The NEMS–BT model offers a sophisticated picture of the effect of standards because it accounts for the interactions between the various energy supply and demand sectors and the economy as a whole.

A. Market and Technology Assessment

For the market and technology assessment, DOE develops information that provides an overall picture of the market for the equipment concerned, including the purpose of the equipment, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this rulemaking include scope of coverage, equipment classes, types of equipment sold and offered for sale, and technology options that could improve the energy efficiency of the equipment under examination. Chapter 3 of the TSD contains additional discussion of the market and technology assessment.

1. Current Scope of Electric Motors Energy Conservation Standards

EISA 2007 amended EPCA to prescribe energy conservation standards for four categories of electric motors: General purpose electric motors (subtype I) (hereinafter, "subtype I"), general purpose electric motors (subtype II) (hereinafter, "subtype II"), fire pump electric motors, and NEMA Design B, general purpose electric motors that also meet the subtype I or subtype II definitions and are rated above 200 horsepower through 500 horsepower. DOE's most recent test procedure final rule added clarity to the definitions for each of these motor categories, which are now codified at 10 CFR 431.12. 77 FR 26608.

Although DOE is not proposing to modify these definitions, commenters sought additional clarifications. During the preliminary analysis public meeting, NEMA expressed confusion regarding whether IEC frame motors would fall under the subtype I or subtype II designation, as DOE defined them to be related to both definitions. NEMA added that because subtype I and subtype II electric motors are subject to different efficiency standards, manufacturers producing IEC frame motors are confused as to whether IEC frame motors are subject to NEMA MG 1 Table 12–11 or Table 12–12 efficiency standards.[22] (NEMA, Public Meeting Transcript, No. 60 at pp. 36, 37)

DOE understands that an IEC frame motor could be treated as either a subtype I or subtype II motor depending on its other characteristics. Having an IEC frame alone does not dictate whether a motor is a general purpose subtype I or subtype II motor; rather, other physical characteristics, such as equivalency to a NEMA Design A, B, or C electric motor, and whether it has mounting feet could determine the subtype designation and associated energy efficiency standard level. All of these elements flow directly from the statutory changes enacted by EISA 2007. (See EISA 2007, sec. 313(a)(3), codified at 42 U.S.C. 6311(13)) Currently, electric motors are required to meet energy conservation standards as follows:

TABLE IV.1—CURRENT ELECTRIC MOTOR ENERGY CONSERVATION STANDARDS [23]

Electric motor category	Horsepower range	Energy conservation standard level
General Purpose Electric Motors (Subtype I)	1 to 200 (inclusive)	MG 1–2011 Table 12–12.
General Purpose Electric Motors (Subtype II)	1 to 200 (inclusive)	MG 1–2011 Table 12–11.
NEMA Design B and IEC Design N Motors	201 to 500 (inclusive)	MG 1–2011 Table 12–11.
Fire Pump Electric Motors	1 to 500 (inclusive)	MG 1–2011 Table 12–11.

Additionally, NEMA requested clarification on the terminology DOE intends to use for NEMA Design B motors, namely whether the term is "NEMA Design B motor" or "NEMA Design B electric motor" and what, if any, differences there are between the two terms. (NEMA, No. 54 at p. 14) DOE understands that the terms "motor" and "electric motor" may refer to a variety of machines outside of its regulatory context. However, because there are no NEMA Design B motors that are not electrically-driven, in DOE's view, the potential for ambiguity is minimal. DOE clarifies that it is using the term "NEMA Design B motor," as is currently codified in 10 CFR 431.12. Additionally, DOE does not consider there to be any meaningful difference between the two terms and notes that all motors currently regulated under 10 CFR part 431, subpart B, are electric motors.

DOE requests comment on whether the proposed standards help resolve the potential issue on which it had previously issued clarification of whether a [IEC] motor may be considered to be subject to two standards.

2. Expanded Scope of Electric Motor Energy Conservation Standards

As referenced above, on August 15, 2012, the Motor Coalition petitioned DOE to adopt the Coalition's consensus agreement, which, in part, formed the basis for today's proposal.[24] The Motor Coalition petitioned DOE to simplify coverage to address a broad array of electric motors with a few clearly identified exceptions. The Motor Coalition advocated this approach to

[20] BT stands for DOE's Building Technologies Program.

[21] The EIA allows the use of the name "NEMS" to describe only an AEO version of the model without any modification to code or data. Because the present analysis entails some minor code modifications and runs the model under various policy scenarios that deviate from AEO assumptions, the name "NEMS–BT" refers to the model as used here. For more information on NEMS, refer to The National Energy Modeling System: An Overview, DOE/EIA–0581 (98) (Feb. 1998), available at: *http://tonto.eia.doe.gov/FTPROOT/forecasting/058198.pdf*.

[22] The efficiency levels found in Table 12–12 are the more stringent of the two sets of efficiency tables.

[23] For the purposes of determining compliance, DOE assesses a motors horsepower rating according to the provisions of 10 CFR 431.25(e).

[24] The Petition is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0027-0035*.

simplify manufacturer compliance and to help facilitate DOE's enforcement efforts. The Petition highlighted potential energy savings that would result from expanding the scope of covered electric motors. (Motor Coalition, No 35 at pp. 1–30) Subsequent to DOE's preliminary analysis public meeting, several other interested parties submitted comments supporting the Petition. Those supporters included: BBF and Associates, the Air Movement and Control Association International, Inc., U.S. Senators Lisa Murkowski and Jeff Bingaman, the Hydraulic Institute, the Arkansas Economic Development and Commission-Energy Office, and the Power Transmission Distributors Association.

The California Investor Owned Utilities (CA IOUs), represented by the Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCGC), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE) commented that they supported the Petition's intent to expand the scope of coverage to the vast majority of single speed, polyphase, and integral horsepower induction motors between 1 and 500 horsepower, as well as increasing energy conservation standards for some covered products. (CA IOUs, No. 57 at p. 2)

The Air Movement and Control Association International, Inc. (AMCA International) endorsed the Petition. AMCA International encouraged DOE to adopt the Petition to save energy as soon as possible. (AMCA International, No. 59 at p. 1)

The CDA and BBF supported DOE's preliminary analysis and the Petition, indicating that the Petition sets minimum efficiency levels that represent a challenge to the industry and can have a great impact on U.S. energy use. (BBF & Associates, No. 51 at pp. 1, 2; CDA, No. 55 at p. 1) BBF also urged DOE to investigate energy conservation standards for motors over 500 horsepower because preliminary indications suggest that as much as 27 percent of total motor power consumed in the U.S. is from motors over 500 horsepower, and higher efficiencies can provide substantial savings. (BBF, No. 51 at p. 4)

EASA supported the Motor Coalition's Petition, asserting that it is in the best interests of saving energy, U.S. jobs, and the economy overall to adopt that Petition's approach. EASA strongly encouraged the DOE to adopt the recommendations of the Motor Coalition, citing large and economically justified energy savings. (EASA, No. 47 at p. 1).

ACEEE commented on behalf of the Motor Coalition, stating that expanding the scope of energy conservation standards and only excluding a small group of motor types will enhance enforcement efforts by the government, by simplifying the standards to only include explicit exclusions. (ACEEE, Public Meeting Transcript, No. 60 at p. 19)

After reviewing the Petition, DOE is proposing to require electric motor types beyond those currently covered (and discussed in section IV.A.1) to meet energy conservation standards. DOE's proposed expansion is similar to the approach recommended by the Motor Coalition in its Petition (Motor Coalition, No. 35 at pp. 1–3). DOE's proposal would establish energy conservation standards for electric motors that exhibit all of the characteristics listed in Table IV.2, with a limited number of exceptions.

TABLE IV.2—CHARACTERISTICS OF MOTORS REGULATED UNDER EXPANDED SCOPE OF COVERAGE

Motor characteristic
Is a single-speed, induction motor,
Is rated for continuous duty (MG 1) operation or for duty type S1 (IEC),
Contains a squirrel-cage (MG 1) or cage (IEC) rotor,
Operates on polyphase alternating current 60-hertz sinusoidal power,
Is rated for 600 volts or less,
Is built with a 2-, 4-, 6-, or 8-pole configuration,
Is a NEMA Design A, B, or C motor (or IEC Design N or H)
Is built in a three-digit NEMA frame size or an enclosed 56-frame (or any IEC equivalent), and
Is rated from 1 to 500 horsepower (inclusive).

In response to its preliminary analysis, DOE received several comments about the characteristics that DOE should use to define the broad scope of electric motors potentially subject to energy conservation standards. First, NEMA suggested that DOE define motor types exhibiting the nine characteristics listed in Table IV.2. (NEMA, No. 54 at p. 32) NEMA also requested that DOE clarify the range of horsepower ratings included and the scope of 56- and IEC-frame motors covered. The Energy Advocates (NPCC, NEEA, ACEEE, ASAP, Earthjustice, ASE) also suggested that DOE include IEC-equivalents and NEMA 56-frame sizes in the scope of coverage. (NPCC, No. 56 at p. 2)

Additionally, DOE is proposing to clarify the design, construction, and performance characteristics of covered electric motors. Specifically, DOE is proposing to clarify that only motors rated from 1 to 500 horsepower (inclusive), or their IEC equivalents, would be covered by the standards being proposed in today's rulemaking. Finally, with regard to IEC-frame motors, DOE would not cover IEC motors on the singular basis of frame size, but would consider covering such motors when they meet the criteria of Table IV.2. In other words, an IEC-frame motor would need to satisfy these nine criteria for the proposed standards to apply.

In its submitted Petition, the Coalition requested that DOE cover all single-speed, polyphase, 56-frame induction motors rated at one horsepower or greater that do not meet the regulatory definition for "small electric motor" in 10 CFR part 431, subpart X. This definition applies to both single-phase and polyphase open-frame general purpose AC induction motors built in a two-digit frame size. The proposal put forth by the Coalition would expand energy conservation standards to polyphase, enclosed 56-frame motors rated at one or more horsepower along with polyphase, special and definite purpose open 56-frame motors of horsepower greater than or equal to one that are not covered by DOE's small electric motor regulations.

Regarding 56-frame motors at 1-hp or greater, DOE is proposing standards for polyphase, enclosed 56-frame motors that are rated at 1-hp or greater. DOE is also tentatively proposing TSL 2 for polyphase, open 56-frame special and definite purpose motors that are rated at 1-hp or greater as advocated by the Motor Coalition. With respect to these motors (i.e. 56-frame, open, special and definite purpose), DOE seeks additional data related to these motors, including, but not limited to the following categories: Motor efficiency distributions; shipment breakdowns between horsepower ratings, open and enclosed motors, and between general and special and definite purpose electric motors; and information regarding the typical applications that use these motors. If this proposal is adopted in the final rule, DOE will account for a substantial majority of 56-frame motors that are not already regulated by efficiency standards and ensure coverage for all general purpose motors along with a substantial number of special and definite purpose motors.

Based on currently available data, DOE estimates that approximately 270,000 polyphase, open 56-frame special and definite purpose motors (1-hp or greater) were shipped in 2011 and at least 70% of these motors have

efficiency levels below NEMA Premium.[25] In addition, based on this data, DOE believes that establishing TSL 2 for this subset of 56-frame motors would result in national energy savings of 0.58 quads (full-fuel-cycle) and net present value savings of $1.11 billion (2012$), with a 7 percent discount rate.[26] DOE has not merged its data and analyses related to this subset of 56-frame motors with the other analyses in today's NOPR. As described above, DOE seeks additional information that can be incorporated into its final analysis.

DOE notes that enclosed 56-frame motors with horsepower ratings below 1 horsepower would not, however, be covered as part of today's proposal. DOE is not proposing to cover 56-frame size fractional motors because EPCA, as amended, establishes energy conservation standards for electric motors at 1-hp or greater and DOE requires the use of different test procedures for motors above and below 1-hp. In particular, DOE's regulations prescribe, consistent with industry practice, the use of the Institute of Electrical and Electronics Engineers (IEEE) Standard 112 (Test Method A) to test motors rated below 1-hp, and IEEE Standard 112 (Test Method B) to test motor rated at or above 1-hp. To ensure consistent testing results, DOE requires application of the same test procedure to all electric motors. Therefore, DOE is not proposing to regulate enclosed 56-frame size motors rated under 1-hp.[27] This tentative decision, however, does not foreclose the possibility that DOE may regulate the efficiency of these motors and may change depending on the nature of the feedback provided by commenters with respect to this issue. DOE requests comment on its tentative decision to not address fractional horsepower enclosed 56-frame motors as part of today's proposal, along with any relevant information and data.

In view of Table IV.2, Table IV.3 lists the various electric motor types that would be covered by DOE's proposed approach. Further details and definitions for the motor types can be found in DOE's electric motors test procedure NOPR, which was published on June 26, 2013 (78 FR 38456).

TABLE IV.3—CURRENTLY UNREGULATED MOTOR TYPES DOE PROPOSES TO COVER

Electric Motor Type	
NEMA Design A from 201 to 500 horsepower.	Electric motors with non-standard endshields or flanges.
Electric motors with moisture resistant windings.	Electric motors with non-standard bases.
Electric motors with sealed windings.	Electric motors with special shafts.
Partial electric motors.	Vertical hollow-shaft electric motors.
Totally enclosed non-ventilated (TENV) electric motors.	Electric motors with sleeve bearings.
Immersible electric motors.	Electric motors with thrust bearings.
Integral brake electric motors.	Non-integral brake electric motors.

In view of DOE's proposed approach described in Table IV.3, DOE is proposing to include certain motor types that some interested parties have suggested that DOE continue to exclude from any energy efficiency requirements. For example, the Motor Coalition would exclude integral brake motors from coverage, as DOE once did through policy guidance, *see* 62 FR 59978 (November 5, 1997), but which was subsequently removed. *See* 77 FR 26638 (May 4, 2012). (Motor Coalition, No. 35 at p. 3) SEW-Eurodrive also commented that there are two basic types of integral gearmotor: (1) One that meets the definition in DOE's preliminary analysis, and (2) another having a special shaft or mounting configuration. SEW-Eurodrive contended that the second type of integral gearmotor would require replacement of the entire rotor shaft and rotor cage to be tested. (SEWE, No. 53, p. 3)

In view of the foregoing, DOE continues to believe that consistent and repeatable test procedures can be prescribed for integral brake motors, integral gearmotors, integral partial motors, and partial ‡ motors. See 78 FR 38456 (June 26, 2013). In particular, DOE believes that an integral brake motor that meets the nine criteria in Table IV.2, could be readily tested and satisfy the proposed standards. In addition, DOE believes that the definition for "partial electric motor" and "component set" proposed in its June test procedure NOPR will clarify what types of items would meet these definitions, which should help manufacturers determine whether the equipment they manufacture fall under these terms. See 78 FR 38456 (June 26, 2013). Furthermore, DOE believes that the type of integral gearmotor addressed by SEW-Eurodrive (i.e., with a special shaft or mounting configuration) would likely satisfy DOE's proposed definition of component set, because it would require more than the addition of end shields and a bearing to create an operable motor. (Component sets would not be required to meet standards under today's proposal)

ACEEE supported the Motor Coalition's Petition in its approach to expand the scope of covered motors to comply with the energy efficiency levels found in Table 12–12 of NEMA Standards Publication MG 1–2011. According to ACEEE, such approach could be easily accomplished by manufacturers and, at the same time, allow them to refocus resources on designing and building the next generation of electric motor. (ACEEE, Public Meeting Transcript, No. 60 at pp. 18, 19) UL agreed with the ACEEE approach and suggested that DOE clarify the scope of coverage with a statement whereby all electric motors are subject to standards, except for those specifically mentioned as excluded. (UL, Public Meeting Transcript, No. 60 at pp. 60, 61) Finally, the California Independently Owned Utilities (CA IOUs) submitted similar comments, suggesting that DOE expand the scope of coverage and explicitly define those motor types excluded from standards. The CA IOUs stressed that this approach would provide clarity both to

[25] Shipments for these 56-open frame motors were estimated from data provided by the Motor Coalition. DOE assumed 56-frame open motors are distributed across 2-, 4-, and 6-pole configurations and 1 to 5 horsepower ratings. With this assumption, DOE used the shipments distributions from ECG 1 motors across these motor configurations and ratings to establish shipments data for open 56-frame motors by motor configuration and horsepower rating. Efficiency distributions were based on a limited survey of electric motor models from six major manufacturer catalogs.

[26] DOE used the same NIA model and inputs described in section IV.H to estimate these values of NES and NPV, but adjusted the shipments and efficiency distributions to match the data specific to these 56-frame open motors.

[27] DOE notes that general purpose, open 56-frame motors are already addressed by the standards for small electric motors.

compliance and enforcement efforts by government agencies and manufacturers. (CA IOUs, No. 57 at p. 1)

After considering these comments, and further analyzing available relevant information, DOE believes that a simplified approach to determining coverage would help ensure consistency to the extent possible when applying the proposed standards. Therefore, in today's notice, DOE is proposing that an electric motor that meets the nine characteristics in Table IV–8 would be covered and required to meet the applicable energy conservation standards, either in NEMA MG 1 Table 12–11 or 12–12. Additionally, DOE is proposing not to set standards at this time for the following motors: component sets, liquid-cooled motors, submersible motors, and definite-purpose inverter-fed motors. DOE is not proposing to set standards for these motors in light of the substantial difficulties and complexities that would be involved in testing these motors at this time. In addition, DOE is proposing not to set standards at this time for air-over motors, but intends to address these types of motors in a separate rulemaking. Definitions for the motor types and additional details about these issues are addressed at 78 FR 38456 (June 26, 2013).

3. Advanced Electric Motors

In its preliminary analysis, DOE addressed various "advanced electric motor," which included those listed in Table IV.4. While DOE recognized that such motors could offer improved efficiency, regulating them would represent a significant shift for DOE, which has primarily focused on the efficiency of polyphase, single-speed induction motors. Seeking more information, DOE solicited public comments about these types of motors and how they would be tested for energy efficiency.

TABLE IV.4—ADVANCED ELECTRIC MOTORS

Motor description
Inverter drives.
Permanent magnet motors.
Electrically commutated motors.
Switched-reluctance motors.

DOE received comments about advanced motors from various interested parties. NEMA asserted that, in certain applications, inverter drives, permanent-magnet motors, electronically commutated motors, and switched-reluctance motors, could offer improved efficiency. However, NEMA also noted that these motors may include technologies where standard test procedures are still being developed, making it unable to comment. (NEMA, No. 54 at pp. 18–19) DOE understands that a test procedure would be necessary before it contemplates setting energy conservation standards for these types of motors. Additionally, during the preliminary analysis public meeting, ACEEE commented that advanced motor designs present the largest opportunity for future energy savings within the motor marketplace and NEMA member manufacturers are already exploring the standards-setting process for advanced motor designs in the NEMA MG 1 standards publication. (ACEEE, Public Meeting Transcript, No. 60 at p. 19)

Other interested parties submitted comments regarding the efficiency of "advanced motor systems" and, in general, motor-driven systems. Danfoss commented that system efficiency improvements would provide significant energy savings, and cited variable frequency drives (VFDs) as an example of a way to improve system efficiency. VFDs, or inverter drives, are external components used in motor-driven systems to control motor speed and torque by varying motor input frequency and voltage Danfoss elaborated that VFDs could save 20 to 30 percent of the energy that typical, non-VFD-motors consume and urged that DOE consider this approach, instead of seeking minimal energy conservation improvements in across-the-line start polyphase electric motors.[28] (Danfoss, Public Meeting Transcript, No. 60 at pp. 21–23, 174, 175) UL submitted similar comments during the preliminary analysis public meeting, indicating that DOE and the industry should focus on improving system-level efficiency. UL added that if a motor is not properly matched to its load then the system efficiency could be 20 or 30 percent less efficient than possible. (UL, Public Meeting Transcript, No. 60 at pp. 69, 70) BBF and the CDA commented that the overall evaluation of system efficiency is very important, and the evaluation of VFDs and the motor system represents many major opportunities for improved efficiency. (BBF, No. 51, p. 4; CDA, No. 55, p. 2)

DOE understands the concerns from interested parties regarding advanced motor efficiency and its connection with the possible regulation of advanced electric motors. At this time, however, DOE has chosen not to regulate advanced motors and knows of no established definitions or test procedures that could be applied to them. Because DOE agrees that significant energy savings may be possible for some advanced motors, DOE plans to keep abreast of changes to these technologies and their use within industry, and may consider regulating them in the future. DOE invites comment on the topic of advanced motors, including any related definitions or test procedures that it should consider applying as part of today's rulemaking.

4. Equipment Class Groups and Equipment Classes

When DOE prescribes or amends an energy conservation standard for a type (or class) of covered equipment, it considers (1) the type of energy used; (2) the capacity of the equipment; or (3) any other performance-related feature that justifies different standard levels, such as features affecting consumer utility. (42 U.S.C. 6295(q)) Due to the large number of characteristics involved in electric motor design, DOE has used two constructs to help develop its energy conservation standards proposals for electric motors: "equipment class groups" and "equipment classes." An equipment class represents a unique combination of motor characteristics for which DOE is proposing a specific energy conservation standard. There are 580 potential equipment classes that consist of all permutations of electric motor design types (i.e., NEMA Design A & B, NEMA Design C, fire pump electric motor, or brake electric motor), standard horsepower ratings (i.e., standard ratings from 1 to 500 horsepower), pole configurations (i.e., 2-, 4-, 6-, or 8-pole), and enclosure types (i.e., open or enclosed). An equipment class group is a collection of equipment classes that share a common design type. For example, given a combination of motor design type, horsepower rating, pole-configuration, and enclosure type, the motor's design type dictates its equipment class group, while the combination of the remaining characteristics dictates its specific equipment class.[29]

[28] For this rulemaking, "across-the-line start" indicates the electric motor is run directly on polyphase, alternating current (AC) sinusoidal power, without any devices or controllers manipulating the power signal fed to the motor.

[29] At its core, the equipment class concept, which is being applied only as a structural tool for purposes of this rulemaking, is equivalent to a "basic model." See 10 CFR 431.12. The fundamental difference between these concepts is that a "basic model" pertains to an individual manufacturer's equipment class. Each equipment class for a given manufacturer would comprise a basic model for that manufacturer.

In the preliminary analysis, DOE divided electric motors into three groups based on two main characteristics: NEMA (or IEC) design letter and whether the motor met the definition of a fire pump electric motor. For the NOPR, DOE is keeping these three groups and adding a fourth equipment class group for electric motors with brakes (integral and non-integral). DOE's four resulting equipment class groups are: NEMA Design A and B motors (ECG 1), NEMA Design C motors (ECG 2), fire pump electric motors (ECG 3), and electric motors with brakes (ECG 4). Within each of these groups, DOE would use combinations of other pertinent motor characteristics to enumerate individual equipment classes. To illustrate the differences between the two terms, consider the following example. A NEMA Design B, 50 horsepower, two-pole enclosed electric motor and a NEMA Design B, 100 horsepower, six-pole open electric motor would be in the same equipment class group (ECG 1), but each would represent a unique equipment class that will ultimately have its own efficiency standard. Table IV.5 outlines the relationships between equipment class groups and the characteristics used to define equipment classes.

TABLE IV.5—ELECTRIC MOTOR EQUIPMENT CLASS GROUPS FOR THE NOPR ANALYSIS

Equipment class group	Electric motor design	Horsepower	Poles	Enclosure
1	NEMA Design A & B*	1–500	2, 4, 6, 8	Open. Enclosed.
2	NEMA Design C*	1–200	4, 6, 8	Open. Enclosed.
3	Fire Pump*	1–500	2, 4, 6, 8	Open. Enclosed.
4	Brake Motors*	1–30	4, 6, 8	Open. Enclosed.

* Including IEC equivalents.

NEMA submitted multiple comments about DOE's equipment class groups and equipment classes. First, NEMA argued that such expansive groups could make it difficult to properly determine efficiency standards, particularly given the large expansion of scope being contemplated by DOE. (NEMA, No. 54 at p. 40) NEMA recommended that "for 'electric motors' the term 'equipment class' be identified as those electric motors which are of the polyphase squirrel-cage induction type." It added that:

> "An 'equipment class group' can be defined as a particular 'group' of such 'electric motor' having a particular set of common characteristics, such as NEMA Design A and B electric motors or NEMA Design C electric motors, or fire pump electric motors. Each 'equipment class group' can be organized according to 'rating' where 'rating' is as it is presently defined in § 431.12 [of 10 CFR Part 431]. When appropriate, an AEDM [alternative efficiency determination method] can then be substantiated for the complete 'equipment class' of polyphase squirrel-cage induction electric motors as is permitted and done today."

Additionally, NEMA suggested that DOE separate U-frame motors from T-frame motors during the analysis because any proposed increase in efficiency standards for the low volume production of U-frame motors would likely result in a reduction in the availability of U-frame motors, which they assert, is not permitted under 42 U.S.C. 6295(o)(4). (NEMA, No. 54 at pp. 20, 26) Citing the high cost of redesigning these motors relative to the potential savings, the Motor Coalition predicted manufacturers would exit the U-frame market leaving only one or two manufacturers. (Motor Coalition, No. 35 at p. 13) NEMA also stated that the demand for this type of motor has been declining since the 1960's and U-frame motors have not been included in the NEMA MG 1 standard since U-frame motors were replaced by T-frame motors as the NEMA standard in the 1960s. (NEMA, No. 54 at pp. 19, 20) NEMA added that the challenge created by substituting a U-frame motor with a T-frame motor must be accounted for in the manufacturer and national impact analyses.

EISA 2007 prescribed energy conservation standards for electric motors built with a U-frame, whereas previously only electric motors built with a T-frame were covered.[30] (Compare 42 U.S.C. 6311(13)(A)(1992) with 42 U.S.C. 6311(13)(B)(2011)) In general, for the same combination of horsepower rating and pole configuration, an electric motor built in a U-frame is built with a larger "D" dimension than an electric motor built in a T-frame. The "D" dimension is a measurement of the distance from the centerline of the shaft to the bottom of the mounting feet. Consequently, U-frame motors should be able to reach efficiencies as high, or higher, than T-frame motors with similar ratings (i.e., horsepower, pole-configuration, and enclosure) because the larger frame size allows for more active materials, such as copper wiring and electrical steel, which help reduce I^2R (i.e., losses arising from the resistivity of the current-carrying material) and core losses (losses that result from magnetic field stability changes). Furthermore, U-frame motors do not have any unique utility relative to comparable T-frame motors. In general, a T-frame design could replace an equivalent U-frame design with minor modification of the mounting configuration for the driven equipment. By comparison, a U-frame design that is equivalent to a T-frame design could require substantial modification to the mounting configuration for the same piece of driven equipment because of its larger size. DOE's research indicated that manufacturers sell conversion brackets for installing T-frame motors into applications where a U-frame motor had previously been used.[31]

Regarding NEMA's contention that U-frame motors will become unavailable if DOE does not separate these motors from T-frame motors when developing efficiency standards, DOE understands NEMA's concerns regarding the diminishing market size of U-frame motors and the potential for them to disappear. However, DOE believes that such an occurrence would not be the

[30] The terms "U-frame" and "T-frame" refer to lines of frame size dimensions, with a T-frame motor having a smaller frame size for the same horsepower rating as a comparable U-frame motor. In general, "T" frame became the preferred motor design around 1964 because it provided more horsepower output in a smaller package.

[31] See, for example, *http://www.overlyhautz.com/adaptomounts1.html.*

result of an efficiency standard that is technologically infeasible for U-frame motors, but because U-frame motors offer no unique utility relative to T-frame motors. Furthermore, DOE believes that the proposed standards are unlikely to result in the unavailability of U-frame motors. Based on catalog data from several large electric motor manufacturers, DOE observed that 70 percent of currently available U-frame models meet the proposed standard (TSL 2). With much of the U-frame market already at the proposed standard, DOE sees no technical reason that U-frame manufacturers would not be able to comply with TSL 2.

DOE also notes that under 42 U.S.C. 6295(o)(4), EPCA proscribes the promulgation of standards that would result in the "unavailability in the United States in 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 at the time of the Secretary's finding." The provision does not require the continued protection of particular classes or types of product—or in this case, electric motors—if the same utility continues to be available for the consumers who are purchasing the given product. Consequently, based on available information, DOE has not separated U-frame motors into a unique equipment class group. DOE welcomes any additional data relevant to this finding, including data that would suggest the need for an alternate approach. DOE also requests additional information from manufacturers on whether covering U-frame motors would cause them to be unavailable in the U.S. and whether U-frame motors have any particular performance characteristics, features, sizes, capacities, or volumes.

Finally, NEMA questioned DOE's use of the term "equipment class" to describe a combination of horsepower rating, pole configuration, and enclosure type instead of using the term "rating," which is defined in 10 CFR 431.12, as part of the definition of a "basic model." (NEMA, No. 54 at p. 25) NEMA believes that this could cause confusion because of proposals regarding certification, alternative efficiency determination methods (AEDMs), and enforcement in a separate rulemaking, which are all centered around "equipment classes." (NEMA, No. 54 at p. 25) NEMA stated that DOE's definition in this rulemaking has the adverse impact of requiring substantiation of an AEDM separately for every rating for which it is to be used and would constitute a significant increase in compliance burden. (NEMA, No. 54 at p. 25) DOE understands NEMA's concerns regarding the potential of undue compliance burden. DOE notes that it has not proposed a regulatory definition for the term "equipment class." It is merely a construct for use in the various analyses in today's rulemaking. The term "equipment class" as described in this rulemaking should not be misconstrued as having any regulatory meaning as it relates to the definition of "basic model." In today's rulemaking, DOE is continuing to use the terminology as described in the preliminary analysis and above. DOE intends to address NEMA's concerns regarding the potential compliance burden in a separate rulemaking that will address compliance, certification and enforcement-related issues.

a. Electric Motor Design Letter

The first criterion that DOE considered when disaggregating equipment class groups was based on the NEMA (and IEC) design letter. The NEMA Standards Publication MG 1–2011, "Motors and Generators," defines a series of standard electric motor designs that are differentiated by variations in performance requirements. These designs are designated by letter—Designs A, B, and C. (See NEMA MG 1–2011, paragraph 1.19.1). These designs are categorized by performance requirements for full-voltage starting and developing locked-rotor torque, breakdown torque, and locked-rotor current, all of which affect an electric motor's utility and efficiency. DOE is proposing to regulate the efficiency of each of these design types.

The primary difference between a NEMA Design A and NEMA Design B electric motor is that they have different locked-rotor current requirements. NEMA Design B motors must not exceed the applicable locked-rotor current level specified in NEMA MG 1–2011, paragraph 12.35.1. NEMA Design A motors, on the other hand, do not have a maximum locked-rotor current limit. In most applications, NEMA Design B motors are generally preferred because locked-rotor current is constrained to established industry standards, making it easier to select suitable motor-starting devices. However, certain applications have special load torque or inertia requirements, which result in a design with high locked-rotor current (NEMA Design A). When selecting starting devices for NEMA Design A motors, extra care must be taken in properly sizing electrical protective devices to avoid nuisance tripping during motor startup. The distinction between NEMA Design A and NEMA Design B motors is important to users who are sensitive to high locked-rotor current; however, both NEMA Design A and Design B motors have identical performance requirements in all other metrics, which indicates that they offer similar levels and types of utility. Given these similarities, DOE is proposing to group these motors together into a single equipment class grouping for the purposes of this rulemaking.

In contrast, DOE believes that the different torque requirements for NEMA Design C electric motors represent a change in utility that can affect efficiency performance. NEMA Design C motors are characterized by high starting torques. Applications that are hard to start, such as heavily loaded conveyors and rock crushers, require this higher starting torque. The difference in torque requirements will restrict which applications can use which NEMA Design types. As a result, NEMA Design C motors cannot always be replaced with NEMA Design A or B motors, or vice versa. Therefore, as in the preliminary analysis, DOE has analyzed NEMA Design C motors in an equipment class group separate from NEMA Design A and B motors.

In chapter two, "Analytical Framework," of the preliminary technical support document, DOE noted numerous instances where manufacturers were marketing electric motors rated greater than 200 horsepower as NEMA Design C motors. DOE understands that NEMA MG 1–2011 specifies Design C performance requirements for motors rated 1–200 hp in four-, six-, and eight-pole configurations—a motor rated above 200 hp or using a two-pole configuration would not meet the Design C specifications. DOE requested public comment about whether motors that are name-plated as NEMA Design C, but that fall outside the ratings for which NEMA Design C is defined, can be considered to be NEMA Design C motors. In its comments, NEMA asserted it did not support marking a motor as NEMA Design C where no standard exists for two-pole designs, or four-, six- or eight-pole motors over 200 horsepower. NEMA recommended that any such improperly marked motor be examined for determination of its proper Design letter relative to the applicable standards in NEMA MG 1. Furthermore, NEMA recommended that DOE not include efficiency standards for motors of any design type for which NEMA or IEC standards do not exist. (NEMA, No. 54 at p. 19)

DOE understands that without established performance standards that form the basis for a two-pole NEMA

Design C motor or a NEMA Design C motor with a horsepower rating above 200, motors labeled as such would not meet the proposed regulatory definition for "NEMA Design C motor." 78 FR 38456 (June 26, 2013). DOE considers motors at these ratings to be improperly labeled if they are name-plated as NEMA Design C. Mislabeled NEMA Design C motors, however, are still subject to energy conservation standards if they meet the definitions and performance standards for a regulated motor—e.g. NEMA Design A or B. And since these motors either need to meet the same efficiency levels or would be required by customers to meet specific performance criteria expected of a given design letter (i.e. Design A, B, or C), DOE does not foresee at this time any incentive that would encourage a manufacturer to identify a Design A or B motor as a Design C motor for standards compliance purposes. DOE understands, however, that NEMA Design C motors as a whole constitute an extremely small percentage of motor shipments—less than two percent of shipments—covered by this rulemaking, which would appear to create an unlikely risk that mislabeling motors as NEMA Design C will be used as an avenue to circumvent standards. Nevertheless, DOE will monitor the potential presence of such motors and may reconsider standards for them provided such practice becomes prevalent.

b. Fire Pump Electric Motors

In addition to considering the NEMA design type when establishing equipment class groups, DOE considered whether an electric motor is a fire pump electric motor. EISA 2007 prescribed energy conservation standards for fire pump electric motors (42 U.S.C. 6313(b)(2)(B)) and, subsequently, DOE adopted a definition for the term "fire pump electric motor," which incorporated portions of National Fire Protection Association Standard (NFPA) 20, "Standard for the Installation of Stationary Pumps for Fire Protection" (2010). Pursuant to NFPA 20, a fire pump electric motor must comply with NEMA Design B performance standards and must continue to run in spite of any risk of damage stemming from overheating or continuous operation. The additional requirements for a fire pump electric motor constitutes a change in utility that DOE believes could also affect its performance and efficiency. Therefore, DOE established a separate equipment class group for such motors in the preliminary analysis to account for the special utility offered by these motors. In its comments, NEMA agreed with DOE's decision to separate fire pump electrical motors as a separate equipment class group. (NEMA, No. 54 at p. 20) Consequently, DOE is proposing to continue using a separate equipment class group for fire pump electric motors.

c. Brake Motors

In its NOPR analyses, DOE considered whether the term "electric motor" should include an integral brake electric motor or a non-integral brake electric motor (collectively, "brake motors"). In the test procedure NOPR, DOE proposed definitions both for integral and non-integral brake electric motors. 78 FR 38456 (June 26, 2013). Both of these electric motor types are contained in one equipment class group as separate from the equipment class groups established for NEMA Design A and B motors, NEMA Design C motors, and fire pump electric motors.

DOE understands that brake motors contain multiple features that can affect both utility and efficiency. In most applications, electric motors are not required to stop immediately. Instead, electric motors typically slow down and gradually stop after power is removed from the motor due to a buildup of friction and windage from the internal components of the motor. However, some applications require electric motors to stop quickly. Such motors may employ a brake component that, when engaged, abruptly slows or stops shaft rotation. The brake component attaches to one end of the motor and surrounds a section of the motor's shaft. During normal operation of the motor, the brake is disengaged from the motor's shaft—it neither touches nor interferes with the motor's operation. However, under normal operating conditions, the brake is drawing power from the electric motor's power source and may also be contributing to windage losses, because the brake is an additional rotating component on the motor's shaft. When power is removed from the electric motor (and therefore the brake component), the brake component de-energizes and engages the motor shaft, quickly slowing or stopping rotation of the rotor and shaft components. Because of these utility related features that affect efficiency, DOE has preliminarily established a separate equipment class group for electric motors with an integral or non-integral brake.

d. Horsepower Rating

In its preliminary analysis, DOE considered three criteria when differentiating equipment classes. The first criterion was horsepower, a critical performance attribute of an electric motor that is directly related to the capacity of an electric motor to perform useful work and that generally scales with efficiency. For example, a 50-horsepower electric motor would generally be considered more efficient than a 10-horsepower electric motor. In view of the direct correlation between horsepower and efficiency, DOE preliminarily used horsepower rating as a criterion for distinguishing equipment classes in the framework document and continued with that approach for the preliminary analysis.

NEMA agreed with DOE's view that horsepower is a performance attribute that must be considered when evaluating efficiency and urged that this long-established and workable concept not be abandoned. (NEMA, No. 54 at p. 40) In today's proposal, DOE continues to use horsepower as an equipment class-setting criterion.

e. Pole Configuration

The number of poles in an induction motor determines the synchronous speed (i.e., revolutions per minute) of that motor. There is an inverse relationship between the number of poles and a motor's speed. As the number of poles increases from two to four to six to eight, the synchronous speed drops from 3,600 to 1,800 to 1,200 to 900 revolutions per minute, respectively. In addition, manufacturer comments and independent analysis performed on behalf of DOE indicate that the number of poles has a direct impact on the electric motor's performance and achievable efficiency because some pole configurations utilize the space inside of an electric motor enclosure more efficiently than other pole configurations. DOE used the number of poles as a means of differentiating equipment classes in the preliminary analysis.

In response to the preliminary analysis, NEMA agreed that the number of poles of an electric motor has impacts a motor's achievable efficiency and supported DOE's decision to take this characteristic into consideration. (NEMA, No. 54 at p. 41) In today's proposal, DOE continues to use pole-configuration as an equipment class-setting criterion.

f. Enclosure Type

EISA 2007 prescribes separate energy conservation standards for open and enclosed electric motors. (42 U.S.C. 6313(b)(1)) Electric motors manufactured with open construction allow a free interchange of air between the electric motor's interior and exterior. Electric motors with enclosed

construction have no direct air interchange between the motor's interior and exterior (but are not necessarily air-tight) and may be equipped with an internal fan for cooling (see NEMA MG 1–2011, paragraph 1.26). Whether an electric motor is open or enclosed affects its utility; open motors are generally not used in harsh operating environments, whereas totally enclosed electric motors often are. The enclosure type also affects an electric motor's ability to dissipate heat, which directly affects efficiency. For these reasons, DOE used an electric motor's enclosure type (open or enclosed) as an equipment class setting criterion in the preliminary analysis.

NEMA acknowledged in its comments that the enclosure type is an important characteristic that affects the achievable efficiency for any particular electric motor. NEMA added that it may become necessary to consider separate groups for various enclosures as DOE continues to expand the scope of electric motors subject to energy conservation standards, but did not make any specific suggestions regarding which enclosures could be considered separately. (NEMA, No. 54 at p. 42)

At this time, DOE is continuing to use separate equipment class groups for open and enclosed electric motors but is declining to further break out separate equipment classes for different types of open or enclosed enclosures because DOE does not have data supporting such separation.

g. Other Motor Characteristics

In the preliminary analysis, DOE addressed various other motor characteristics, but did not use them to disaggregate equipment classes. In the preliminary analysis TSD, DOE provided its rationale for not disaggregating equipment classes for vertical electric motors, electric motors with thrust or sleeve bearings, close-coupled pump motors, or by rated voltage or mounting feet. DOE believes that none of these electric motor characteristics provide any special utility that would impact efficiency and justify separate equipment classes.

In response to the preliminary analysis, DOE received comments about how it should treat other motor characteristics. NEMA agreed with DOE's decision that vertical motors, motors with thrust or sleeve bearings, and close-coupled pump motors do not merit separate equipment classes. (NEMA, No. 54 at p. 20) With no comments suggesting that DOE use any one of the alternative characteristics as a criterion for equipment class, DOE is using the approach it laid out in its preliminary analysis.

DOE also requests additional information from manufacturers on whether covering any of these technology options would reduce consumer utility or performance or cause any of the covered electric motors to be unavailable in the U.S. and whether U-frame motors have any particular performance characteristics, features, sizes, capacities, or volumes. In particular, DOE requests any information or data if these technology options would lead to increases in the size of the motors such that it would no longer work in a particular space constricted application, to decreases in power thereby affecting their usability of these motors, or to changes in any other characteristics that would affect the performance or utility of the motor.

5. Technology Assessment

The technology assessment provides information about existing technology options and designs used to construct more energy-efficient electric motors. Electric motors have four main types of losses that can be reduced to improve efficiency: Losses due to the resistance of conductive materials (stator and rotor I^2R losses), core losses, friction and windage losses, and stray load losses. These losses are interrelated such that measures taken to reduce one type of loss can result in an increase in another type of losses. In consultation with interested parties, DOE identified several technology options that could be used to reduce such losses and improve motor efficiency. These technology options are presented in Table IV.6. (See chapter 3 of the TSD for details).

TABLE IV.6—TECHNOLOGY OPTIONS TO INCREASE ELECTRIC MOTOR EFFICIENCY

Type of loss to reduce	Technology option
Stator I^2R Losses	Increase cross-sectional area of copper in stator slots.
	Decrease the length of coil extensions.
Rotor I^2R Losses	Use a die-cast copper rotor cage.
	Increase cross-sectional area of rotor conductor bars.
	Increase cross-sectional area of end rings.
Core Losses	Use electrical steel laminations with lower losses (watts/lb).
	Use thinner steel laminations.
	Increase stack length (i.e., add electrical steel laminations).
Friction and Windage Losses	Optimize bearing and lubrication selection.
	Improve cooling system design.
Stray-Load Losses	Reduce skew on rotor cage.
	Improve rotor bar insulation.

In response to the preliminary analysis, DOE received multiple comments about these options.

At the preliminary analysis public meeting, NEMA requested clarification on what was meant by the technology option listed as "improving rotor bar insulation." (NEMA, Public Meeting Transcript, No. 60 at p. 158) NEMA commented on the option of increasing the cross sectional area of the stator windings and clarified that this is one way to decrease stator resistance, but not necessarily a separate technology option. (NEMA, No. 54 at p. 44) NEMA also clarified that reducing rotor resistance through a change in volume is synonymous with an increase in rotor slot size, unless DOE intends to include variations in the volume of the end rings. (NEMA, No. 54 at p. 45)

NEMA also noted that chapter 3 of DOE's preliminary TSD did not discuss the option of increasing the flux density in the air gap, while chapter 4 did. (NEMA, No. 54 at p. 46) NEMA added that the air gap flux density is not a design option that can be independently adjusted and that for a given core length the only option available for changing the air gap flux density is to change the number of effective turns in the stator winding. (NEMA, No. 54 at pp. 62, 63) NEMA also commented on the limitations associated with reducing a motor's air gap by noting that manufacturers must ensure that the motor is still functional and that the air gap is not so small such that the rotor

and stator may strike each other during operation. (NEMA, No. 54 at pp. 44–45)

Lastly, during the preliminary analysis public meeting, Danfoss commented that the term "technology options" is a bit misleading because of the design tradeoffs that must be made in order to maintain motor performance (other than efficiency). (Danfoss, Public Meeting Transcript, No. 60 at pp. 98, 99)

Regarding the requested clarifications, DOE notes the listed option of "improved rotor insulation" refers to increasing the resistance between the rotor squirrel-cage and the rotor laminations. Manufacturers use different methods to insulate rotor cages, such as applying an insulating coating on the rotor slot prior to die-casting or heating and quenching[32] the rotor to separate rotor bars from rotor laminations after die-casting. DOE has updated the discussion in the TSD chapter to clarify that there are multiple ways to implement this technology option.

DOE agrees with NEMA that increasing the cross-sectional area of copper in the stator is synonymous with reducing the stator resistance, and has updated the discussion in TSD chapter 3 for clarity. Furthermore, DOE agrees with NEMA that increasing rotor slot size is a technique that reduces rotor resistivity. DOE also considered other techniques to reduce rotor resistivity such as increasing the volume of the rotor end rings and using die-cast copper rotors. For the sake of clarity, DOE has replaced the technology option "reduce rotor resistance" in the TSD discussion with the specific techniques that DOE considered in its analysis: Increasing the cross-sectional area of the rotor conductor bars, increasing the cross-sectional area of the end rings, and using a die-cast copper rotor cage.

With regard to increasing the flux density in the air gap, DOE consulted with its subject matter expert and acknowledges that this approach is not necessarily an independently adjustable design parameter used to increase motor efficiency and has removed it from its discussion in chapters 3 and 4 of the TSD. DOE notes that it understands that the technology options that it discusses do have limits, both practical limits in terms of manufacturing and design limits in terms of their effectiveness. DOE also understands that a manufacturer must balance any options to improve efficiency against the possible impacts on the performance attributes of its motor designs.

[32] Quenching is rapid cooling, generally by immersion in a fluid instead of allowing the rotor temperature to equalize to ambient

a. Decrease the Length of Coil Extensions

One method of reducing resistance losses in the stator is decreasing the length of the coil extensions at the end turns. Reducing the length of copper wire outside the stator slots not only reduces the resistive losses, but also reduces the material cost of the electric motor because less copper is being used.

NEMA submitted comments acknowledging decreased coil extension as an option to increase efficiency, but did not see the practicability. NEMA asserted that decreasing the length of a coil extension has been a common industry practice for over 50 years and it would be difficult to achieve any further reductions in motor losses under this option. NEMA added that any design changes that would decrease the length of a coil extension must be carefully considered to ensure that the coil heads meet all applicable creep and strike distance requirements.[33] (NEMA, No. 54 at p. 57)

DOE understands that there may be limited efficiency gains, if any, for most electric motors using this technology option. DOE also understands that electric motors have been produced for many decades and that many manufacturers have improved their production techniques to the point where certain design parameters may already be fully optimized. However, DOE maintains that this is a design parameter that affects efficiency and should be considered when designing an electric motor.

b. Increase Cross-Sectional Area of Rotor Conductor Bars

Increasing the cross-sectional area of the rotor bars, by changing the cross-sectional geometry of the rotor, can improve motor efficiency. Increasing the cross-sectional area of the rotor bars reduces the resistance and thus lowers the I^2R losses. However, changing the shape of the rotor bars may affect the size of the end rings and can also change the torque characteristics of the motor.

NEMA acknowledged that increasing the cross-sectional area of rotor bars is an option to increase efficiency, but doubted whether any additional reductions in motor losses were possible by using this method. After 50 years of increasing efficiency through this technique, NEMA questioned whether manufacturers could further increase the cross-sectional area of the rotor bars, adding that the increase in rotor current cannot exceed the square of the decrease in the rotor resistance in order for the rotor losses to decrease. NEMA added that any design changes using this option must be carefully considered to ensure that the motor will meet the applicable NEMA MG 1 performance requirements (i.e., stall time, temperature rise, overspeed) and, for certain applications, any other industry standards (i.e., IEEE 841 [34]) to maintain the same level of utility. (NEMA, No. 54 at pp. 57, 58)

DOE recognizes that increasing the cross-sectional area of a conductor rotor bar may yield limited efficiency gains for most electric motors. However, DOE maintains that this is a design parameter that affects efficiency and must be considered when designing an electric motor. Additionally, when creating its software models, DOE considered rotor slot design, including cross sectional areas, such that any software model produced was designed to meet the appropriate NEMA performance requirements for torque and locked rotor current.

c. Increase Cross-Sectional Area of End Rings

End rings are the components of a squirrel-cage rotor that create electrical connections between the rotor bars. Increasing the cross-sectional area of the end rings reduces the resistance and thus lowers the I^2R losses in the end rings. A reduction in I^2R losses will occur only when any proportional increase in current as a result of an increase in the size of the end ring is less than the square of the proportional reduction in the end ring resistance.

NEMA commented that increasing the end ring size increases the rotor weight, and consideration must be given to the effects a heavier end ring will have on the life of the rotor. NEMA added that any design changes using this option must be carefully considered to ensure that the applicable design requirements are met and intended utility retained. (NEMA, No. 54 at p. 58)

When developing its software models, DOE relied on the expertise of its subject matter expert. Generally,

[33] Creep distance is the shortest path between two conductive parts. An adequate creep distance protects against tracking, a process that can lead to insulation deterioration and eventual short circuit. Strike distance is the shortest distance through air from one conductor to another conductor or to ground. Adequate strike distance is required to prevent electrical discharge between two conductors or between conductors and ground.

[34] IEEE 841–2009, "IEEE Standard for Petroleum and Chemical Industry—Premium-Efficiency, Severe-Duty, Totally Enclosed Fan-Cooled (TEFC) Squirrel Cage Induction Motors—Up to and Including 370 kW (500 hp)," identifies the recommended practice for petroleum and chemical industry severe duty squirrel-cage induction motors.

increases to end ring area were limited to 10–20% are unlikely to have significant impacts on the mechanical aspects of the rotor. Furthermore, DOE ensured that the appropriate NEMA performance requirements for torque and locked-rotor current were maintained with its software modeled motors.

d. Increase the Number of Stator Slots

Increasing the number of stator slots associated with a given motor design can, in some cases, improve motor efficiency. Similar to increasing the amount of copper wire in a particular slot, increasing the number of slots may in some cases permit the manufacturer to incorporate more copper into the stator slots. This option would decrease the losses in the windings, but can also affect motor performance. Torque, speed and current can vary depending on the combination of stator and rotor slots used.

NEMA indicated that increasing the number of slots to allow the motor design engineer to incorporate additional copper into the stator slots is contrary to any practical analysis. NEMA elaborated that the stator core holds the stator winding in the slots and carries the magnetic flux in the electrical steel. As stator slots increase, insulating material will increase, reducing the total amount of cross-sectional area for stator winding. Additionally, too large of an increase in the number of stator slots may make it impractical to wind the stator on automated equipment and the same may be true for a low number of stator slots. NEMA also commented that while it agrees with DOE that the number of stator slots can affect motor torque and efficiency, there is a relationship between the number of rotor slots and stator slots, and the combination of the two can have significant effects on starting torque, sound levels, and stray load losses. NEMA concluded that all of these effects must be considered to ensure the practicability of manufacturing the affected motors. Other factors NEMA noted included winding and potential sound levels—all of which could impact utility along with health and safety concerns. (NEMA, No. 54 at p. 61)

With respect to stator slot numbers, DOE understands that a motor manufacturer would not add stator slots without any appreciation of the impacts on the motor's performance. DOE also understands that there is an optimum combination of stator and rotor slots for any particular frame size and horsepower combination. DOE consulted with its subject matter expert and understands that optimum stator and rotor slot combinations have been determined by manufacturers and are in use on existing production lines." Consequently, DOE has removed this technology option from chapter 4 of the TSD.

e. Electrical Steel with Lower Losses

Losses generated in the electrical steel in the core of an induction motor can be significant and are classified as either hysteresis or eddy current losses. Hysteresis losses are caused by magnetic domains resisting reorientation to the alternating magnetic field. Eddy currents are physical currents that are induced in the steel laminations by the magnetic flux produced by the current in the windings. Both of these losses generate heat in the electrical steel.

In studying the techniques used to reduce steel losses, DOE considered two types of materials: Conventional silicon steels, and "exotic" steels, which contain a relatively high percentage of boron or cobalt. Conventional steels are commonly used in electric motors manufactured today. There are three types of steel that DOE considers "conventional:" cold-rolled magnetic laminations, fully processed non-oriented electrical steel, and semi-processed non-oriented electrical steel.

One way to reduce core losses is to incorporate a higher grade of core steel into the electric motor design (*e.g.*, switching from an M56 to an M19 grade). In general, higher grades of electrical steel exhibit lower core losses. Lower core losses can be achieved by adding silicon and other elements to the steel, thereby increasing its electrical resistivity. Lower core losses can also be achieved by subjecting the steel to special heat treatments during processing.

The exotic steels are not generally manufactured for use specifically in the electric motors covered in this rulemaking. These steels include vanadium permendur and other alloyed steels containing a high percentage of boron or cobalt. These steels offer a lower loss level than the best electrical steels, but are more expensive per pound. In addition, these steels can present manufacturing challenges because they come in nonstandard thicknesses that are difficult to manufacture.

NEMA and Baldor submitted multiple comments concerning DOE's discussion during the preliminary analysis regarding the use of Epstein testing to determine an electrical steel grade that would improve the efficiency of an electric motor. (NEMA, No. 54 at pp. 21–23, 62; NEMA, Public Meeting Transcript, No. 60 at pp. 100, 102, 103) The grading of electrical steel is made through a standardized test known worldwide as the Epstein Test.[35] This test provides a standardized method of measuring the core losses of different types of electrical steels. NEMA commented that relying solely on Epstein test results to select grades of steel could result in a motor designer inadvertently selecting a steel grade that performs poorly in a motor design. NEMA supplied data on two different samples of steel supplied by different manufacturers, but consisting of the same steel grade. The data illustrated how the lower loss steel (as determined by Epstein test results) resulted in a less efficient motor when used in a prototype. NEMA noted that this situation poses a problem for computer software modeling because a model that represents only the general class of electrical steel and not the steel source (manufacturer) would not be able to calculate the difference in the results between the supposedly equivalent grades of steels from separate manufacturers.

DOE clarifies that its computer software did not model general classes of electrical steel, but instead modeled vendor-specific electrical steel. DOE's software utilized core loss vs. flux density curves supplied by an electrical steel vendor as one component of the core loss calculated by the program. A second component was also added to account for high frequency losses. DOE agrees with NEMA's claim that relative performance derived from Epstein testing might not be indicative of relative performance in actual motor prototypes. DOE did not solely rely on relative steel grade when selecting electrical steels for its designs. To illustrate this point, DOE notes that almost all of its software modeled designs utilized M36 grade steel, even though it was not the highest grade of electrical steel considered in the analysis. When higher grade M15 steel was evaluated in DOE's software modeled designs, the resulting efficiencies were actually lower than the efficiencies when using M36 grade steel for several reasons including the reasons cited by NEMA. The Epstein test results for various grades of steel provided in chapter 3 of the preliminary analysis TSD were purely informational and intended to give an indication of the relative performance of a sample of

[35] ASTM Standard A343/A343M, 2003 (2008), "Standard Test Method for Alternating-Current Magnetic Properties of Materials at Power Frequencies Using Wattmeter-Ammeter-Voltmeter Method and 25-cm Epstein Test Frame," ASTM International, West Conshohocken, PA 2008.

electrical steels considered. That information has been removed from chapter 3 of the TSD to avoid any further confusion.

f. Thinner Steel Laminations

As addressed earlier, there are two types of core losses that develop in the electrical steel of induction motors—hysteresis losses and losses due to eddy current. Electric motors can use thinner laminations of core steel to reduce eddy currents. The magnitude of the eddy currents induced by the magnetic field become smaller in thinner laminations, making the motor more energy efficient. In the preliminary analysis, DOE only considered conventional steels with standard gauges available in the market.

NEMA agreed with DOE's initial decision to consider only lamination thicknesses that are currently used in motor manufacturing, as there is a practical limit on how thick the laminations can be in electric motors before additional losses may become significant. (NEMA, No. 54 at p. 62) DOE continues to consider this as a viable technology option in the NOPR analysis.

g. Increase Stack Length

Adding electrical steel to the rotor and stator to lengthen the motor can also reduce the core losses in an electric motor. Lengthening the motor by increasing stack length reduces the magnetic flux density, which reduces core losses. However, increasing the stack length affects other performance attributes of the motor, such as starting torque. Issues can arise when installing a more efficient motor with additional stack length because the motor becomes longer and may not fit into applications with dimensional constraints.

NEMA requested clarification of the phrase "add stack height," which DOE included in its summary of technology options for improving efficiency in chapter 3 of the preliminary TSD. NEMA was unsure if this meant increasing the length of the core or increasing the outer diameter of the stator core laminations. (NEMA, no. 54 at p. 45)

DOE clarifies that it was referring to increasing the length of the stator and rotor. However, increasing the outside diameter of the stator core is another way in which manufacturers could add active material to their electric motor designs and potentially increase efficiency.

NEMA agreed that changing the stack length of an electric motor can improve core losses (i.e. reduce them), but may also change other performance characteristics such as torque, speed and current. However, NEMA stressed that there are limits to this technology option because too much additional stack could cause the motor to increase in size (i.e., frame length), which might introduce utility problems in space-constrained applications (NEMA, No. 54 at p. 62) NEMA also commented that since the EISA 2007 standards were enacted, only a limited number of motor ratings above NEMA Premium have been offered because there is not sufficient space available in most frame ratings to increase the efficiency. (NEMA, No. 54 at p. 7) DOE understands that there are limits to increased stack length and, as discussed in IV.C, DOE established criterion to limit the length of the stack considered in the engineering analysis. DOE also understands that stack length affects consumer utility, which is a factor that DOE considers in its selection of a standard.

h. More Efficient Cooling System

Optimizing a motor's cooling system that circulates air through the motor is another technology option to improve the efficiency of electric motors. Improving the cooling system reduces air resistance and associated frictional losses and decreases the operating temperature (and associated electrical resistance) by cooling the motor during operation. This can be accomplished by changing the fan or adding baffles to the current fan to help redirect airflow through the motor.

NEMA agreed that changes in the cooling system may reduce the total losses of a motor, but did not agree that this is equivalent to a more efficient cooling system, as DOE described. NEMA elaborated that when the design of an electric motor is changed, losses associated with the cooling system may increase in order to provide a decrease in losses associated with some other part of the design. (NEMA, No. 54 at p. 63) DOE appreciates NEMA's comments and has clarified its phrasing of this technology option to reflect the fact that it is the motor that becomes more efficient, not necessarily the cooling system.

i. Reduce Skew on Conductor Cage

In the rotor, the conductor bars are not straight from one end to the other, but skewed or twisted slightly around the axis of the rotor. Decreasing the degree of skew can improve a motor's efficiency. The conductor bars are skewed to help eliminate harmonics that add cusps, losses, and noise to the motor's speed-torque characteristics. Reducing the degree of skew can help reduce the rotor resistance and reactance, which helps improve efficiency. However, overly reducing the skew also may have adverse effects on starting, noise, and the speed-torque characteristics.

NEMA inquired if this design option was considered for any of the designs used in the engineering analysis, as the preliminary TSD did not indicate if any rotors were skewed. (NEMA, No. 54 at p. 63) NEMA also inquired why the option to reduce skew on the conductor cage, was associated with I^2R losses in chapter 3 of the preliminary TSD, but in chapter 4 of the preliminary TSD this option was associated with reducing stray load losses. (NEMA, No. 54 at p. 46)

DOE notes that all software designs used in the analysis had skewed rotor designs and, in general, the skews used were approximately 100 percent of a stator or rotor slot pitch, whichever had the smaller number of slots. Additionally, DOE intended for the option of reducing the skew on the conductor cage to be an option associated with reducing stray load losses and has made the appropriate adjustments to its text and tables.

B. Screening Analysis

After DOE identified the technologies that might improve the energy efficiency of electric motors, DOE conducted a screening analysis. The purpose of the screening analysis is to determine which options to consider further and which to screen out. DOE consulted with industry, technical experts, and other interested parties in developing a list of design options. DOE then applied the following set of screening criteria, under sections 4(a)(4) and 5(b) of appendix A to subpart C of 10 CFR Part 430, "Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products," to determine which design options are unsuitable for further consideration in the rulemaking:

- *Technological Feasibility:* DOE will consider only those technologies incorporated in commercial equipment or in working prototypes to be technologically feasible.
- *Practicability to Manufacture, Install, and Service:* If mass production of a technology in commercial equipment and reliable installation and servicing of the technology could be achieved on the scale necessary to serve the relevant market at the time of the effective date of the standard, then DOE will consider that technology practicable to manufacture, install, and service.
- *Adverse Impacts on Equipment Utility or Equipment Availability:* DOE

will not further consider a technology if DOE determines it will have a significant adverse impact on the utility of the equipment to significant subgroups of customers. DOE will also not further consider a technology that will result in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time.

• *Adverse Impacts on Health or Safety:* DOE will not further consider a technology if DOE determines that the technology will have significant adverse impacts on health or safety.

Table IV.7 below presents a general summary of the methods that a manufacturer may use to reduce losses in electric motors. The approaches presented in this table refer either to specific technologies (*e.g.*, aluminum versus copper die-cast rotor cages, different grades of electrical steel) or physical changes to the motor geometries (*e.g.*, cross-sectional area of rotor conductor bars, additional stack height). For additional details on the screening analysis, please refer to chapter 4 of the preliminary TSD.

TABLE IV.7—SUMMARY LIST OF OPTIONS FROM TECHNOLOGY ASSESSMENT

Type of loss to reduce	Technology option
Stator I^2R Losses	Increase cross-sectional area of copper in stator slots.
	Decrease the length of coil extensions.
Rotor I^2R Losses	Use a die-cast copper rotor cage.
	Increase cross-sectional area of rotor conductor bars.
	Increase cross-sectional area of end rings.
Core Losses	Use electrical steel laminations with lower losses (watts/lb).
	Use thinner steel laminations.
	Increase stack length (i.e., add electrical steel laminations).
Friction and Windage Losses	Optimize bearing and lubrication selection.
	Improve cooling system design.
Stray-Load Losses	Reduce skew on rotor cage.
	Improve rotor bar insulation.

1. Technology Options Not Screened Out of the Analysis

The technology options in this section are options that passed the screening criteria of the analysis. DOE considers the technology options in this section to be viable means of improving the efficiency of electric motors. In NEMA's view, DOE's screening analysis lacked sufficient supporting information regarding whether a particular technology is included or screened out of the analysis. NEMA agreed that it is necessary to look at new technologies, but added that DOE did not provide adequate supporting information in its analysis and the group asserted that commenters were left without adequate material upon which to base comments in support of or in opposition to statements made in the preliminary TSD. NEMA suggested that a form clearly identifying the issues pertinent to the topic be provided for each option analyzed. NEMA stated that providing these forms for each technology option would supply adequate material on which commenters can develop public comments. (NEMA, No. 54 at p. 45) Additionally, when discussing the seven criteria that DOE must consider in its analysis, NEMA expressed that there are more criteria that should be considered. NEMA stated that DOE must consider 4(d)(7) of 10 CFR part 430, subpart C, appendix A which lists under sections 4.(d)(7)(viii) impacts of non-regulatory approaches and (ix) new information relating to the factors used for screening design options. (NEMA, No. 54 at p. 13)

Regarding NEMA's request for a form for each technology option considered, today's NOPR provides detailed information about each technology option considered and DOE is requesting comment on each option. DOE understands NEMA's concerns about the technology options not screened out of the DOE analysis. With the exception of copper rotor motors, DOE understands that each technology option that it has not screened out is a design option that a manufacturer would consider in each motor designed and built. DOE recognizes that manufacturers design their motors to balance a number of competing factors that all inter-relate with each other, including performance, reliability, and energy efficiency. Because the options DOE has identified can be modified to improve efficiency while maintaining performance, it is DOE's tentative view that at least some significant level of energy efficiency improvement is possible with each technology option not screened out by DOE.

Furthermore, DOE notes that it did not explicitly use each of the technology options that passed the screening criteria in the engineering analysis. As discussed in section IV.C, DOE's engineering analysis was a mixture of two approaches that DOE routinely uses in its engineering analysis methodology: The reverse-engineering approach (in which DOE has no control over the design parameters) and the efficiency-level approach (in which DOE tried to achieve a certain level of efficiency, rather than applying specific design options). This hybrid of methods did not allow for DOE to fully control which design parameters were ultimately used for each representative unit in the analysis. Without the ability to apply specific design options, DOE could not include every option that was not screened out of the analysis. Finally, DOE appreciates NEMA's comments regarding Appendix A to Subpart U of part 430. DOE has considered all comments related to the two factors identified by NEMA in its rule.

In addition, DOE notes that its analysis neither assumes nor requires manufacturers to use identical technology for all motor types, horsepower ratings, or equipment classes. In other words, DOE's standards are technology-neutral and permit manufacturers design flexibility.

a. Copper Die-Cast Rotors

Aluminum is the most common material used today to create die-cast rotor bars for electric motors. Some manufacturers that focus on producing high-efficiency designs have started to offer electric motors with die-cast rotor bars made of copper. Copper offers better performance than aluminum because it has better electrical conductivity (*i.e.*, a lower electrical resistance). However, because copper also has a higher melting point than aluminum, the casting process becomes

more difficult and is likely to increase both production time and cost.

NEMA commented that performance is a relative term, and that the NEMA MG 1–2011 standard specifies performance characteristics and specifications for various types of motors. NEMA added that tradeoffs among various performance characteristics related to the conductivity of copper are required when designing a NEMA Design B electric motor that is in full conformance with the NEMA MG 1–2011 standards. NEMA commented that DOE did not address all aspects of motor performance specified in the NEMA MG 1–2011 standard, especially some of the performance requirements related to the choice of conductive material in the rotor. (NEMA, No. 54 at p. 46)

DOE acknowledges that using copper in rotors may require different design approaches and considerations. In its own modeling and testing of copper rotor motors, DOE ensured that performance parameters stayed within MG 1–2011 limits (i.e., met NEMA Design B criteria). DOE seeks comment on any particular aspects of copper rotor design, especially those on parameters widely viewed as challenging to meet, and requests explanation of why such parameters are especially challenging when using copper.

The Advocates (NEEA, NPCC, ACEEE, ASAP, Earthjustice, and ASE) disagreed with DOE's tentative decision during the preliminary analysis phase to include copper die-cast rotors. It urged DOE to exclude this option in order to avoid analyzing a technology that is not ready for use across all motor types, configurations, and horsepower ratings that DOE would cover as part of its rulemaking. (Advocates, No. 56 at pp. 3–4)

On a related note, NEMA commented that DOE has not publicly established what determines a "mass quantity." NEMA elaborated that a "mass quantity" should mean the ability to be produced in significant volume for the entire industry. NEMA commented that DOE screened out certain electrical steels because they could not be produced in significant volume for the entire industry, and this same logic should apply to copper rotor technology. (NEMA, No. 54 at p. 24)

DOE did not screen out copper as a die-cast rotor conductor material because copper die-cast rotors passed the four screening criteria. Because copper is in commercial use today, DOE concluded that this material is technologically feasible and practicable to manufacture, install, and service. Additionally, manufacturers are already producing such equipment, which suggests that such equipment can be safely produced in mass quantities. For example, Siemens produces copper rotor motors for 1–20 hp and SEW-Eurodrive manufactures a full line of motors from 1–30 hp. In addition, DOE notes that its analysis neither assumes nor requires manufacturers to use identical technology for all motor types, horsepower ratings, or equipment classes.

DOE received considerable feedback concerning copper rotor technology. Consequently, DOE has organized those comments into sections below as they pertain to the four screening criteria.

Technological Feasibility

As part of its analysis, DOE intends to ensure that utility, which includes frame size considerations, is maintained. Increased shipping costs are also taken into account in the national impact analysis (NIA) and the life-cycle cost (LCC) analysis portions of DOE's analytical procedures.

NEMA commented that the use of a technology in a limited subclass of electric motors does not imply that the technology can be applied to every equipment class covered in this rulemaking. NEMA is not aware of any available complete product line of NEMA Design A, B, or C copper die-cast rotor electric motors manufactured in the United States, and stated that further investigation is required to prove this technology is valid for an entire range of designs. (NEMA, No. 54 at pp. 2, 48, 49) NEMA was able to find two manufacturers currently producing copper rotor motors in a total of only 33 out of over 600 equipment classes covered in this rulemaking.[36] NEMA and Baldor added that none of those motors are produced in the United States, and only about half of those ratings met NEMA Design B performance requirements. (NEMA, No. 54 at pp. 48, 49; Baldor, Public Meeting Transcript, No. 60 at pp. 109, 110)

NEMA commented that the die-casting process for copper rotors can increase core or stray load losses in the motor, and this is a problem with copper die-casting that has not been solved in all rotor sizes. (NEMA, No. 54 at p. 46)

NEMA cited recently conducted U.S. Army studies involving die-cast copper rotor motors. It explained that the first study evaluated the advantages of a die-cast copper rotor versus an aluminum rotor. The study also attempted to optimize the process and estimate manufacturing costs for die-cast copper rotors. NEMA commented that the results of the study showed that the die-cast copper rotor motor was unable to stay within the NEMA Design B locked-rotor current limits, and that efficiency increased by less than one full NEMA band over the comparable NEMA Design B aluminum cast-copper rotor motor. The study reported that continued investment in cast copper rotor motor technology development is needed to improve design optimization methods, improve the casting process, and to investigate utilization of cast copper in larger motor sizes. NEMA commented that the number of die-cast copper rotors manufactured in the study was insufficient to make any determination that die-casting could be performed on a high and consistent quality basis necessary for general production. (NEMA, No. 54 at p. 50, 51)

NEMA also described a different U.S. Army study where a 75-hp aluminum rotor motor driving a pump was to be replaced with a 75-hp copper rotor motor. NEMA explained that in the study the die-cast copper rotor motor's optimization study indicated the motor would have a one NEMA band increase in efficiency over the aluminum die-cast rotor motor it was replacing. However, once built, the 75-hp die-cast copper rotor motor had an actual efficiency of more than 1 NEMA band below the aluminum die-cast rotor motor, with core and stray load losses of the physical motor being higher than the computer model had predicted. NEMA concluded that neither study was successful in demonstrating that copper rotor die-casting technology is possible or feasible in its current state in the U.S., and that continued investment in die-cast copper rotor technology development is necessary to improve the copper die-casting process and reduce stray load losses. (NEMA, No. 54 at pp. 51–53)

BBF, a consulting company working on behalf of the Copper Development Association (CDA), commented that test data of multiple die-cast copper rotor motors resulted in an average tested efficiency above the motors' nameplate efficiency, whereas the test results from a similar model aluminum rotor motor tested below its nameplate efficiency. In its view, these results fall within the allowable variances prescribed by NEMA with respect to measuring electric motor energy efficiency and demonstrate the higher energy

[36] The equipment classes NEMA found included NEMA Design A motors from 1 to 30 hp, 4-pole configurations, and NEMA Design B motors from 1.5 to 20 hp in a 2-pole configuration, 1 to 20 hp in a 4-pole configuration, and 1 hp and 3–10 hp in a 6-pole configuration. All motor configurations NEMA mentioned were enclosed frame motors.

efficiency potential of die-cast copper rotor motors. (BBF, No. 51 at p. 3)

NEMA summarized that it is not aware of any prototypes or commercially available products that have demonstrated the technical feasibility of utilizing die-cast copper rotors sufficient to cover all equipment classes covered in this rulemaking. NEMA disagreed with DOE's conclusion that die-cast copper rotors successfully passed the screening criteria for technological feasibility relative to the class of all covered electric motors, including the 75-hp copper rotor motor which DOE used as a representative unit in the engineering analysis. NEMA added that DOE has not provided any evidence that die-casting copper can successfully be applied to all electric motors covered in this rulemaking by December 19, 2015. NEMA added that the recent studies conducted by the United States Army noted above showed that, in the U.S. at present or in any foreseeable future time, this technology is not currently feasible over the range of motor ratings regulated under this rulemaking. (NEMA, No. 54 at pp. 3, 53, 56; NEMA, Public Meeting Transcript, No. 60 at p. 111)

The CDA disagreed with NEMA, and stated that die-cast copper rotor motors are a feasible technology because manufacturers have already successfully entered the copper rotor motor market. The CDA added that a range of development issues have been overcome, again suggesting that it is technologically feasible, but copper die-cast rotors require redesign and optimization to take advantage of copper's different electrical properties compared to aluminum, and many motor manufacturers have undertaken this redesign and optimization to take advantage of the properties of copper. (BBF, No. 51 at p. 3) The CDA agreed, however, that current manufacturing capacity would be unable to produce motors on the scale of five million units yearly. (CDA, Public Meeting Transcript, No. 60 at p. 119)

DOE acknowledges that the industry is not equipped to produce all motors with copper rotors, but has estimated the costs of both capital and product development through interviews with manufacturers of motors and included these costs in its engineering analysis. DOE welcomes comment on the methodology, and on the resulting motor prices. As noted earlier, EPCA, as amended, does not require manufacturers to use identical technology for all motor types, horsepower ratings, or equipment classes.

DOE recognizes that assessing the technological feasibility of high-horsepower copper die-cast rotors is made more complex by the fact that manufacturers do not offer them commercially. That could be for a variety of reasons, among them:

1. Large copper die-cast rotors are physically impossible to construct;
2. They are possible to construct, but impossible to construct to required specifications;
3. They are possible to construct to required specifications, but would require manufacturing capital investment to do so and be so costly that few (if any) consumers would choose them.

Some exploratory research suggests that different organizations have developed and used copper rotors in high-horsepower traction (i.e., vehicle propulsion) motors. For example, Tesla Motors powers its Roadster[37] and Model S[38] vehicles with copper induction motors generating 300[39] or more peak horsepower and Oshkosh die-cast copper rotor induction motors rated at 140 peak hp.[40] Remy International, Inc. (Remy) also builds high-horsepower copper motors that are claimed to exceed 300 horsepower at 600V.[41] DOE seeks comment on these, and on other high-horsepower motors that use copper rotors.

DOE recognizes that these motors are designed for a different purpose than most motors in the current scope of this rulemaking. Their existence suggests that copper has been successfully used at high power levels in an application where efficiency is critical and casts doubt on the idea that copper die-cast rotors can be screened out with certainty.

Another reason to be cautious about screening out copper die-cast rotors comes from an analogous product: Distribution transformers. DOE conducted a recent rulemaking on distribution transformers,[42] which (as with motors) have two sets of conductors that surround electrical steel to transfer power. Although distribution transformers do not rotate, many of the ways that they lose energy (e.g., conductor losses) are the same as electric motors. They also face constraints (as motors do) on performance aspects unrelated to efficiency; inrush current and overall volume are two examples. At current prices, copper is generally not viewed as economical for most efficiency levels but, if properly designed, copper windings almost always result in smaller, cooler, and more efficient transformers.

In general, copper may improve efficiency relative to aluminum because it carries an inherently higher level of electrical conductivity. Several organizations have conducted research and built prototype[43] motors that use materials even more conductive than copper, such as "superconductive" materials that have no conductive losses to achieve even greater electric motor efficiency. While DOE is not considering the use of these more conductive materials at this time, DOE notes their existence for purposes of demonstrating the potential advantages of using materials that lower conductive losses.

While recognizing that motors are not transformers, the parallels that can be drawn leave DOE hesitant to screen out copper die-cast rotors on the basis of technological feasibility. Relative to the above list of possible reasons for their absence from the high-horsepower market, DOE's analysis does not conclude copper die-cast rotors are either: (1) Physically impossible to construct or (2) possible to construct, but impossible to construct to required specifications.

Practicability To Manufacture, Install, and Service

Regarding DOE's projections that the annual sales of electric motors, as defined by EISA 2007 will have grown to 5,089,000 units by 2015, including over 24,000 possible motor configurations, NEMA commented that only a single manufacturer is currently producing die-cast copper rotor motors, and in a very limited range. In its view, without sufficient data and analysis to support DOE's conclusion that "mass production" of die-cast copper rotors is possible, NEMA asserts that this technology would not pass the screening criterion of practicability to manufacture, install, and service. It argues that, based on the limited advances of the technology from 1995 to present day in the United States, this technology is unlikely to be mature enough by the compliance date for this rulemaking to meet the required production of over 5 million motors in

[37] *http://www.teslamotors.com/roadster/technology/motor.*

[38] *http://www.teslamotors.com/models/specs.*

[39] *http://www.teslamotors.com/roadster/specs.*

[40] See *http://www.coppermotor.com/wp-content/uploads/2012/04/casestudy_army-truck.pdf.*

[41] *http://www.remyinc.com/docs/hybrid/REM-12_HVH410_DataSht.pdf.*

[42] Available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0048-0762.*

[43] See General Atomics marine propulsion motor at: *http://www.ga.com/electric-drive-motors.*

the U.S., even if all manufacturing were shifted overseas. (NEMA, No. 54 at pp. 3, 47, 53, 54, 56; NEMA, Public Meeting Transcript, No. 60 at p. 114) NEMA noted that mandating this technology may also have the indirect effect of establishing a monopoly market in the U.S. for those manufacturers who can produce copper rotor motors, or to push production jobs overseas and penalize motor manufacturers that do not have the capability to produce copper rotor motors. (NEMA, No. 54 at p. 24)

DOE recognizes the importance of maintaining a competitive market. However, because there are at least two domestic manufacturers of motors with copper rotors and because several more are manufacturing internationally, DOE believes the opportunity for price manipulation is limited. Furthermore, DOE has seen no evidence to suggest that a monopoly would be likely to occur. DOE requests comment and further information that would demonstrate the likelihood of a future monopoly.

BBF and the CDA commented that there are copper die-casting facilities in the U.S.—specifically in Colorado and Ohio—as well as in Mexico. They added that die-cast rotor motors have been produced for North American service since 2005, and some of these motors meet NEMA Design B requirements. The CDA and BBF added that multiple high-volume manufacturers in Europe and Asia have produced tens of thousands of die-cast copper rotor motors that satisfy the NEMA-specified performance requirements that meet or exceed the NEMA Premium levels. These motors have been sold to North American users. (BBF, No. 51 at pp. 2, 3) DOE was able to purchase and tear down a 5-hp copper rotor motor from an Asian manufacturer that performed at DOE's max-tech efficiency level, as well as the performance requirements for NEMA Design B.

SEW Eurodrive stated that it offers only three models of cast-copper rotor motors and cited the expenses and difficulty of casting copper rotors as the reason why it does not offer more die-cast copper rotor motor models. (SEWE, Public Meeting Transcript, No. 60 at p. 121) The company did not elaborate why it manufactures die-cast copper rotor motors in the configurations it offers for sale.

Based on these comments, DOE does not believe it has grounds to screen out copper die-cast rotors on the basis of practicability to manufacture, install, and service. The available facts indicate that manufacturers are already producing smaller motors with die-cast copper rotors, leaving the question of whether larger motors are being manufactured with die-cast copper rotors. DOE recognizes that as technology scales upward in size, it can require different equipment and processes. Nonetheless, Tesla's [44] and Remy's [45] 300+ horsepower motors with copper rotors cast doubt on the assertion that copper is impracticable in this size range.

DOE understands that full-scale deployment of copper would likely require considerable capital investment (see detailed discussion in SectionIV.J.2.a) and that such investment could increase the production cost of large copper rotor motors considerably. DOE believes that its current engineering analysis reflects this likelihood, and welcomes comment on this issue.

Adverse Impacts on Equipment Utility or Equipment Availability

NEMA commented that DOE failed to address the adverse impacts on equipment utility or availability caused by die-cast copper rotors. It asserted that the process for manufacturing die-cast copper rotors is underdeveloped, and energy conservation standards based on this technology, and implemented in 2015, would result in product unavailability of over 99 percent of the electric motors that would be impacted if DOE were to set a standard that would require the use of die-cast copper. NEMA reiterated that there is no justification as to how motors that are not available today, made from a technology that is not practiced in the U.S. today, will become available within three years, especially when taking into account the time needed for prototyping, testing, and AEDM certification. (NEMA, No. 54 at pp. 3, 47, 48, 54, 55, 56; NEMA, Public Meeting Transcript, No. 60 at pp. 114, 115)

NEMA also commented that it is difficult for die-cast copper rotor motors to stay under the maximum locked-rotor current limit for NEMA Design B motors. If this technology were adopted, in its view, many current NEMA Design B motors would become NEMA Design A motors. This would reduce the utility of a motor, because a NEMA Design A motor is not a direct drop-in place replacement for a NEMA Design B motor. (NEMA, No. 54 at p. 3)

DOE agrees that, in some cases, redesigning product lines to use copper would entail substantial cost. DOE's engineering analysis reflects its estimates of these costs and discusses them in detail in section IV.C. DOE was able to model copper rotor motors adhering to the specifications of NEMA Design B [46], including the reduced (relative to Design A) locked-rotor current.

Finally, based on DOE's own shipments analysis (see TSD Chapter 9) and estimates of worldwide annual copper production,[47] DOE estimates that .01-.02% of worldwide copper supply would be required to use copper rotors for every single motor within DOE's scope of coverage. At the present, DOE does not believe there is sufficient evidence to screen copper die-cast rotors from the analysis on the basis of adverse impacts to equipment utility or availability.

Adverse Impacts on Health or Safety

NEMA commented that the preliminary TSD does not sufficiently explain how DOE concluded that mandating performance levels that would require copper rotor die-casting would not have an adverse impact on health or safety, with the implication being on occupational health and safety. NEMA commented that the preliminary TSD mentioned potential impacts on the health or safety caused by the higher melting point of copper, but DOE did not elaborate on what these potential impacts were. NEMA disagreed with DOE's conclusion not to screen out die-cast copper rotor technology on the premise that handling molten copper is similar to handling molten aluminum. NEMA noted that copper has a pouring temperature of 2100 degrees Fahrenheit and a 150 percent higher casting pressure than aluminum, and that, combined, these two characteristics would increase the severity of any potential accidents. NEMA mentions an incident involving the two U.S. Army die-cast copper rotor studies previously mentioned, which resulted in injuries during the die-casting of aluminum [48] [*sic*] cage rotors and caused the only U.S. manufacturer of copper die-casting equipment to withdraw that equipment from the market. NEMA added that the equipment currently remains unavailable for purchase. (NEMA, No. 54 at pp. 10, 55, 56; NEMA, Public

[44] *http://www.teslamotors.com/roadster/technology/motor.*

[45] *http://www.remyinc.com/docs/hybrid/REM-12_HVH410_DataSht.pdf.*

[46] The parameters DOE believed to present the largest risk of rendering a motor noncompliant with NEMA MG 1–2011 standards were those related to NEMA design letter, which were adhered to in DOE's modeling efforts.

[47] *http://minerals.usgs.gov/minerals/pubs/commodity/copper/mcs-2012-coppe.pdf.*

[48] From the context of NEMA's comment, DOE believes the use of the word "aluminum" was a typographical error and that NEMA had intended this passage to use the word "copper" instead.

Meeting Transcript, No. 60 at p. 115) NEMA added that, especially regarding die-casting copper on larger motor sizes, DOE cannot justifiably claim that there are no adverse impacts on health or safety until they conduct a thorough investigation or feasibility study regarding this topic. (NEMA, No. 54 at p. 3)

However, BBF also commented that copper die-cast rotors can be safely manufactured, as one major manufacturer indicated that they have had no worker injuries in volume production over multiple years. (BBF, No. 51 at p. 3)

BBF commented that, with the extensive capabilities of copper die-cast rotors and commercial availability of copper die-cast rotors with efficiencies higher than NEMA MG 1–2011 Table 12–12 efficiencies, DOE should include in its evaluations copper die-cast rotor motors. BBF also added that they strongly disagree with the NEMA representatives' contrary verbal suggestions towards copper rotor motor technology presented during the public meeting. (BBF, No. 51 at p. 4)

DOE is aware of the higher melting point of copper (1084 degrees Celsius versus 660 degrees Celsius for aluminum) and the potential impacts this may have on the health or safety of plant workers. However, DOE does not believe at this time that this potential impact is sufficiently adverse to screen out copper as a die cast material for rotor conductors. The process for die casting copper rotors involves risks similar to those of die casting aluminum. DOE believes that manufacturers who die-cast metal at 660 Celsius or 1085 Celsius (the respective temperatures required for aluminum and copper) would need to observe strict protocols to operate safely. DOE understands that many plants already work with molten aluminum die casting processes and believes that similar processes could be adopted for copper. DOE has not received any supporting data about the increased risks associated with copper die casting, and could not locate any studies suggesting that the die-casting of copper inherently represented incrementally more risks to worker safety and health. DOE notes that several OSHA standards relate to the safety of "Nonferrous Die-Castings, Except Aluminum," of which die-cast copper is part. DOE seeks comment on any adverse safety or health impacts and on these OSHA standards,[49] and on any other specific information document the safety of die-casting for both copper and aluminum.

b. Increase the Cross-Sectional Area of Copper in the Stator Slots

Increasing the slot fill by either adding windings or changing the gauge of wire used in the stator winding can also increase motor efficiency. Motor design engineers can achieve this by manipulating the wire gauges to allow for a greater total cross-sectional area of wire to be incorporated into the stator slots. This could mean either an increase or decrease in wire gauge, depending on the dimensions of the stator slots and insulation thicknesses. As with the benefits associated with larger cross-sectional area of rotor conductor bars, using more total cross-sectional area in the stator windings decreases the winding resistance and associated losses. However, this change could affect the slot fill factor of the stator. The stator slot openings must be able to fit the wires so that automated machinery or manual labor can pull (or push) the wire into the stator slots. In the preliminary analysis, DOE increased the cross-sectional area of copper in the stator slots of the representative units by employing a combination of additional windings, thinner gauges of copper wire, and larger slots.

In response to the preliminary analysis, NEMA commented that a majority of stator windings are manufactured on automated equipment. NEMA and Baldor noted that there is a practical limit of 82 percent slot fill for automated winding equipment for motors with four or more poles; motors with two poles have a limit of 78 percent. (NEMA, No. 54 at p. 58; Baldor, Public Meeting Transcript, No. 60 at p. 146) NEMA commented that the values for maximum slot fill for the automated winding models was approximately 82 percent and those based on hand winding were 85 percent. NEMA noted that this is not a practical change based on a change in conductor size alone because conductors are sized in a larger increment than this difference would suggest. Therefore, it would appear that the size of the stator slot in each case was selected to purposely result in the corresponding level of slot fill. (NEMA, No. 54 at p. 59) In other words, instead of only adjusting the conductor gauge to the slot size, the slot size could be adjusted to the conductor gauge.[50] (NEMA, No. 54 at p. 59) Baldor added that slot fills above 85 percent would be very difficult to do in current production volumes (5 million motors annually) and noted that this slot fill percentage was based on a DOE-presented software model and has not been proven in a prototype. (Baldor, Public Meeting Transcript, No. 60 at pp. 146, 147) NEMA requested that DOE clarify the method it used for calculating slot fill to avoid confusion among other interested parties who may have used a different calculation method. (NEMA, No. 54 at p. 58)

DOE calculated the slot fill by measuring the total area of the stator slot and then subtracting the cross sectional area for the slot insulation. This method gave DOE a net area of the slot available to house copper winding. DOE then identified the slot with the most windings and found the cross sectional area of the insulated copper wires to get the total copper cross sectional area per slot. DOE then divided the total copper cross sectional area by the total slot area to derive the slot fill. DOE's estimated slot fills for its teardowns and software models are all provided in chapter 5 of the TSD.

NEMA commented that several of DOE's designs presented maximum values of slot fill at 85 percent, whereas the closest automated winding slot fill was 82-percent. NEMA questioned the significant benefit DOE projected in designing the stator slot such that a hand winding would be required to gain a 3-percent change in slot fill. In NEMA's view, the change in core loss that might result from increasing the stator slot area by 3 percent would not be significant enough to warrant hand-winding the stator. (NEMA, No. 54 at p. 59) DOE notes that the software designs exhibiting these changes in slot fill were used when switching from aluminum to a copper rotor design. Therefore, changing slot geometries impacted the design's slot fill and the slot fill changes resulted from different motor designs. Consequently, a 3 percent increase in slot fill does not imply that this change was made to increase the efficiency of another design, but could have been made to change other performance criteria of the motor, such as locked-rotor current.

In the preliminary analysis, DOE indicated that motor design engineers can adjust slot fill by changing the gauge of wire used in fractions of half a gauge. NEMA commented that it did not understand DOE's statement, and indicated that manufacturers limit the number of gauges used at any particular manufacturing plant, and few of those gauges are "fractions of a half a gauge." NEMA added that manufacturers may use multiple wire gauges in a particular winding, but DOE's examples in chapter 5 gave no indication that any sizes other

[49] For a list, see: *http://www.osha.gov/pls/imis/citedstandard.sic?p_esize=&p_state=FEFederal&p_sic=3364.*

[50] In practice, of course, a manufacturer may opt to do either or both.

than a single conductor size was used in each winding. (NEMA, No. 54 at pp. 58, 59) DOE clarifies that all the modeled motors utilized standard AWG wire sizes, either whole- or half-gauge sizes (i.e., 18 or 18½). DOE clarifies that the statement of "fractions of a half gauge" referred to sizes in between a whole gauge (i.e. 18½ of a gauge is a fraction of 18 gauge wire). DOE did not end up using fractions consisting of a half gauge of wire sizes to conduct its modeling, but did indicate that this was a design option used by the motor industry.

NEMA also commented that it is not uncommon for a manufacturer to use the same stator lamination design for all horsepower ratings built in the same NEMA MG 1–2011 Standard frame series. NEMA indicated that a high slot fill may require hand winding for one of the ratings and automated winding for the other rating, and that a good design practice for stator laminations will take into consideration more than just one motor rating to determine the best design for all ratings in that frame series. (NEMA, No. 54 at p. 59)

NEMA and Baldor questioned DOE's decision not to screen out hand-wound stators, and both parties commented that moving to hand-wound technology would be a reversal of the trend to automate manufacturing practices whenever possible. (NEMA, No. 54 at p. 59; Baldor, Public Meeting Transcript, No. 60 at pp. 122, 123) NEMA noted that none of the teardown motors in DOE's analysis appeared to use hand winding technology. (NEMA, No. 54 at p. 59)

While NEMA agrees that hand winding cannot be ruled out on the grounds of technological feasibility, it does believe that hand winding would not be practicable to use in mass production. A NEMA member survey indicated that hand winding can take up to 25 times longer than machine winding. NEMA added that the manpower required to replace automated winding would require an increase in manpower in excess of 20 times the number of automated machines. (NEMA, No. 54 at p. 60) NEMA and Baldor commented that moving to an energy conservation level based on hand-wound technology would not be achievable on the scale necessary to serve the relevant market at the time of the effective date of the standard. (NEMA, No. 54 at p. 60; Baldor, Public Meeting Transcript, No. 60 at p. 123) NEMA added that it would not be aware if such an expansion of the infrastructure would be required until after any amended or new standards are announced. (NEMA, No. 54 at p. 60) DOE is aware of the extra time involved with hand winding and has attempted to incorporate this time into efficiency levels (ELs) that it believes would require hand winding. DOE reiterates that should the increase in infrastructure, manpower, or motor cost increase beyond a reasonable means, then ELs utilizing this technology will be screened out during the downstream analysis.

NEMA also expressed concern that standards based on hand winding would shift U.S. manufacturing jobs to locations outside of the U.S. which have lower labor rates, and Nidec added that most U.S. manufacturers are currently globally positioned to move labor-intensive work into low-cost labor countries if energy conservation requirements force them to do so. (Nidec, Public Meeting Transcript, No. 60 at p. 124) DOE intends to fully capture this impact during the manufacturer impact analysis (MIA) portion of DOE's analysis. Please see section IV.J for a discussion of the manufacturer impact analysis.

NEMA also commented that hand-wound technology would have an adverse impact on product utility or product availability, saying that the infrastructure would not be in place in sufficient time to support the hand winding of all of the stators, and there will be an adverse impact on the availability of various ratings of electric motors at the time of effective standards. (NEMA, No. 54 at p. 60)

NEMA commented that hand winding would have adverse impacts on worker health or safety, as both hand winding and hand insertion of stator coils require operations performed by hand with repetitive motions, and such hand winding of stators also involves the moving and lifting of various stator and winding components, which may be of substantial size in larger horsepower rated electric motors. NEMA added that any increase in personnel performing the repetitive tasks required by hand winding can have an adverse effect on the overall health and safety record of any facility. (NEMA, No. 54 at p. 60; NEMA, Public Meeting Transcript, No. 60 at p. 123)

DOE disagrees with NEMA's assertion concerning the adverse impacts on health or safety, and notes that hand winding is currently practiced by industry. Furthermore, DOE is not aware of any data or studies suggesting hand-winding leads to negative health consequences. DOE acknowledges that, were hand-winding to become widespread, manufacturers would need to hire more workers to perform hand-winding to maintain person-winding-hour equivalence, and has accounted for the added costs of hand-winding in its engineering analysis. DOE requests comment on its cost estimates for hand-wound motors, as well as on the matter of hand-winding in general and on studies suggesting negative health impacts in particular.

NEMA summarized its concerns, saying that hand winding is not a viable technology option, especially for a slot fill increase of less than 5 percent. NEMA believes that the engineering analysis should not be based on stator slot fill levels which require hand winding, which are generally slot fills above 78 percent for 2-pole motor and 82 percent for 4-, 6-, and 8-pole motors. (NEMA, No. 54 at p. 60)

DOE acknowledges that the industry is moving towards increased automation. However, hand winding is currently practiced by manufacturers, making it a viable option for DOE to consider as part of its engineering analysis. Considering the four screening criteria for this technology option, DOE did not screen out the possibility of changing gauges of copper wire in the stator as a means of improving efficiency. Motor design engineers adjust this option by using different wire gauges when manufacturing an electric motor to achieve desired performance and efficiency targets. Because this design technique is in commercial use today, DOE considers this technology option both technologically feasible and practicable to manufacture, install, and service. DOE is not aware of any adverse impacts on consumer utility, reliability, health, or safety associated with changing the wire gauges in the stator to obtain increased efficiency. Should the technology option prove to not be economical on a scale necessary to supply the entire industry, then this technology option would be likely not be selected for in the analysis, either in the LCC or MIA.

DOE seeks comment generally on the process of increasing the cross-section of copper in the stator, and in particular on the costs and reliability of the hand winding process.

2. Technology Options Screened Out of the Analysis

DOE developed an initial list of design options from the technologies identified in the technology assessment. DOE reviewed the list to determine if the design options are practicable to manufacture, install, and service; would adversely affect equipment utility or equipment availability; or would have adverse impacts on health and safety. In the engineering analysis, DOE did not consider any of those options that failed

to satisfy one or more of the screening criterion. The design options screened out are summarized in Table IV.8.

TABLE IV.8—DESIGN OPTIONS SCREENED OUT OF THE ANALYSIS

Design option excluded	Eliminating screening criterion
Plastic Bonded Iron Powder (PBIP).	Technological Feasibility.
Amorphous Steels	Technological Feasibility.

NEMA agreed with DOE in that plastic bonded iron powder has not been proven to be a technologically feasible method of construction of stator and rotor cores in induction motors. (NEMA, No. 54 at p. 64) NEMA also agreed that amorphous metal laminations are not a type of material that lends itself to use in electric motors in the foreseeable future. However, NEMA expressed concern that this technology was only screened out on the basis of technological feasibility because it had not been used in a prototype. (NEMA, No. 54 at p. 63)

Baldor and NPCC also agreed with DOE's decision to exclude PBIP and amorphous steels from the engineering analysis. (Baldor, Public Meeting Transcript, No. 60 at p. 108; Advocates, No. 56 at p. 3)

DOE is continuing to screen out both of these technology options from further consideration in the engineering analysis. Additionally, DOE understands the concerns expressed by NEMA regarding technological feasibility, but DOE maintains that if a working prototype exists, which implies that the motor has performance characteristics consistent with other motors using a different technology, then that technology would be deemed technologically feasible. However, that fact would not necessarily mean that a technology option would pass all three of the remaining screening criteria.

Chapter 4 of this preliminary TSD discusses each of these screened out design options in more detail, as well as the design options that DOE considered in the electric motor engineering analysis.

C. Engineering Analysis

The engineering analysis develops cost-efficiency relationships for the equipment that are the subject of a rulemaking by estimating manufacturer costs of achieving increased efficiency levels. DOE uses manufacturing costs to determine retail prices for use in the LCC analysis and MIA. In general, the engineering analysis estimates the efficiency improvement potential of individual design options or combinations of design options that pass the four criteria in the screening analysis. The engineering analysis also determines the maximum technologically feasible energy efficiency level.

When DOE proposes to adopt a new or 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 electric motors, using the design parameters for the most efficient products available on the market or in working prototypes. (See chapter 5 of the NOPR TSD.) The max-tech levels that DOE determined for this rulemaking are described in IV.C.3 of this proposed rule.

In general, DOE can use three methodologies to generate the manufacturing costs needed for the engineering analysis. These methods are:

(1) The design-option approach—reporting the incremental costs of adding design options to a baseline model;

(2) the efficiency-level approach—reporting relative costs of achieving improvements in energy efficiency; and

(3) the reverse engineering or cost assessment approach—involving a "bottoms up" manufacturing cost assessment based on a detailed bill of materials derived from electric motor teardowns.

1. Engineering Analysis Methodology

DOE's analysis for the electric motor rulemaking is based on a combination of the efficiency-level approach and the reverse engineering approach. Primarily, DOE elected to derive its production costs by tearing down electric motors and recording detailed information regarding individual components and designs. DOE used the costs derived from the engineering teardowns and the corresponding nameplate nominal efficiency of the torn down motors to report the relative costs of achieving improvements in energy efficiency. DOE derived material prices from current, publicly available data as well as input from subject matter experts and manufacturers. For most representative units analyzed, DOE was not able to test and teardown a max-tech unit because such units are generally cost-prohibitive and are not readily available. Therefore, DOE supplemented the results of its test and teardown analysis with software modeling.

When developing its engineering analysis for electric motors, DOE divided covered equipment into equipment class groups. As discussed, there are four electric motor equipment class groups: NEMA Design A and B motors (ECG 1), NEMA Design C motors (ECG 2), fire pump electric motors (ECG 3), and brake motors (ECG 4). The motors within these ECGs are further divided into equipment classes based on pole-configuration, enclosure type, and horsepower rating. For DOE's rulemaking, there are 580 equipment classes.

2. Representative Units

Due to the high number of equipment classes for electric motors, DOE selected and analyzed only a few representative units from each ECG and based its overall analysis for all equipment classes within that ECG on those representative units. During the NOPR analysis, DOE selected three units to represent ECG 1 and two units to represent ECG 2. DOE based the analysis of ECG 3 on the representative units for ECG 1 because of the low shipment volume and run time of fire pump electric motors. DOE also based the analysis of ECG 4 on the analysis of ECG 1 because the vast majority of brake motors are NEMA Design B motors. When selecting representative units for each ECG, DOE considered NEMA design type, horsepower rating, pole-configuration, and enclosure.

a. Electric Motor Design Type

For ECG 1, which includes all NEMA Design A and B motors that are not fire pump or brake motors, DOE only selected NEMA Design B motors as representative units to analyze in the preliminary analysis engineering analysis. DOE chose NEMA Design B motors because NEMA Design B motors have slightly more stringent performance requirements, namely their locked-rotor current has a maximum allowable level for a given rating. Consequently, NEMA Design B motors are slightly more restricted in terms of their maximum efficiency levels. Therefore, by analyzing a NEMA Design B motor, DOE could ensure technological feasibility for all designs covered in ECG 1. Additionally, NEMA Design B units have much higher shipment volumes than NEMA Design A motors because most motor driven equipment is designed (and UL listed) to run with NEMA Design B motors.

NEMA agreed with DOE's decision to base any amended or new standards for ECG 1 motors on NEMA Design B motor

types because consumers generally prefer NEMA Design B motors due to the fact that locked-rotor current is constrained to established industry standards in these motors, making it easier to select suitable motor-starting devices. NEMA pointed out that, on the other hand, the use of a NEMA Design A motor may require the purchaser of the motor to expend a significant amount of time and expense in selecting suitable motor-starting devices to operate the motor in an appropriate and safe manner. NEMA elaborated that it is important to base the analysis on NEMA Design B motors in order to minimize any disruption to consumers based on their preference for NEMA Design B. (NEMA, No. 54 at p. 64) DOE appreciates NEMA's feedback. For its NOPR engineering analysis, DOE has continued to select NEMA Design B motors as its representative units in ECG 1.

As mentioned for ECG 2, DOE selected two representative units to analyze. Because NEMA Design C is the only NEMA design type covered by this ECG, DOE only selected NEMA Design C motors as its representative units.

For ECG 3, which consists of fire pump electric motors, DOE based its engineering analysis on the NEMA Design B units analyzed for ECG 1 in the preliminary analysis. As noted, in order to be in compliance with section 9.5 of National Fire Protection Association (NFPA) "Standard for the Installation of Stationary Pumps for Fire Protection" Standard 20–2010, which is a requirement for a motor to meet DOE's current definition of a fire pump electric motor, the motor must comply with NEMA Design B (or IEC Design N) requirements.[51] Although DOE understands that fire pump electric motors have additional performance requirements, DOE believed that analysis of the ECG 1 motors would serve as a sufficient approximation for the cost-efficiency relationship for fire pump electric motors. The design differences between a NEMA Design B motor (or IEC-equivalent) and fire pump electric motor are small and unlikely to greatly affect incremental cost behavior.

NEMA disagreed with DOE's assertion that fire pump electric motors are required to meet NEMA Design B standards, and commented that, as defined in 10 CFR 431.12, fire pump electric motors are not limited to NEMA Design B performance standards. NEMA requested that DOE clarify DOE's statement in the preliminary analysis that currently, efficiency standards have only been established for fire pump electric motors that are NEMA Design B. (NEMA, No. 54 at p. 25) NEMA also commented that the additional performance requirements for fire pump electric motors (e.g., the ability to withstand stall conditions for longer periods of time) mean they are usually designed with lower locked-rotor current limits. Therefore, NEMA stated that fire pump electric motors may have a maximum efficiency potential slightly lower than typical, general purpose NEMA Design B motors. (NEMA, No. 54 at pp. 24–25, 40, 64, 70; NEMA, Public Meeting Transcript, No. 60 at pp. 135, 136) NEMA added that they support DOE's decision to analyze fire pump motors in a separate equipment class group because of the short run time of fire pump electric motors. (NEMA, No. 54 at p. 71)

Regarding DOE's fire pump electric motor definition, as detailed in the final electric motors test procedure, DOE intends its fire pump electric motor definition to cover both NEMA Design B motors and IEC-equivalents that meet the requirements of section 9.5 of NFPA 20. *See* 77 FR 26617–18. As stated in the final electric motors test procedure, DOE agrees with stakeholders that IEC-equivalent motors should be included within the scope of the definition of "fire pump electric motor," although NFPA 20 does not explicitly recognize the use of IEC motors with fire pumps. 77 FR 26617. DOE realizes that section 9.5 of NFPA 20 specifically requires that fire pump motors shall be marked as complying with NEMA Design B. The fire pump electric motor definition that DOE created focuses on ensuring that compliance with the energy efficiency requirements are applied in a consistent manner. DOE believes that there are IEC motors that can be used in fire pump applications that meet both NEMA Design B and IEC Design N criteria, as well as NEMA MG1 service factors. DOE's definition encompasses both NEMA Design B motors and IEC-equivalents. To the extent that there is any ambiguity as to how DOE would apply this definition, in DOE's view, any Design B or IEC-equivalent motor that otherwise satisfies the relevant NFPA requirements would meet the fire pump electric motor definition in 10 CFR 431.12. To the extent that there is confusion regarding this view, DOE invites comments on this issue, along with any data demonstrating whether any IEC-equivalent motors are listed for fire pump service either under the NFPA 20 or another relevant industry standard.

Regarding NEMA's other fire pump electric motor comment, DOE agrees that some fire pump electric motors may not be required to meet the NEMA Design B performance requirements (or IEC-equivalent comments). However, those motors that are not required to meet the NEMA Design B performance requirements are direct-current motors, motors with high voltages (i.e., greater than 600 V), motors with high horsepower ratings (i.e., greater than 500 horsepower), single-phase motors, universal-type motors, or wound-rotor motors. Any motor with such attributes would not meet the nine motor characteristics that define the scope of electric motors covered in this rulemaking. Additionally, any fire pump electric motor that is not rated for continuous duty is not, and would not be, covered by the scope of today's rulemaking. Therefore, DOE clarifies that any fire pump electric motor currently subject to, or potentially subject to, energy conservation standards as a result of this rulemaking, would have to meet the NEMA Design B (or IEC-equivalent) performance requirements. As indicated above, DOE seeks comment on whether its current regulatory definition requires further clarification.

Additionally, DOE understands NEMA's comments regarding the potential limitations of fire pump electric motors. However, DOE believes that its approximation, by using the NEMA Design B electric motors from ECG 1 is sufficient, at this time. In DOE's preliminary analysis, DOE found that all efficiency levels analyzed for fire pump electric motors resulted in negative life-cycle cost savings for consumers and a negative net present values for the Nation. This was the result of extremely low operating hours and therefore, limited energy cost savings potential. DOE notes that there are minimal shipments and no efficiency levels are likely to be deemed economically justifiable.

Additionally, DOE understands that fire pump motors are similar in both performance and architecture to NEMA Design B motors, the chief difference being the absence of thermal cutoff capability that would render a fire pump motor unable to perform its function in a hot environment. For compliance purposes, however, the distinction is less important. DOE welcomes comment on the similarity

[51] With the exception of having a thermal shutoff switch, which could prevent a fire pump motor from performing its duty in hot conditions, NFPA 20 also excludes several motor types not considered in this rulemaking from the NEMA Design B requirement. They are direct current, high-voltage (over 600 V), large-horsepower (over 500 hp), single-phase, universal-type, and wound-rotor motors.

between fire pump and NEMA Design B motors.

Equipment class group 4, consisting of brake motors, is also based on ECG 1 because DOE is only aware of brake motors being built to NEMA Design B specifications. Furthermore, DOE understands that there is no fundamental difference in design between brake and non-brake electric motors, other than the presence of the brake. Therefore, the same design options could be used on both sets of electric motors and both motor types are likely to exhibit similar cost versus efficiency relationships.

For the final rule, DOE may consider combining ECGs 1 and 4 again, as was done for the preliminary analysis, but such a decision depends, in part, on the outcome of its concurrent electric motors test procedure rulemaking. Currently, DOE believes that its proposed approach to testing brake motors will mitigate the impact of the brake component's contributions to motor losses such that the demonstrated efficiency would be the same as if the motor had been tested with the brake completely removed (essentially making it no different from the motors covered by ECG 1). (See 78 FR 38467) With this approach, a separate ECG would not be necessary.

b. Horsepower Rating

Horsepower rating is an important equipment class setting criterion. When DOE selected its preliminary analysis representative units, DOE chose those horsepower ratings that constitute a high volume of shipments in the market and provide a wide range upon which DOE could reasonably base a scaling methodology. For NEMA Design B motors, for example, DOE chose 5-, 30-, and 75-horsepower-rated electric motors to analyze as representative units. DOE selected the 5-horsepower rating because these motors have the highest shipment volume of all motors. DOE selected the 30-horsepower rating as an intermediary between the small and large frame number series electric motors. Finally, DOE selected a 75-horsepower unit because there is minimal variation in efficiency for motors with horsepower ratings above 75-horsepower. Based on this fact, DOE determined it was unnecessary to analyze a higher horsepower motor. Additionally, as horsepower levels increase, shipments typically decrease. Therefore, DOE believed there would be minimal gains to its analysis had it examined a higher horsepower representative unit.

During the public meeting, Baldor commented that the representative units should have been selected based on energy consumption and not shipment numbers. Baldor indicated that using this approach, the 10-horspower motor would have been designated as a representative unit rather than the 5-horsepower motors. (Baldor, Public Meeting Transcript, No. 58 at p. 132, 133) NEMA reiterated Baldor's stance in its submitted comments, saying that the 5-horsepower motor would not appear to be the only choice for the representative unit. (NEMA, No. 54 at p. 65) NEMA and Baldor also commented that there are motors built in frame series larger than the standard 75-horsepower frame series and DOE should select a motor built in the largest NEMA MG 1 frame series as a representative unit. (NEMA, No. 54 at p. 65; Baldor, Public Meeting Transcript, No. 60 at p. 133) NEMA added that efficiency ratings start to level off once horsepower ratings exceed 150-horsepower, not above 75-horsepower. Therefore, they argued that selecting a horsepower rating above 150-horsepower would have been a better indicator if the perceived increase in efficiency calculated for lower horsepower ratings would be achievable by larger horsepower ranges. (NEMA, No. 54 at pp. 27, 65) Baldor reiterated this comment in the preliminary analysis public meeting. (Baldor, Public Meeting Transcript, No. 60 at pp. 133–134)

While DOE agrees with NEMA that the 5-horsepower electric motor was not the only choice for the representative unit, it selected the 5-horsepower motor for multiple reasons. The 5-horsepower unit had the highest percentage of shipments for all covered electric motors, which ensured that there would be multiple efficiency levels from multiple manufacturers available for comparison during the teardown analysis. In addition, because DOE later employed scaling, it attempted to find a frame series and D-dimension [52] that could serve as a strong basis from which to scale to a relatively small set of unanalyzed frame series. The standard NEMA MG 1–2011 frame series for the 5-horsepower enclosed motor was a midpoint between the standard frame series for 1 horsepower and 10-horsepower motors, which was the group of ratings covered by the 5-horsepower representative unit. A larger representative unit would have meant a larger range of frame series on which to apply the scaling methodology.

As to DOE's selection of the 75-horsepower representative unit as a maximum, DOE understands that the 75-horsepower motor is not built in the largest NEMA MG 1–2011 frame series covered, but maintains that its selection is appropriate for this analysis. As stated previously, efficiency changes slowly when approaching the highest horsepower ratings, and choosing a higher horsepower rating would not have provided any appreciable improvement over the data DOE already developed for its analysis. DOE has found minimal variation in efficiency for motors above 75-horsepower. Because the change in efficiency diminishes with increasing horsepower, one may achieve a similar level of analytical accuracy with fewer data points at higher horsepower. Stated inversely, one needs more data points to accurately characterize a curve where it has a greater rate of change, such as lower horsepower. Finally, DOE notes that its scaling methodology mirrors the scaling methodology used in NEMA's MG 1–2011 tables of efficiencies, including the rate of change in efficiency with horsepower.

DOE also notes that section 13 of NEMA MG 1–2011 does not standardize frame series for NEMA Design B motors at the highest horsepower levels covered in today's proposal. Therefore, motors with the highest capacity have variability in their frame series. This added flexibility would give manufacturers more options to improve the efficiency of their largest motors covered by this rulemaking. Although altering the frame size of a motor may be costly, DOE believes that its selection of a 75-hp representative unit for higher horsepower motors is appropriate for scaling higher horsepower efficiency levels and the efficiency levels examined are technologically feasible for the largest capacity motors.

For NEMA Design C electric motors, DOE again selected the 5-horsepower rating because of its prevalence. In addition, DOE selected a 50-horsepower rating as an incrementally higher representative unit. DOE only selected two horsepower ratings for these electric motors because of their low shipment volumes. For more information on how DOE selected these horsepower ratings see chapter 5 of the TSD.

In submitted comments, NEMA expressed confusion over DOE's selection of the 50-horsepower representative unit for the NEMA Design C equipment class group. NEMA stated that the NEMA T-frame size for such a rating is 326T, which is three

[52] "D" dimension is the length from the centerline of the shaft to the mounting feet of the motor, and impacts how large the motor's laminations can be, impacting the achievable efficiency of the motor. "D" dimensions are designated in NEMA MG 1–2011 Section 4.2.1, Table 4–2.

NEMA T-frame number series below the largest frame number series of 440. NEMA requested that DOE clarify why it limited its NEMA Design C representative unit to such a low value in its engineering analysis. (NEMA, No. 54 at p. 66) Finally, NEMA commented that the 2011 shipment data that DOE used to select its representative units was not broken down by NEMA design type. NEMA believed that using such data to select representative units for ECGs 1 and 2 was not appropriate and requested clarification. (NEMA, No. 54 at p. 66)

As with ECG 1, DOE selected representative units that fell in the middle of the range of ratings covered in this rulemaking and not necessarily the largest frame size covered in the rulemaking. Furthermore, as discussed earlier, NEMA Design C motors are produced in a smaller range of horsepower ratings than NEMA Design B motors (1 to 200 rather than 1 to 500). With this smaller horsepower range, a correspondingly smaller range of representative units is needed. Therefore, DOE selected a slightly lower rating as its maximum for ECG 2. As for the shipments data used to select the 5-hp representative unit, DOE acknowledges that it did not separate the data by design type, and has revised the text for the NOPR's TSD to add clarity. However, DOE still maintains that the prevalence of 5-hp units make it an appropriate selection as a representative unit.

c. Pole-Configuration

Pole-configuration is another important equipment class setting criterion that DOE had to consider when selecting its representative units. For the preliminary analysis, DOE selected 4-pole motors for all of its representative units. DOE chose 4-pole motors because they represent the highest shipment volume of motors compared to other pole configurations. DOE chose not to alternate between pole configurations for its representative units because it wanted to keep as many design characteristics constant as possible. By doing so, it would allow DOE to more accurately identify how design changes affect efficiency across horsepower ratings. Additionally, DOE believed that the horsepower rating-versus-efficiency relationship is the most important (rather than pole-configuration and enclosure type-versus-efficiency) because there are significantly more horsepower ratings to consider.

NEMA noted that efficiency gains based on a 4-pole configuration do not confirm that those same gains are achievable in other pole configurations, and there is no foundation for scaling across different pole configurations. NEMA added that it is necessary to know how designs change with respect to pole-configuration, and analyzing samples of one pole configuration limits the ability to make decisions based on other pole-configurations. NEMA commented that designs significantly vary across pole-configurations, especially regarding torque characteristics. (NEMA, No. 54 at pp. 26, 66–67) NEMA also stated that the purpose of the engineering analysis is not necessarily to determine the "reasons for efficiency improvements," but to determine if efficiency can be improved in accordance with meeting the requirements of being technologically feasible and economically justified per 42 U.S.C. 6295(o)(A) and (B). (NEMA, No. 54 at p. 26) Baldor also commented on scaling across pole configurations, saying that the rotor diameter grows as the pole number increases, which may cause higher losses in 2-pole motors compared to other pole configurations covered in this rulemaking. (Baldor, Public Meeting Transcript, No. 60 at pp. 130, 131)

As mentioned earlier, DOE is assessing energy conservation standards for 580 equipment classes. Analyzing each of the classes individually is not feasible, which requires DOE to select representative units on which to base its analysis. DOE understands that different pole-configurations have different design constraints. Originally, DOE selected only 4-pole motors to analyze because they were the most common, allowing DOE to most accurately characterize motor behavior at the pole configuration consuming the majority of motor energy. Additionally, by holding pole-configuration constant across its representative units, DOE would be able to develop a baseline from which to scale. By maintaining this baseline and holding all other variables constant, DOE is able to modify the horsepower of the various representative units and isolate which efficiency effects are due to size.

As discussed in section IV.C.8, DOE has used the simpler of two scaling approaches presented in the preliminary analysis because both methods had similar results. This simpler approach does not require DOE to develop a relationship for 4-pole motors from which to scale. Furthermore, DOE notes that the scaling approach it selected mirrors the scaling laid out in NEMA's MG 1–2011 tables, in which at least a subset of the motors industry has already presented a possible relationship between efficiency and pole count. DOE has continued to analyze 4-pole electric motors because they are the most common and DOE believes that all of the efficiency levels it has developed are technologically feasible.

d. Enclosure Type

The final equipment class setting criterion that DOE considered when selecting its representative units was enclosure type. For the preliminary analysis, DOE elected to analyze electric motors with enclosed designs rather than open designs for all of its representative units. DOE selected enclosed motors because, as with pole-configurations, these motors have higher shipments than open motors. Again, DOE did not alternate between the two design possibilities for its representative units because it sought to keep design characteristics as constant as possible in an attempt to more accurately identify the reasons for efficiency improvements.

NEMA commented that DOE's analysis did not consider the significance of enclosure type as it relates to efficiency, and that the NEMA MG 1 frame designations for open frame motors are often in a smaller frame series than an enclosed-frame motor of the same horsepower rating. NEMA and Baldor commented that there is generally a lower efficiency level designated for open-frame motors, and that there is no direct scaling relationship between the efficiency standards for open motors relative to enclosed frame motors in the scope of this rulemaking. (NEMA, No. 54 at p. 68; Baldor, Public Meeting Transcript, No. 60 at p. 131) Baldor recommended that DOE analyze motors of different enclosures in order to understand the difference between achievable efficiency levels in open and enclosed electric motors. (Baldor, Public Meeting Transcript, No. 60 at pp. 131–132) NEMA commented that the engineering analysis should be supported by the testing and analysis of both open and enclosed frame motors. (NEMA, No. 54 at p. 68) Finally, NEMA commented that by not selecting representative units with different enclosure types, DOE fails to meet the statutory requirement that any prescribed amended or new efficiency standards are in fact technically feasible, practical to manufacture, and have no adverse impacts on product utility or product availability. (NEMA, No. 54 at pp. 68–69)

DOE acknowledges the comments from interested parties regarding enclosure type and its selection of representative units. The final equipment class setting criterion that DOE had to consider when selecting its

representative units was enclosure type. For the preliminary analysis, DOE analyzed only electric motors with totally enclosed, fan-cooled (TEFC) designs rather than open designs for all of its representative units. DOE selected TEFC motors because, as with pole configurations, DOE wanted as many design characteristics to remain constant as possible. DOE believed that such an approach would allow it to more accurately pinpoint the factors that affect efficiency. While DOE only analyzed one enclosure type, it notes that its scaling follows NEMA's efficiency tables (Table 12–11 and Table 12–12), which already map how efficiency changes with enclosure type. Finally, TEFC electric motors represented more than three times the shipment volume of open motors. DOE chose ELs that correspond to the tables of standards published in NEMA's MG 1–2011 and to efficiency bands derived from those tables, preserving the relationship between NEMA's standards for open and enclosed motors.

In the preliminary analysis, DOE stated that, given the same frame size, open motors are more efficient than enclosed motors. NEMA commented that DOE should not compare open and enclosed motors in the same frame size because NEMA MG 1 specifies larger frame sizes and a higher service factor for enclosed motors of a given rating than it does for open motors. NEMA added that TEFC motors have a fan which adds to the friction and windage losses, and even with this fan the TEFC motors can have higher efficiencies than open frame motors of the same horsepower and pole configuration. (NEMA, No. 54 at p. 41) DOE appreciates the clarification and has altered its discussion in chapter 3 of the TSD.

3. Efficiency Levels Analyzed

After selecting its representative units for each electric motor equipment class group, DOE examined the impacts on the cost of improving the efficiency of each of the representative units to evaluate the impact and assess the viability of potential energy conservation standards. As described in the technology assessment and screening analysis, there are numerous design options available for improving efficiency and each incremental improvement increases the electric motor efficiency along a continuum. The engineering analysis develops cost estimates for several efficiency levels (ELs)[53] along that continuum.

ELs are often based on: (1) Efficiencies available in the market; (2) voluntary specifications or mandatory standards that cause manufacturers to develop equipment at particular efficiency levels; and (3) the max-tech level.

Currently, there are two energy conservation standard levels that apply to various types of electric motors. In ECG 1, some motors currently must meet efficiency standards that correspond to NEMA MG 1–2011 Table 12–11 (i.e., EPACT 1992 levels[54]), others must meet efficiency standards that correspond to NEMA MG 1–2011 Table 12–12 (i.e., NEMA Premium levels), and some are not currently required to meet any energy conservation standard levels. Because DOE cannot establish energy conservation standards that are less efficient than current standards (i.e., the "anti-backsliding" provision at 42 U.S.C. 6295(o)(1) as applied via 42 U.S.C. 6316(a)) but ECG 1 includes both currently regulated and unregulated electric motors, DOE's analysis assumed the respective EPACT 1992 or NEMA Premium standard as the baseline for ELs 1 and 2. For ECG 1, DOE established an EL that corresponded to each of these levels, with EL 0 as the baseline (i.e., the lowest efficiency level available for unregulated motors and EPACT 1992 or NEMA Premium, as applicable, for currently regulated motors), EL 1 as equivalent to EPACT 1992 levels (or NEMA Premium, as applicable, for currently regulated motors), and EL 2 as equivalent to NEMA Premium levels. Additionally, DOE analyzed two ELs above EL 2. One of these levels was the max-tech level, denoted as EL 4 and one was an incremental level that approximated a best-in-market efficiency level (EL 3). For all equipment classes within ECG 1, EL 3 was a one "band" increase in NEMA nominal efficiency relative to NEMA Premium and EL 4 was a two "band" increase.[55] For ECG 3 and 4, DOE used the same ELs with one exception for ECG 3. Because fire pump electric motors are required to meet EPACT 1992 efficiency levels and those are the only motors in that equipment class group, EPACT 1992 levels were used as the baseline efficiency level, which means that fire pump electric motors have one fewer EL than ECGs 1 and 4 for purposes of DOE's analysis. Following the preliminary analysis, DOE adjusted one max-tech Design B representative unit level (5 hp) after receiving additional data. This allowed this unit to be based more on physical models for the NOPR analysis, thereby reducing exposure to modeling errors. Table IV.9 and Table IV.10 show the ELs for ECGs 1, 3, and 4.

TABLE IV.9—EFFICIENCY LEVELS FOR EQUIPMENT CLASS GROUPS 1 AND 4

Representative unit	EL 0 (baseline) (percent)	EL 1 (EPACT 1992) (percent)	EL 2 (NEMA premium) (percent)	EL 3 (best-in-market) * (percent)	EL 4 (max-tech) (percent)
5 hp (ECG 1 and 4)	82.5	87.5	89.5	90.2	91.0
30 hp (ECG 1 and 4)	89.5	92.4	93.6	94.1	94.5
75 hp (ECG 1 only **)	93.0	94.1	95.4	95.8	96.2

* Best-in-market represents the best or near best efficiency level at which current manufacturers are producing electric motors. Although these efficiencies represent the best-in-market values found for the representative units, but when efficiency was scaled to the remaining equipment classes, the scaled efficiency was sometimes above and sometimes below the best-in-market value for a particular rating.

** ECG 4 does not have a 75-horsepower representative unit because DOE was unable to find brake motors built with such a high horsepower rating. The maximum horsepower rating for ECG 4 is 30-horsepower.

[53] For the purposes of the NOPR analysis, the term "efficiency level" (EL) is equivalent to that of Candidate Standard Level (CSL) in the preliminary analysis.

[54] EPACT 1992 only established efficiency standards for motors up to and including 200 hp. Eventually, NEMA MG 1–2011 added a table, 20–A, which functioned as an extension of Table 12–11. So, although EPACT 1992 is a slight misnomer, DOE is using it to refer to those ELs that were based on Table 12–11.

[55] Because motor efficiency varies from unit to unit, even within a specific model, NEMA has established a list of standardized efficiency values that manufacturers use when labeling their motors. Each incremental step, or "band," constitutes a 10 percent change in motor losses. NEMA MG 1–2011 Table 12–10 contains the list of NEMA nominal efficiencies.

TABLE IV.10—EFFICIENCY LEVELS FOR EQUIPMENT CLASS GROUP 3

Representative unit (percent)	EL 0 (EPACT 1992) (percent)	EL 1 (NEMA premium) (percent)	EL 2 (best-in-market) (percent)	EL 3 (max-tech) (percent)
5 hp	87.5	89.5	90.2	91.0
30 hp	92.4	93.6	94.1	94.5
75 hp	94.1	95.4	95.8	96.2

For ECG 2, DOE took a similar approach in developing its ELs as it did for ECG 1, but with two primary differences. First, when DOE examined catalog data, it found that no NEMA Design C electric motors had efficiencies below EPACT 1992 levels, which is the current standard for all covered NEMA Design C electric motors. For DOE's representative units, it also found no catalog listings above the required EPACT 1992 levels. Additionally, when DOE's subject matter expert modeled NEMA Design C motors, the model would only generate designs at NEMA Premium levels and one incremental level above that while maintaining proper performance standards. Therefore, ECG 2 only contains three ELs: EPACT 1992 (EL 0), NEMA Premium (EL 1), and a max-tech level (EL 2).

These ELs differed slightly from the CSLs presented in the preliminary analysis for ECG2. In the preliminary analysis, a CSL for the 50 hp unit existed between two industry standard levels in order to provide greater resolution in selection of a standard (NEMA MG–1 Table 12–11 and Table 12–12). For the NOPR analysis, this level was removed so that the ELs analyzed would align with Tables 12–11 and 12–12. For the 5 hp rep unit, DOE also removed one preliminary analysis CSL, which was intended to represent the "best in market" level in the preliminary analysis. After further market research, DOE found that few Design C motors are offered above the baseline, and those that were mainly met the NEMA premium level, without going higher in efficiency. It determined that for the NOPR analysis, the previously designated "max in market" level was not applicable. The ELs analyzed for ECG2 in the NOPR are shown in Table IV.11.

TABLE IV.11—EFFICIENCY LEVELS FOR EQUIPMENT CLASS GROUP 2

Representative unit (percent)	EL 1 (EPACT 1992) (percent)	EL 2 (NEMA premium) (percent)	EL 3 (max-tech) (percent)
5 hp	87.5	89.5	91.0
50 hp	92.4	93.6	94.5

In response to its preliminary analysis, DOE received multiple comments regarding CSLs. NEMA and Baldor expressed confusion over the fact that the CSLs for ECG 2 do not align with the CSLs from ECG 1, and requested that DOE line up CSLs across different ECGs in an effort to avoid confusion when discussing the CSLs. (NEMA, No. 54 at p. 73; Baldor, Public Meeting Transcript, No. 60 at pp. 171, 172) DOE understands NEMA's concerns regarding the nomenclature of its ELs, however, it has maintained its approach for the NOPR analysis. DOE examines each ECG independently, and because different motor types have different baselines, the EL numbers do not always align.

NEMA also asked if the baseline CSL developed for ECG 1, which was developed based on an analysis of vertical, hollow-shaft motors, included losses related to testing those motors with thrust bearings. NEMA inquired because, at the time of its comment, DOE had not yet published the test procedure NOPR, indicating how these motor types might be tested. (NEMA, No. 54 at pp. 71–72, 77)

DOE clarifies that the vertical hollow-shaft motors purchased and used to determine the baseline efficiency level for ECG 1 contained bearings capable of horizontal operation. Therefore, DOE tested these motors in a horizontal configuration without any modifications to the bearings. Additionally, when tested, solid-shafts were welded inside the hollow-shaft to permit the motor to be attached to a dynamometer for testing. These modifications are in line with the proposals for vertical hollow shaft motors as described in DOE's electric motors test procedure NOPR. 78 FR 38456 (June 26, 2013).

During the preliminary analysis public meeting, NEMA noted that the CSL 5 software-modeled efficiency was 96.4 percent and should have been assigned a NEMA nominal efficiency level of 96.2 percent rather than 96.5. (NEMA, No. 54 at p. 80) NEMA and Baldor added that CSL 5 should not be included in any engineering analysis because of the infeasibility of cast-copper rotors, and that CSL 4 is the proper max-tech level when CSL 5 is eliminated from consideration. (NEMA, No. 54 at p. 73; Baldor, Public Meeting Transcript, No. 60 at p. 171) The Efficiency Advocates also expressed concern about some of the CSLs analyzed by DOE and questioned the viability of CSL 3. The Efficiency Advocates noted that some of the CSL 3 designs were at the very limits of critical motor performance parameters, such as locked-rotor torque and current. The Efficiency Advocates added that DOE has not tested motors that perform at the levels that would be required by CSL 3, 4, and 5. Without having done so, DOE cannot verify the predicted performance of its representative units. (NPCC, No. 56 at pp. 4, 5)

As discussed, DOE has removed EL 5 from consideration in the NOPR analysis, but it has not eliminated the use of copper-die cast rotor technology (see I.A.1). With regards to the comments from the Efficiency Advocates, DOE notes that EL 3 for ECG 1 is based on teardown data from commercially available motors, as it was for the preliminary analysis. Additionally, for the NOPR, DOE has tested a unit at EL 4 for one of its representative units. Furthermore, DOE has found many instances of electric

motors being sold and marketed one or two NEMA bands of efficiency above NEMA Premium, which suggests that manufacturers have extended technological performance where they perceived market demand for higher efficiencies. In other words, DOE has seen no evidence suggesting that the absence of products on the market at any given EL implies that such products could not be developed, were there sufficient demand. DOE contends that all of the ELs analyzed in its engineering analysis are viable because equipment is currently commercially available at such levels [56] and, to the extent possible, has been included in DOE's analysis. DOE welcomes comment on the limits of technology, especially as it varies by equipment class.

Additionally, NEMA and Baldor commented on the design options analyzed for the various CSLs. NEMA and Baldor stressed that not using a common design option across all CSLs may result in a reduction of available product. (NEMA, No. 54 at pp. 3, 27, 73; Baldor, Public Meeting Transcript, No. 60 at pp. 169–171, 176–178) NEMA indicated that it is a standard practice of manufacturers to minimize the number of types of electrical steel used at a manufacturing facility and that typically a single type of electrical steel may be used for all electric motors manufactured at the facility. NEMA added that DOE should account for this situation when performing engineering analyses such that a common type of electrical steel is used for the different NEMA design types covered by a common CSL. (NEMA, No. 54 at p. 62) NEMA added that although NEMA Design C motors constitute less than 1 percent of total motor shipments, the electrical steel and die-cast rotor material used for manufacturing NEMA Design C electric motors is taken from the same inventory as used for NEMA Design B electric motors. Therefore, they contended that DOE should select the same material types for NEMA Design C motors as it does for NEMA Design B motors. (NEMA, No. 54 at p. 65, 74) Finally, NEMA stated that it did not understand why DOE used different steels and rotor conductors for CSLs 4 and 5 in some of the ECG 1 representative units but not in others. (NEMA, No. 54 at pp. 3, 72; Baldor, Public Meeting Transcript, No. 60 at p. 120)

As noted earlier, DOE has restructured its ELs for the NOPR analysis. One consequence of this restructuring is that DOE no longer mixes rotor casting technologies for a given EL. However, DOE does not limit the number of electrical steels used at a given EL to one. DOE understands that manufacturers try to limit the number of electrical steels at a given manufacturing facility, but most manufacturers have more than one manufacturing facility. Therefore, manufacturers could produce motors with multiple grades of electrical steel. Additionally, DOE believes that this approach is in line with current industry practice. For its analysis, DOE obtained multiple units for teardowns from the same manufacturer. After a steel analysis was conducted on its teardowns, DOE found that one manufacturer utilized multiple grades of steel, both across ELs within a representative unit and across representative units within an EL. Finally, DOE believes that the restructuring of the ELs should also address concerns over the technology differences between preliminary analysis ELs 4 and 5 because in the NOPR analysis there is no EL 5. DOE has updated chapter 5 of the TSD to include as pertinent design data.

During the preliminary analysis public meeting, ACEEE commented that new energy conservation levels would have to be raised by at least two NEMA bands because an increase of only one NEMA band is not statistically significant. (ACEEE, Public Meeting Transcript, No. 60 at p. 168) DOE disagrees with this assessment. Although the unit-to-unit efficiency of a specific electric motor design may vary by multiple NEMA bands of efficiency, an increase in the required efficiency level by one band would be significant. If efficiency standards are raised by one NEMA band, there is no evidence to suggest that manufacturing practices would change such that the distribution of unit-to-unit efficiencies for a given motor design would change. Therefore, if the required efficiency standard were changed by one band of efficiency, one would assume that the entire population of motors of a given design would shift by one band of efficiency as manufacturers begin to produce motors around a higher mean value.

Finally, NEMA commented that another important factor for defining CSLs is the ability for CSLs to provide efficiency values to be used in the scaling process and that it is important that the relative difference between the efficiency values for CSLs is selected such that the relativity is maintained across all of the representative units if it is to be applied by scaling to all electric motors included in an ECG. In other words, NEMA argues that CSLs must be chosen carefully to correspond with similar technologies and materials across the range of scaling (i.e., the entire equipment class) and that they should not be chosen to merely to align with NEMA's own tables and efficiency bands. (NEMA, No. 54 at p. 73) Responding to this concern, for each EL above the established NEMA Premium levels, DOE has incremented efficiency by one nominal band for all equipment classes. This equates to, roughly, a 10 percent decrease in motor losses for all equipment classes for each jump in EL.

4. Test and Teardowns

Whenever possible, DOE attempted to base its engineering analysis on actual electric motors being produced and sold in the market today. First, DOE identified electric motors in manufacturer catalogs that represented a range of efficiencies corresponding to the ELs discussed in the previous sections. Next, DOE had the electric motors shipped to a certified testing laboratory where each was tested in accordance with IEEE Standard 112 (Test Method B) to verify its nameplate-rated efficiency. After testing, DOE derived production and material costs by having a professional motor laboratory [57] disassemble and inventory the purchased electric motors. For ECG 1, DOE obtained tear-down results for all of the 5-horsepower ELs and all of the 30- and 75-horsepower ELs except the max-tech levels. For ECG 2, DOE obtained tear-down results only for the baseline EL, which corresponds to EPACT 1992 efficiency levels.

These tear-downs provided DOE with the necessary data to construct a bill of materials (BOM), which, along with a standardized cost model and markup structure, DOE could use to estimate a manufacturer selling price (MSP). DOE paired the MSP derived from the tear-down with the corresponding nameplate nominal efficiency to report the relative costs of achieving improvements in energy efficiency. DOE's estimates of material prices came from a combination of current, publicly available data, manufacturer feedback, and conversations with its subject matter experts. DOE supplemented the

[56] DOE understands that this is not true for every equipment classes covered by this rulemaking, but has not seen evidence to suggest that the absence of equipment in any particular classes is not due to lack of market demand instead of technological limitations.

[57] The Center for Electromechanics at the University of Texas at Austin, a 140,000 sq. ft. lab with 40 years of operating experience, performed the teardowns, which were overseen by Dr. Angelo Gattozzi, an electric motor expert with previous industry experience. DOE also used Advanced Energy Corporation of North Carolina to perform some of the teardowns.

findings from its tests and tear-downs through: (1) A review of data collected from manufacturers about prices, efficiencies, and other features of various models of electric motors, and (2) interviews with manufacturers about the techniques and associated costs used to improve efficiency.

As discussed earlier, DOE's engineering analysis documents the design changes and associated costs when improving electric motor efficiency from the baseline level up to a max-tech level. This includes considering improved electrical steel for the stator and rotor, interchanging aluminum and copper rotor bar material, increasing stack length, and any other applicable design options remaining after the screening analysis. As each of these design options are added, the manufacturer's cost increases and the electric motor's efficiency improves. DOE received multiple comments regarding its test and tear-down analysis.

NEMA commented that the cost for manufacturing an electric motor can increase as the efficiency level is increased even when the material and technology is not changed. It added that an increase in core length, without any change in the material used, will result in a higher cost not only due to the increase in the amount of steel, but also due to the increase in the amount of wire for the stator winding and aluminum for the rotor core. (NEMA, No. 54 at p. 74) Notwithstanding, DOE believes that it has accurately captured such changes. When each electric motor was torn down, components such as electrical steel and copper wiring were weighed. Therefore, any increase in stack length would result in increased costs associated with the increased amount of electrical steel and copper wiring.

NEMA also commented that the best known value of efficiency for a tested and torn down motor is the tested efficiency and the accuracy of this value improves as sample size increases. Because DOE only used a sample size of one, NEMA recommended that DOE should increase its sample size to something more statistically significant. (NEMA, No. 54 at p. 75) NEMA also referred to the small electric motors rulemaking and said that a sufficient sample size for testing was proven to be necessary. (NEMA, No. 54 at p. 27) NEMA also commented that Appendix A to Subpart U designates the appropriate sample size to support the conclusion that the name-plated efficiency of a motor is correctly stated. (NEMA, No. 54 at p. 79) NEMA and Baldor added that Appendix A to Subpart U requires the determination of a standard deviation from the sample, and it is not possible to determine a standard deviation when testing a sample of one motor, which was the sample size of DOE's motor testing. (NEMA, No. 54 at p. 79; Baldor, Public Meeting Transcript, No. 60 at p. 154)

DOE agrees that an increased sample size would improve the value of efficiency used in its analysis, but only if DOE were using an average full-load efficiency value, as it did for the small electric motors rulemaking engineering analysis, which did not have the benefit of NEMA-developed nominal efficiency values. For today's analysis, DOE did not use the tested efficiency value and believes that to do so would be erroneous precisely because it only tested and tore down one unit for a given representative unit and EL. Rather than using an average efficiency of a sample of multiple units that is likely to change with each additional motor tested, DOE elected to use the nameplate NEMA nominal efficiency given. DOE understands that this value, short of testing data, is the most accurate value to use to describe a statistically valid population of motors of a given design; that is, in part, why manufacturers use NEMA nominal efficiencies on their motors' nameplates.

Furthermore, when DOE conducts its tear-downs, the bill of materials generated is most representative of the tested value of efficiency, not necessarily the NEMA nominal value. However, DOE believes that the variance from unit-to-unit, in terms of materials, is likely to be insignificant because manufacturers have an incentive to produce equipment with consistent performance (i.e., characteristics other than efficiency) as possible. Changes in the tested efficiency are likely to occur because of variations in production that motor manufacturers have less control over (e.g., the quality of the electrical steel). DOE does not believe that the amount of material (in particular, electrical steel, copper wiring, and die-cast material) from unit-to-unit for a given design is likely to change significantly, if at all, because manufacturers have much greater control of those production variables. Therefore, additional tests and tear-downs are unlikely to change the MSP estimated for a given motor design and DOE believes that its sample size of one is appropriate.

In the preliminary engineering analysis, DOE replaced a tear-down result with a software model for CSL 2 of its 30-horsepower representative unit because it believed that it had inadvertently tested and torn down a motor with an efficiency equivalent to CSL 3. DOE noted that it removed the tear-down because there was conflicting efficiency information on the Web site, in the catalog, and on the physical nameplate. Subsequently, NEMA and Baldor commented that the 30-horsepower, CSL 2 motor should not have been replaced with a software-modeled motor, stating that the test result was statistically viable. (NEMA, No. 54 at pp. 76–79; Baldor, Public Meeting Transcript, No. 60 at pp. 150–155) NEMA and Baldor also asserted that DOE had placed emphasis on the use of purchased motors in its analysis only when the tested value of efficiency was less than or not significantly greater than the marked value of NEMA efficiency. (NEMA, No. 54 at p. 80; Baldor, Public Meeting Transcript, No. 60 at pp. 156, 157)

DOE understands that the test result may have been viable for either of the efficiency ratings that the manufacturer had assigned. Given the uncertainty, however, DOE elected to replace the motor. DOE did not discard the unit simply because it tested significantly above its nameplate efficiency. Rather, the motor was listed with different values of efficiency depending upon the source and when torn down, the resulting MSP was higher than the MSP for the next CSL. These facts suggested that the calculated results were erroneous because it is unlikely (based on available data) that it would be cheaper to build a more efficient motor than a less efficient one of comparable specifications. If DOE had included these data in its analysis, it would likely have resulted in a projection that even higher CSLs would be economically justified. The combination of these factors resulted in DOE eliminating that motor from the analysis. For its updated NOPR engineering analysis, DOE has tested and torn down a new 30-horsepower motor to describe CSL 2. As stated previously, DOE always prefers to base its analysis using motors purchased in the market when possible.

NEMA commented that the disproportionate variation in frame weights between the CSLs suggests that the CSLs of some representative units were not of similar construction. (NEMA, No. 54 at p. 78) When selecting motors for tear-down, DOE selected motors with increasing efficiencies. These motors may not have used the same frame material. For example, the CSL 0 for the 30-horsepower representative units was made out of cast aluminum, but CSL 1 unit used cast iron. This material change accounts for the large difference in frame weight.

During the preliminary analysis public meeting, Nidec requested clarification for the increase in stator copper weight for the 75-horsepower, ECG 1 representative unit between CSL 2 and CSL 3 since the reported slot fills were the same and the motors had similar stack lengths. (Nidec, Public Meeting Transcript, No. 60 at pp. 164, 165) After DOE's tear-down lab determined that the torn-down motors were machine-wound a precise measurement of the slot fill was not taken. Although the actual measurement of slot fill has no bearing on the estimates of the MSP, because the actual copper weights were measured and not calculated, DOE did ask its lab to provide actual measurements of slot fill on any subsequent tear-downs and has included the data in chapter 5 of the TSD.

5. Software Modeling

In the preliminary analysis, DOE worked with technical experts to develop certain CSLs, in particular, the max-tech efficiency levels for each representative unit analyzed. DOE retained an electric motors subject matter expert (SME)[58] with design experience and software, who prepared a set of designs with increasing efficiency. The SME also checked his designs against tear-down data and calibrated his software using the relevant test results. As new designs were created, DOE's SME ensured that the critical performance characteristics that define a NEMA design letter, such as locked-rotor torque, breakdown torque, pull-up torque and locked-rotor currents were maintained. For a given representative unit, DOE ensured that the modeled electric motors met the same set of torque and locked-rotor current requirements as the purchased electric motors. This was done to ensure that the utility of the baseline unit was maintained as efficiency improved. Additionally, DOE limited its modeled stack length increases based on teardown data and maximum "C" dimensions found in manufacturer's catalogs.[59]

In response to the preliminary analysis, Baldor and NEMA requested clarification on how DOE compared its software modeled results to the electric motors that it had tested and torn down. (NEMA, No. 54 at p. 74; Baldor, Public Meeting Transcript, No. 60 at p. 148) NEMA requested that more details regarding that comparison and the name of the software program used to be included in an updated technical support document. (NEMA, No. 54 at p. 12) Per the request of NEMA and Baldor, DOE has provided comparisons of software estimates and tested efficiencies in appendix 5C of the TSD. Additionally, the software program that DOE used for its analysis is a proprietary software program called VICA.[60]

NEMA expressed concern over efficiency standards based on the software platform DOE used and stated that DOE should build working prototypes of its software modeled motors to prove the designs work. (NEMA, No. 54 at pp. 24–25 and 74–75) Baldor reiterated this point in verbal comments and suggested that this was particularly important for CSLs with copper rotor designs given their concerns with copper rotor motors. (NEMA, No. 54 at pp. 76–77; Baldor Public Meeting Transcript, No. 60 at pp. 160, 161) During the preliminary analysis, DOE approached motor laboratories in an attempt to prototype its software models. DOE was unable to identify a laboratory that could prototype its software modeled motors in a manner that would exactly replicate the designs produced (i.e., they could not die-cast copper). Consequently, at this time, DOE has not built a prototype of its software models. However, DOE was able to procure a 5-horsepower NEMA Design B die-cast copper rotor motor with an efficiency two NEMA bands above the NEMA Premium level. Therefore, DOE elected to use this design to represent the max-tech EL for the 5-horsepower representative unit in equipment class group 1, rather than the software-modeled design used in the preliminary analysis. DOE's SME used information gained from testing and tearing down this motor to help corroborate the software modeling.

In the preliminary analysis, DOE indicated that its software modeling expert made changes to his software designs based on data collected during the motor teardowns. NEMA commented on this and asked why DOE's software modeling expert made changes to some of his designs based on teardown data. (NEMA, No. 54 at p. 75) DOE clarifies that the software program was updated using additional teardown data (e.g., more accurate dimensions and material types) to maintain as many consistencies in design as possible. For example, DOE's software modeling expert used lamination diameters measured during the teardowns as limits for the software models.

In submitted comments, NEMA noted that the NEMA nominal efficiency for the software-modeled motors was derived by selecting the value that was lower than the calculated efficiency. NEMA questioned this approach and added that assigning a value of NEMA nominal efficiency based on a calculated value of efficiency requires more knowledge than merely selecting the closest NEMA nominal value that is lower than the calculated value. (NEMA, No. 54 at p. 76) DOE notes that it selected the closest NEMA nominal efficiency that is less than or equal to the predicted efficiency of the software for multiple reasons. First, DOE wanted to maintain the use of nominal efficiency values to remain consistent with past electric motor efficiency standards. Second, DOE chose a value below its software estimate because this method would provide a more conservative approach. DOE believes its approach was appropriate given the various concerns raised with copper rotor motor technologies.

During the preliminary analysis public meeting, Regal-Beloit commented that calibration of the software-modeled motors is extremely important. Regal-Beloit added that the calibration of select models is very important due to the amount of interpolation that DOE is basing on these models. (Regal-Beloit, Public Meeting Transcript, No. 60 at pp. 159–160) Alluding to copper rotor motors, NEMA commented on DOE's software modeling, claiming that verifying the accuracy of a software program with respect to performance obtained from testing purchased motors does not verify the accuracy of the software program when it is used for a technology which has not been verified by tests. (NEMA, No. 54 at p. 76; Baldor, Public Meeting Transcript, No. 60 at pp. 160, 161) DOE appreciates these comments and, as stated, has conducted calibration of its software program using data obtained from motor teardowns. DOE has provided comparisons of software estimates and tested efficiencies for both aluminum and copper rotor motors in appendix 5C of the TSD.

NEMA commented that the preliminary TSD did not show that the software platform DOE used had been substantiated as being sufficiently accurate for motors incorporating existing and new technologies. (NEMA, No. 54 at p. 12) NEMA asserted that it is necessary to substantiate the software platform used for modeling as an

[58] Dr. Howard Jordan, Ph.D., an electric motor design expert with over 40 years of industry experience, served as DOE's subject matter expert.

[59] The "C" dimension of an electric motor is the length of the electric motor from the end of the shaft to the end of the opposite side's fan cover guard. Essentially, the "C" dimension is the overall length of an electric motor including its shaft extension.

[60] VICA stands for "Veinott Interactive Computer Aid."

alternate efficiency determination method (AEDM) such that the calculated efficiencies can be verified as accurate for the types of technologies included in a motor design. NEMA urged that DOE substantiate the software platform used by its SME as an AEDM. (NEMA, No. 54 at p. 76) Baldor added that DOE expects manufacturers to prototype five motors to certify a program, but DOE has not designed and built any of the motors designed in its own program. (Baldor, Public Meeting Transcript, No. 60 at p. 162) Nidec commented during the public meeting, asking if the software modeling suite DOE used has gone through the same scrutiny that manufacturers are subject to when they must submit their 25 samples to correlate their estimated computer data with actual testing data. (Nidec, Public Meeting Transcript, No. 60 at p. 147)

DOE understands the comments received regarding its software program, but maintains that substantiation of an AEDM is a concept intended for certifying compliance with energy efficiency standards. It is a tool that manufacturers use to help ensure that the equipment they manufacture comply with a Federal standard (which is the manufacturers' duty). It is not a tool for assessing whether a particular energy efficiency level under consideration by DOE satisfies the EPCA criteria. Accordingly, the use of the AEDM in the manner suggested by industry would not be relevant for the purposes of this engineering analysis, which is geared toward DOE's standards rulemaking.

NEMA also commented that to properly determine the impact of increased efficiency on motor utility, DOE must recognize the consequences of how motor performance, including parameters such as acceleration, safe stall time, overspeed, service factor, thermal performance, and in-rush current will be affected by more stringent energy conservation standards. NEMA also specifically referred to performance characteristics found in NEMA MG 1 sections 12.44, 12.45, 12.48, 12.49, 12.53, 12.54, and 12.56. (NEMA, No. 54 at pp. 5, 77) NEMA added that the narrow margin between the NEMA MG 1–2011 limits for locked-rotor current and the calculated locked-rotor current for some of the software-modeled designs in the preliminary analysis suggest that there will be problems with these motors meeting the NEMA MG 1 limits if they were prototyped. (NEMA, No. 54 at p. 77) Finally, NEMA indicated that two of the DOE software-modeled motors in the preliminary analysis, representing the 75-horsepower CSLs 4 and 5 for ECG 1, had torque ratings twice that of a U.S. Army 75-horsepower electric motor software model, and suggested that the software models used in DOE's analysis are not accurate in modeling copper rotor motor performance. (NEMA, No. 54 at p. 77)

DOE has carefully considered NEMA's comments in its updated NOPR analysis. As noted, DOE has eliminated designs from its preliminary analysis because of concerns regarding the feasibility of those efficiency levels. Regarding the additional performance parameters, DOE agrees that these characteristics must be maintained when improving an electric motor's efficiency. However, the performance parameters DOE believed to present the largest risk of rendering a motor noncompliant with NEMA MG 1–2011 standards were those related to NEMA design letter, which were adhered to in DOE's modeling efforts. Based on comparisons of motor teardowns and software estimates, DOE has no reason at this time to believe that its modeled designs would violate the additional performance parameters mentioned by NEMA.

DOE believes that its subject matter expert, who has been designing electric motors for several decades, is well qualified to understand the design tradeoffs that must be considered. Although the SME's primary task was to design a more efficient motor using various technologies, it was of critical importance that the designs be feasible. Even though DOE was unable to prototype its modeled designs, DOE has conducted comparisons of software estimates and tested efficiencies for both aluminum and copper rotor motors and believes this corroborates the modeled designs. Based on this work and its total analysis, which included input from its SME, DOE believes it developed a sufficiently robust set of technically feasible efficiency levels for its engineering analysis.

NEMA asked how DOE intended to take into consideration motor utility as motor size increases. (NEMA, No. 54 at pp. 23, 24) During the preliminary analysis public meeting, Baldor asked if the higher CSLs would fit into existing frame sizes, or if those motors would have to be redesigned to allow for the increased stack length. Baldor added that if the frame size increases, the motor may no longer fit current applications, which would cause additional burden for end-users or original equipment manufacturers. (Baldor, Public Meeting Transcript, No. 60 at pp. 164, 245) Baldor added that IEC frame motors are more constrained in terms of size and space than NEMA frame motors, and it is more difficult to increase the efficiency on IEC frame motors without changing frame size designations, which would lead to space constraint issues. (Baldor and ABB, Public Meeting Transcript, No. 60 at pp. 245, 246) Flolo Corporation also commented on motor length during the public meeting, insisting that it is important that DOE recognize the difference in "C" dimension that any new energy conservation standard would mandate, as increasing the "C" dimension will make it difficult for a motor to fit into its originally intended machine. (Flolo, Public Meeting Transcript, No. 60 at pp. 243, 244) The Efficiency Advocates also commented on motor length, indicating that DOE should be aware of absolute motor length limits when considering increased stack length, and that these changes could greatly increase the installed cost of many of the higher CSLs, impacting field and original equipment manufacturer (OEM) installation. (Advocates, No. 56 at p. 4)

In the preliminary TSD, DOE stipulated that any increase in stack length would fit into the existing frame designation for that particular motor rating. DOE noted that the frame designation does not limit frame length, but rather frame diameter. DOE also understands that manufacturers have fixed-length frames that they use when manufacturing motors. In addition to generating per unit costs associated with redesigning motors with new frames at all ELs above the NEMA Premium levels (see IV.C.6), DOE sought to maintain motor length by limiting how much it would modify stack dimensions to improve efficiency. First, the software models created by DOE used lamination diameters observed during teardowns, which ensured that the software-modeled designs would fit into existing frame designations. However, for some designs DOE increased the number of laminations (i.e., length of the stack of laminations, or stack length) beyond the stack lengths observed during the motor teardowns in order to achieve the desired efficiency gains.

DOE limited the amount by which it would increase the stack length of its software-modeled electric motors in order to preserve the motor's utility. The maximum stack lengths used in the software-modeled ELs were determined by first analyzing the stack lengths and "C" dimensions of torn-down electric motors. Then, DOE analyzed the "C" dimensions of various electric motors in the marketplace conforming to the same design constraints as the representative units (same horsepower rating, NEMA

frame size, enclosure type, and pole configuration). For each representative unit, DOE found the largest "C" dimension currently available on the marketplace and estimated a maximum stack length based on the stack length to "C" dimension ratios of motors it tore down. The resulting product was the value that DOE chose to use as the maximum stack length considered in its software modeled designs, although DOE notes that it did not always model a motor with that maximum stack length. In most instances, the SME was able to achieve the desired improvement in efficiency with a stack length shorter than DOE's estimated maximum. Table IV.12 shows the estimated maximum stack length, the maximum stack length found during tear-downs, and the maximum stack length modeled for a given representative unit. DOE welcomes additional comments on software modeling in general, and on specific data that could be used to calibrate its software designs.

TABLE IV.12—MAXIMUM STACK LENGTH DATA

Representative unit	Estimated maximum stack length	Maximum stack length of a torn down motor	Maximum stack length modeled
30 Horsepower Design B	8.87 in.	8.02 in. (EL 2)	7.00 in.
75 Horsepower Design B	13.06 in.	11.33 in. (EL 3)	12.00 in.
5 Horsepower Design C	5.80 in.	4.75 in. (EL 0)	5.32 in.
50 Horsepower Design C	9.55 in.	8.67 in. (EL 0)	9.55 in.

6. Cost Model

When developing manufacturer selling prices (MSPs) for the motor designs obtained from DOE's tear-downs and software models, DOE used a consistent approach to generate a more accurate approximation of the costs necessary to improve electric motor efficiency. DOE derived the manufacturer's selling price for each design in the engineering analysis by considering the full range of production and non-production costs. The full production cost is a combination of direct labor, direct materials, and overhead. The overhead contributing to full production cost includes indirect labor, indirect material, maintenance, depreciation, taxes, and insurance related to company assets. Non-production cost includes the cost of selling, general and administrative items (market research, advertising, sales representatives, logistics), research and development (R&D), interest payments, warranty and risk provisions, shipping, and profit factor. Because profit factor is included in the non-production cost, the sum of production and non-production costs is an estimate of the MSP. DOE utilized various markups to arrive at the total cost for each component of the electric motor and these markups are detailed in chapter 5 of the TSD.

a. Copper Pricing

DOE conducted the engineering analysis using material prices based on manufacturer feedback, industry experts, and publicly available data. In the preliminary analysis, most material prices were based on 2011 prices, with the exception of cast copper and copper wire pricing, which were based on a five-year (2007–2011) average price.

DOE received comments regarding its copper price development. NPCC supported DOE's decision to use a five-year price average for copper materials and suggested that this method should be used whenever a commodity price shows a pattern of irregular spikes or valleys. (Advocates, No. 56 at p. 4) Conversely, the Industrial Energy Consumers of America (IECA) stated that material costs for high efficiency motors are very volatile and cannot be reliably projected from a simple five-year average, as DOE did with copper prices during the preliminary analysis. IECA added that as a result of using a five-year average, the high efficiency motor material costs may be highly underestimated in DOE's engineering analysis, and IECA suggested that a range of material costs rather than averages could better inform a range of life-cycle costs and payback periods for each CSL. (IECA, No. 52 at p. 3)

Based on these comments, DOE has slightly modified its approach. First, DOE added updated data for 2012 pricing. Second, rather than a five-year average, DOE changed to a three-year average price for copper materials. DOE made this modification based on feedback received during manufacturer interviews. By reducing to a three-year average, DOE eliminated data from 2008 and 2009, which manufacturers believed were unrepresentative data points due to the recession. Data from those two years had the effect of depressing the five-year average calculated.

b. Labor Rate and Non-Production Markup

In the preliminary analysis, DOE looked at the percentage of electric motors imported into the U.S. and the percentage of electric motors built domestically and based the balance of foreign and domestic labor rates on these percentages. During the preliminary analysis public meeting, Nidec commented that the labor rate DOE used in its analysis seems high if that number is weighted towards offshore labor. Nidec also agreed with DOE's smaller markup on the lower-horsepower motors, but commented that the overall markups DOE used seem to be high. (Nidec, Public Meeting Transcript, No. 60 at p. 184) WEG added to these comments, indicating that they believed DOE was adequately addressing the cost structure variations among the different motor manufacturers. Additionally, WEG believed that basing a labor rate on both foreign and domestic labor rates increases accuracy of the analysis, but warned that DOE should be careful not encourage production moving outside the United States. (WEG, Public Meeting Transcript, No. 60 at pp. 184–186)

At this time, DOE has elected to keep the same labor rates and markups as were used in the preliminary analysis. DOE is basing this decision on additional feedback received during interviews with manufacturers and the absence of any alternative labor rate or markups to apply.

Finally, DOE is aware of potential cost increases caused by increased slot fill, including the transition to hand-wound stators in motors requiring higher slot

fills. In the preliminary analysis, DOE assigned a higher labor hour to any tear-down motor which it determined to be hand-wound. NEMA commented that DOE did not assign a hand-wound labor-hour assumption to any of the tear-down motors, and requested clarification about whether there were instances of hand winding in these motors. (NEMA, No. 54 at p. 23) DOE found that none of the tear-down motors were hand-wound, and therefore no hand-winding labor-hour amounts were assigned. This has been clarified in the NOPR analysis. Additionally, DOE has assumed that all of its max-tech software models require hand-winding, which is reflected in its increased labor time assumptions for those motors. For additional details please see chapter 5 of the TSD.

In response to DOE's request for comment on the possibility of higher labor costs for lower-volume electric motors, NEMA indicated that plants with few manufacturing setup changes, because they may focus on standard motor designs with no special motors, have the ability to produce more motors per employee, and that this is the case with many offshore companies that build designs for import to the U.S. (NEMA, No. 54 at pp. 27, 28). For other companies that cater to OEMs that require special designs and small lot production, setup changes eat into the capacity of these plants, particularly in the 56/140T through 250T frame series where there is high volume. A plant where the lot (i.e., batch) size per order is smaller has less impact from setup.

DOE acknowledges that lower-volume products will often realize higher per unit costs, and believes this reality is common to most or all manufacturing processes in general. Because DOE's analysis focuses on the differential impacts on cost due to standards, and because DOE has no evidence to suggest a significant market shift to lower production volume in a post-standards scenario, DOE expects that the relative mix of high- and low-volume production would be preserved. Indeed, because DOE is proposing to expand scope of coverage and bring many previously-excluded motor types to NEMA Premium levels, DOE sees the possibility that standardization may increase and average production volume may, in fact, rise.[61] DOE welcomes additional comment on how standards may cause average production run volume to rise or fall, and how labor costs may vary as a result.

c. Catalog Prices

NEMA also requested that DOE publish the purchase price for its torn down motors, so that they could be compared to the MSPs DOE derived from its motor tear-downs. (NEMA, No. 54 at p. 27; Baldor, Public Meeting Transcript, No. 60 at pp. 181, 182) At this time, DOE is electing not to include the purchase price for its torn down motors. DOE believes that such information is not relevant and could lead to erroneous conclusions. Some of the purchased motors were more expensive to purchase based on certain features that do not affect efficiency, which could skew the price curves incorrectly and indicate incorrect trends. For these reasons, in the engineering analysis, DOE develops its own cost model so that a consistent cost structure can be applied to similar equipment. The details of this model are available in appendix 5A. Because DOE purchased electric motors that were built by different manufacturers and sold by different distributors, who all have different costs structures, DOE does not believe that such a comparison is a meaningful evaluation.

d. Product Development Cost

In response to the preliminary analysis, NEMA commented that DOE presumes that the incremental cost between motors of different designs and different technologies is based solely on the difference in material costs and markups. NEMA also commented that there is a higher cost of manufacturing a die-cast copper rotor compared to an aluminum die-cast rotor motor that is not captured in material costs. (NEMA, No. 54 at p. 12, 74) During the preliminary analysis public meeting, ACEEE commented that the Motor Coalition has concerns about CSL 3 for ECG 1, stating that DOE's analysis may not have captured the full cost of an industry-transition to that efficiency level. (ACEEE, Public Meeting Transcript, No. 60 at p. 20)

DOE has made some additions to its cost model for the NOPR analysis based on NEMA's comments. However, DOE clarifies that its cost model for the preliminary analysis did include an incremental markup used to account for higher production costs associated with manufacturing copper die-cast rotors. Although DOE used this incremental markup in the preliminary analysis, after conducting manufacturer interviews for the NOPR analysis, it believed that additional costs were warranted for the examined ELs that exceeded the NEMA Premium level. NEMA commented that the manufacturer production costs (MPCs) and subsequent LCCs must take into account the large additional conversion costs, since manufacturers would likely attempt to recover the costs of meeting a higher efficiency standard. (NEMA, No. 54 at p. 4) Therefore, DOE developed a per-unit adder[62] for the MPCs intended to capture one-time increased product development and capital conversion costs that would likely result if an efficiency level above NEMA Premium were established.

DOE's per-unit adder reflects the additional cost passed along to the consumer by manufacturers attempting to recover the costs incurred from having to redevelop their equipment lines as a result of higher energy conservation standards. The conversion costs incurred by manufacturers include capital investment (e.g., new tooling and machinery), equipment development (e.g., reengineering each motor design offered), plus testing and compliance certification costs.

The conversion cost adder was only applied to ELs above NEMA Premium based on manufacturer feedback. Most manufacturers now offer NEMA Premium motors for a significant portion of their equipment lines as a result of EISA 2007, which required manufacturers to meet this level. Many manufacturers also offer certain ratings with efficiency levels higher than NEMA Premium. However, DOE is not aware of any manufacturer with a complete line of motors above NEMA Premium. Consequently, DOE believes that energy conservation standards above NEMA Premium would result in manufacturers incurring significant conversion costs to bring offerings of electric motors up to the higher standard.

DOE developed the various conversion costs from data collected during manufacturer interviews that were conducted for the Manufacturer Impact Analysis (MIA). For more information on the MIA, see TSD chapter 12. DOE used the manufacturer-supplied data to estimate industry-wide capital conversion costs and product conversion costs for each EL above NEMA Premium. DOE then assumed that manufacturers would mark up their motors to recover the total conversion costs over a seven year period. By dividing industry-wide conversion costs by seven years of expected industry-

[61] Labor costs may rise starkly at max-tech levels, where hand-winding is employed in order to maximize slot fill. DOE's engineering analysis reflects this fact.

[62] The "per-unit adder" discussed in this section refers to a fixed adder for each motor that varies based on horsepower and NEMA design letter. Each representative unit has their own unique "per-unit adder" that is fixed for the analysis.

wide revenue, DOE obtained a percentage estimate of how much each motor would be marked up by manufacturers. The conversion costs as a percentage of 7-year revenue that DOE derived for each NEMA band above NEMA premium are shown below. Details on these calculations are shown in Chapter 5 of the TSD.

TABLE IV.13—PRODUCT CONVERSION COSTS AS A PERCENTAGE OF 7-YEAR REVENUE

NEMA bands above NEMA premium	Conversion costs as a percentage of 7-year revenue (percent)
1	4.1
2	6.5

The percentage markup was then applied to the full production cost (direct material + direct labor + overhead) at the NEMA Premium levels to derive the per unit adder for levels above NEMA Premium (see Table IV.14).

TABLE IV.14—PRODUCT CONVERSION COSTS FOR EFFICIENCY LEVELS ABOVE NEMA PREMIUM

Representative unit	Per unit adder for 1 band above NEMA premium	Per unit adder for 2 bands above NEMA premium
5 HP, Design B	$11.06	$17.36
30 HP, Design B	32.89	1.61
75 HP, Design B	66.18	103.86
5 HP, Design C	10.68	16.75
50 HP, Design C	60.59	95.08

7. Engineering Analysis Results

The results of the engineering analysis are reported as cost versus efficiency data in the form of MSP (in dollars) versus nominal full-load efficiency (in percentage). These data form the basis for subsequent analyses in today's NOPR. Table IV.15 through Table IV.19 show the results of DOE's updated NOPR engineering analysis.

Results for Equipment Class Group 1 (NEMA Design A and B Electric Motors)

TABLE IV.15—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline)	82.5	330
EL 1 (EPACT 1992)	87.5	341
EL 2 (NEMA Premium)	89.5	367
EL 3 (Best-in-Market)	90.2	402
EL 4 (Max-Tech)	91.0	670

TABLE IV.16—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 30-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline)	89.5	848
EL 1 (EPACT 1992)	92.4	1,085
EL 2 (NEMA Premium)	93.6	1,156
EL 3 (Best-in-Market)	94.1	1,295
EL 4 (Max-Tech)	94.5	2,056

TABLE IV.17—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 75-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline)	93.0	1,891
EL 1 (EPACT 1992)	94.1	2,048
EL 2 (NEMA Premium)	95.4	2,327
EL 3 (Best-in-Market)	95.8	2,776
EL 4 (Max-Tech)	96.2	3,620

Results for Equipment Class Group 2 (NEMA Design C Electric Motors)

TABLE IV.18—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline/EPACT 1992)	87.5	331
EL 1 (NEMA Premium)	89.5	355
EL 2 (Max-Tech)	91.0	621

TABLE IV.19—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 50-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline/EPACT 1992)	93.0	1,537
EL 1 (NEMA Premium)	94.5	2,130
EL 2 (Max-Tech)	95.0	2,586

Results for Equipment Class Group 3
(Fire Pump Electric Motors)

TABLE IV.20—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturing selling price ($)
EL 0 (Baseline/EPACT 1992)	87.5	341
EL 1 (NEMA Premium)	89.5	367
EL 2 (Best-in-Market)	90.2	402
EL 3 (Max-Tech)	91.0	670

TABLE IV.21—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 30-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline/EPACT 1992)	92.4	1,085
EL 1 (NEMA Premium)	93.6	1,156
EL 2 (Best-in-Market)	94.1	1,295
EL 3 (Max-Tech)	94.5	2,056

TABLE IV.22—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 75-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline/EPACT 1992)	94.1	2,048
EL 1 (NEMA Premium)	95.4	2,327
EL 2 (Best-in-Market)	95.8	2,776
EL 3 (Max-Tech)	96.2	3,620

Results for Equipment Class Group 4
(Brake Electric Motors)

TABLE IV.23—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline)	82.5	330
EL 1 (EPACT 1992)	87.5	341
EL 2 (NEMA Premium)	89.5	367
EL 3 (Best-in-Market)	90.2	402
EL 4 (Max-Tech)	91.0	670

TABLE IV.24—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 30-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price ($)
EL 0 (Baseline)	89.5	848
EL 1 (EPACT 1992)	92.4	1,085
EL 2 (NEMA Premium)	93.6	1,156
EL 3 (Best-in-Market)	94.1	1,295
EL 4 (Max-Tech)	94.5	2,056

8. Scaling Methodology

Once DOE has identified cost-efficiency relationships for its representative units, it must appropriately scale the efficiencies analyzed for its representative units to those equipment classes not directly analyzed. DOE recognizes that scaling motor efficiencies is a complicated proposition that has the potential to result in efficiency standards that are not evenly stringent across all equipment classes. However, between DOE's four ECGs, there are 580 combinations of horsepower rating, pole configuration, and enclosure. Within these combinations there are a large number of standardized frame number series. Given the sizable number of frame number series and equipment classes, DOE cannot feasibly analyze all of these variants, hence, the need for scaling. Scaling across horsepower ratings, pole configurations, enclosures, and frame number series is a necessity. For the preliminary analysis, DOE considered two methods to scaling, one that develops a set of power law equations based on the relationships found in the EPACT 1992 and NEMA Premium tables of efficiency in NEMA Standard Publication MG 1, and one based on the incremental improvement of motor losses. As discussed in the preliminary analysis, DOE did not find a large discrepancy between the results of the two approaches and, therefore, used the simpler, incremental improvement of motor losses approach in its NOPR analysis.

As discussed in IV.C.3, some of the ELs analyzed by DOE were based on existing efficiency standards (i.e., EPACT 1992 and NEMA Premium). Additionally, the baseline EL is based on the lowest efficiency levels found for each horsepower rating, pole configuration, and enclosure type observed in motor catalog data. Therefore, DOE only required the use of scaling when developing the two ELs above NEMA Premium (only one EL above NEMA Premium for ECG 2).

For the higher ELs in ECG 1, DOE's scaling approach relies on NEMA MG 1–2011 Table 12–10 of nominal efficiencies and the relative improvement in motor losses of the representative units. As has been discussed, each incremental improvement in NEMA nominal efficiency (or NEMA band) corresponds to roughly a 10 percent reduction in motor losses. After ELs 3 and 4 were developed for each representative unit, DOE applied the same reduction in motor losses (or the same number of NEMA band improvements) to various segments of the market based on its representative units. DOE assigned a segment of the electric motors market, based on horsepower ratings, to each representative unit analyzed. DOE's assignments of these segments of the markets were in part based on the standardized NEMA frame number series that NEMA MG 1–2011 assigns to horsepower and pole combinations. In the end, EL 3 corresponded to a one band improvement relative to NEMA Premium and EL 4 corresponded to a two-band improvement relative to NEMA Premium. In response to the preliminary analysis, DOE received multiple comments regarding scaling.

NEMA commented that DOE states that scaling is necessary for the national impacts analysis, but NEMA contends that the foremost reason for the scaling is that the scaling is used to establish the values of any amended or new efficiency standards. (NEMA, No. 54 at p. 68) NEMA also expressed its belief that the scaling method used in the preliminary analysis does not adequately take into consideration numbers of poles, stack length, and frame enclosures and that scaling based on changes in efficiency for lower horsepower motor models, as interpreted by software, does not accurately reflect what is achievable for higher horsepower ratings. (NEMA, No. 54 at p. 5)

During the preliminary analysis public meeting, Baldor commented that because some energy conservation levels could not be reached without using a different technology option, at least 30 percent of the ratings in an equipment classes could not achieve energy conservation levels above CSL 2. Because of this, a scaling method based on any particular set of technology is not scalable across all equipment classes. Baldor suggested that DOE could use software modeling to check some of the motor configurations not directly analyzed. (Baldor, Public Meeting Transcript, No. 60 at pp. 196, 197, 200)

Nidec commented during the public meeting that scaling has too many variables, and that manufacturers do not use scaling because it is not possible. (Nidec, Public Meeting Transcript, No. 60 at pp. 198–199) ACEEE added that there is no underlying fundamental physical theory associated with the efficiencies listed in NEMA MG 1–2011 Table 12–11 or Table 12–12. (ACEEE, Public Meeting Transcript, No. 60 at pp. 198–199)

DOE appreciates the comments received regarding scaling; however, it maintains that scaling is a tool necessary to analyze the potential effects of energy conservation standards above NEMA Premium levels. As stated earlier, DOE is evaluating energy conservation standards for 580 equipment classes. DOE acknowledges that analyzing every one of these classes individually is not feasible, which requires DOE to choose representative units on which to base its analysis. DOE agrees with Baldor that the primary reason for scaling is to establish efficiency levels for any potential new or amended standards for electric motors.

However, DOE notes that its analysis neither assumes nor requires manufacturers to use identical technology for all motor types and horsepower ratings. In other words, although DOE may choose a certain set of technologies to estimate cost behavior across efficiency, DOE's standards are technology-neutral and permit manufacturers design flexibility. DOE clarifies that the national impacts analysis is one of the primary ways in which DOE analyses those potential efficiency levels and determines if they would be economically justified. As DOE has stated, it is also important that the levels be technically feasible. In

order to maintain technical feasibility, DOE has maintained the scaling approach that it developed for the preliminary analysis. DOE believes that this approach, which is as conservative as possible while maintaining the use of NEMA nominal efficiencies, accomplishes that. For each incremental EL above the NEMA Premium level, DOE has incremented possible efficiency levels by just one band of efficiency. Through the use of this conservative approach to scaling, DOE believes that it has helped conserve the technological feasibility of each of its ELs to the greatest extent practicable.

D. Markups Analysis

The markups analysis develops appropriate markups in the distribution chain to convert the estimates of manufacturer selling price derived in the engineering analysis to customer prices. ("Customer" refers to purchasers of the equipment being regulated). In the preliminary analysis, DOE determined the distribution channels for electric motors, their shares of the market, and the markups associated with the main parties in the distribution chain, distributors and contractors. For the NOPR, DOE retained these distribution channels.

DOE developed average distributor and contractor markups by examining the contractor cost estimates provided by RS Means Electrical Cost Data 2013.[63] DOE calculates baseline and overall incremental markups based on the equipment markups at each step in the distribution chain. The incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the customer price. Chapter 6 of the NOPR TSD addresses estimating markups.

E. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of commercial and industrial electric motors at the considered efficiency levels. DOE uses these values in the LCC and PBP analyses and in the NIA. DOE developed energy consumption estimates for all equipment analyzed in the engineering analysis.

The annual energy consumption of an electric motor that has a given nominal full-load efficiency depends on the electric motor's sector (industry, agriculture, or commercial) and application (compressor, fans, pumps, material handling, fire pumps, and others), which in turn determine the electric motor's annual operating hours and load.

To calculate the annual kilowatt-hours (kWh) consumed at each efficiency level in each equipment class, DOE used the nominal efficiencies at various loads from the engineering analysis, along with estimates of operating hours and electric motor load for electric motors in various sectors and applications.

In the preliminary analysis, DOE used statistical information on annual electric motor operating hours and load derived from a database of more than 15,000 individual motor field assessments obtained through the Washington State University and the New York State Energy Research and Development Authority to determine the variation in field energy use in the industrial sector. For the agricultural and the commercial sector, DOE relied on data found in the literature.

As part of its NOPR analysis, for the industrial sector, DOE re-examined its initial usage profiles and recalculated motor distribution across applications, operating hours, and load information based on additional motor field data compiled by the Industrial Assessment Center at the University of Oregon, which includes over 20,000 individual motor records. For the agricultural sector, DOE revised its average annual operating hours assumptions based on additional data found in the literature. No changes were made to the commercial sector average annual operating hours.

Chapter 7 of the NOPR TSD describes the energy use analysis.

1. Comments on Operating Hours

Several interested parties commented on the annual operating hours assumptions. NEMA and UL commented that fire pumps typically operate when being tested on a monthly basis and that the annual operating-hour assumption for fire pump electric motors in the industrial sector seemed high but did not provide data to support their comment. NEMA agreed with the fire pump electric motor annual operating-hour assumptions in the commercial and agricultural sectors. (NEMA, No. 54 at p. 83) (UL, No. 46 at p. 1)

For the NOPR, DOE reviewed the field data for fire pump electric motors used in the preliminary analysis and noticed some values were associated with motors driving jockey pumps, which are pressure maintenance pumps used to maintain pressure in fire sprinkler systems. After filtering out the motors driving jockey pumps, DOE derived an average value of annual operating hours similar to the fire pump electric motor annual operating hours for the commercial and agricultural sectors. Therefore, DOE revised its fire pumps operating hour assumption accordingly.

NEMA submitted data regarding annual operating hour assumptions in the industrial sector based on its expert knowledge. These assumptions were lower than those used in the preliminary analysis. (NEMA, No. 54 at p. 10)

As previously mentioned, DOE revised the average operating hours associated with applications in the industrial sector (compressor, fans, pump, material handling, and others) based on additional individual motor nameplate and field data compiled by the Industrial Assessment Center at the University of Oregon.[64] The revised average operating hour values are generally lower than the estimates from the preliminary analysis and differ from what NEMA provided. DOE could not verify the estimates provided by NEMA and it is not clear that these estimates represent an accurate picture of the entire industrial sector. In contrast, the average operating hours by motor application that DOE used in the NOPR were based on an analysis of annual operating hours for over 35,000 individual motors. DOE notes that it analyzed a sensitivity case that reflects the NEMA estimates.

IECA commented that the database of plant assessments is based on surveys conducted between 2005 and 2011 and there is no explanation of the effects of the recession on these surveys. (IECA, No. 52 at p. 2) DOE could not estimate the impact of the recession on the average operating hour values derived from the database of field assessment from the Washington State University and the New York State Energy Research and Development Authority, as the year of the assessment was not specified for all of the entries. The additional data from the Industrial Assessment Center cover a longer time period (1987–2007). Thus, DOE believes that its estimates of operating hours are not unduly affected by lower industrial activity during the recession.

[63] RS Means (2013), Electrical Cost Data, 36th Annual Edition, Kingston, MA.

[64] Strategic Energy Group (January, 2008), Northwest Industrial Motor Database Summary from Regional Technical Forum. *http://rtf.nwcouncil.org/subcommittees/osumotor/Default.htm.* This database provides information on motors collected by the Industrial Assessment Center (IAC) at Oregon State University (OSU). The database includes more than 22,000 records, each with detailed motor application and field usage data.

2. Comments on Other Issues

In response to DOE's energy use discussion from the preliminary analysis, NEMA commented that NEMA Design C motors are not typically found in pump applications. (NEMA, No. 54 at p. 83) For NEMA Design C motors, DOE re-examined its distribution by application and agrees with NEMA that NEMA Design C motors are not typically found in pump applications. These motors are characterized by high torque and generally found in compressors and other applications such as conveyors. Consistent with this review, DOE adjusted its analyses.

NEMA commented that the curve fit for the polynomial equations modeling the load versus losses relationships for NEMA Design B motors did not seem to represent the test data accurately. (NEMA, No. 54 at p. 81)

For each representative unit, DOE based its energy use calculation on nominal values of efficiency. DOE obtained data on part load losses from test data developed in the engineering analysis and fitted these data to derive load versus losses relationships in the form of a third degree polynomial equation. The representative units showed tested efficiencies which were not equal to the nominal efficiencies and DOE adjusted the coefficients of the polynomial equations to match the full load losses expected at nominal efficiency. The adjusted equation, therefore, calculates losses for a motor with full load efficiency equal to the full load nominal efficiency. For the NOPR, DOE followed the same approach and revised the polynomial equations to reflect the NOPR engineering outputs.

NEMA commented that the installation of a more efficient motor in variable torque applications could lead to less energy savings than anticipated. Because a more efficient motor usually has less slip[65] than a less efficient one does, this attribute can result in a higher operating speed and a potential overloading of the motor. NEMA recommended that DOE include the consequence of a more efficient motor operating at an increased speed in any determination of energy savings. (NEMA, No. 54 at p. 28)

DOE acknowledges that the arithmetic cubic relation between speed and power requirement in many variable torque applications can affect the benefits gained by using efficient electric motors, which have a lower slip. DOE agrees that it is possible to quantify this impact for one individual motor. However, DOE was not able to extend this analysis to the national level. DOE does not have robust data related to the overall share of motors that would be negatively impacted by higher speeds in order to incorporate this effect in the main analysis. Further, in the engineering analysis, DOE could not extend the synchronous speed information from the representative units to the full range of electric motor configurations. Instead, DOE developed assumptions[66] and estimated the effects of higher operating speeds as a sensitivity analysis in the LCC spreadsheet. For the representative units analyzed in the LCC analysis, the LCC spreadsheet allows one to consider this effect as a sensitivity analysis according to a scenario described in appendix 7–A of the NOPR TSD.

IECA commented that estimates of regional shares of motors should be based on current inventories of motors rather than sector-specific indicators and that the data from the 2006 Manufacturer Energy Consumption Survey (MECS) is outdated. (IECA, No. 52 at p. 2) DOE did not find any information regarding motor inventory and instead used indirect indicators to derive motor distribution. For the NOPR, DOE updated its regional shares of motors based on industrial electricity consumption by region from *AEO 2013*.

F. Life-Cycle Cost and Payback Period Analysis

For each representative unit analyzed in the engineering analysis, DOE conducts LCC and PBP analyses to evaluate the economic impacts on individual customers of potential energy conservation standards for electric motors. The LCC is the total customer expense over the life of the motor, consisting of equipment and installation costs plus operating costs over the lifetime of the equipment (expenses for energy use, maintenance and repair). DOE discounts future operating costs to the time of purchase using customer discount rates. The PBP is the estimated amount of time (in years) it takes customers to recover the increased total installed cost (including equipment and installation costs) of a more efficient type of equipment through lower operating costs. DOE calculates the PBP by dividing the change in total installed cost (normally higher) due to a standard by the change in annual operating cost (normally lower) which results from the standard.

For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimate of the base-case efficiency levels. The base-case estimate reflects the market in the absence of new or amended energy conservation standards, including the market for equipment that exceeds the current energy conservation standards.

For each representative unit, DOE calculated the LCC and PBP for a distribution of individual electric motors across a range of operating conditions. DOE used Monte Carlo simulations to model the distributions of inputs. 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 electric motors operate.

The following sections contain brief discussions of comments on the inputs and key assumptions of DOE's LCC and PBP analysis and explain how DOE took these comments into consideration.

1. Equipment Costs

In the LCC and PBP analysis, the equipment costs faced by electric motor purchasers are derived from the MSPs estimated in the engineering analysis and the overall markups estimated in the markups analysis.

To forecast a price trend for the preliminary analysis, DOE derived an inflation-adjusted index of the producer price index (PPI) for integral horsepower motors and generators manufacturing from 1969 to 2011. These data show a long-term decline from 1985 to 2003, and then a steep increase since then. DOE also examined a forecast based on the "chained price index—industrial equipment" that was forecasted for *AEO2012* out to 2040. This index is the most disaggregated category that includes electric motors. These data show a short-term increase from 2011 to 2015, and then a steep decrease since then. DOE believes that there is considerable uncertainty as to whether the recent trend has peaked, and would be followed by a return to the previous long-term declining trend, or whether the recent trend represents the beginning of a long-term rising trend due to global demand for electric motors and rising commodity costs for key motor components. Given the uncertainty, DOE chose to use constant

[65] The slip is the difference between the synchronous speed of the magnetic field (as defined by the number of poles), and the actual rotating speed of the motor shaft.

[66] DOE assumed that 60 percent of pumps, fans and compressor applications are variable torque applications. Of these 60 percent, DOE assumed that all fans and a majority (70 percent) of compressors and pumps would be negatively impacted by higher operating speeds; and that 30 percent of compressors and pumps would not be negatively impacted from higher operating speeds as their time of use would decrease as the flow increases with the speed (e.g. a pump filling a reservoir).

prices (2010 levels) for both its LCC and PBP analysis and the NIA. For the NIA, DOE also analyzed the sensitivity of results to alternative electric motor price forecasts.

DOE did not receive comments on the trend it used for electric motor prices, and it retained the approach used in the preliminary analysis for the NOPR.

2. Installation Costs

In the preliminary analysis, the engineering analysis showed that for some representative units, increased efficiency led to increased stack length. However, the electric motor frame remained in the same NEMA frame size requirements as the baseline electric motor, and the motor's "C" dimension remained fairly constant across efficiency levels. In addition, electric motor installation cost data from RS Means Electrical Cost Data 2013 showed a variation in installation costs by horsepower (for three-phase electric motors), but not by efficiency. Therefore, in the preliminary analysis, DOE assumed there is no variation in installation costs between a baseline efficiency electric motor and a higher efficiency electric motor.

Two interested parties commented that DOE might have to consider increased installation costs related to larger diameter motors in comparison to baseline motors. (CA IOUs, No. 57 at p. 2; NEMA, No. 54 at p. 83) NEMA added that the size of a motor may need to be increased to provide the necessary material to obtain higher levels of energy efficiency, such as CSL 3 examined for Design B electric motors. (NEMA, No. 54 at p. 83)

DOE's engineering data show that the motor's "C" dimension remained fairly constant across efficiency levels. For equipment class Group 1, the stack length of higher efficiency motors (EL 3 and above) did not show significant increases in size in comparison to NEMA Premium level motors (EL 2). In addition, the frame size remained the same and the "C" dimension data did not significantly vary. Therefore, for the NOPR, DOE retained the same approach as in the preliminary analysis and did not incorporate changes in installation costs for electric motors that are more efficient than baseline equipment.

NEMA stated that when a user replaces a baseline NEMA Design B motor with a higher efficiency NEMA Design A motor, the user might experience additional installation costs compared to replacing the motor with a baseline NEMA Design B motor due to, for example, potential needs for new motor controller or motor protection devices. (NEMA, No. 54 at p. 29) In the engineering analysis, for equipment class Group 1, all representative units selected were NEMA Design B motors and the NEMA Design B requirements are maintained across all efficiency levels. Therefore, DOE did not account for additional installation costs related to the replacement of NEMA Design B motors with NEMA Design A motors.

3. Maintenance Costs

In the preliminary analysis, DOE did not find data indicating a variation in maintenance costs between a baseline efficiency and higher efficiency electric motor. According to data from Vaughen's Price Publishing Company,[67] which publishes an industry reference guide on motor repair pricing, the price of replacing bearings, which is the most common maintenance practice, is the same at all efficiency levels. Therefore, DOE did not consider maintenance costs for electric motors. DOE did not receive comments on this issue and retained the approach used for the preliminary analysis for the NOPR.

4. Repair Costs

In the preliminary analysis, DOE accounted for the differences in repair costs of a higher efficiency motor compared to a baseline efficiency motor and defined a repair as including a rewind and reconditioning. Based on data from Vaughen's, DOE derived a model to estimate repair costs by horsepower, enclosure and pole, for each EL.

The Electrical Apparatus Service Association (EASA), which represents the electric motor repair service sector, noted that DOE should clarify the definition of repair as including rewinding and reconditioning. (EASA, No. 47 at p. 1) DOE agrees with this suggestion and has modified its terminology in chapter 7 of the NOPR TSD.

One interested party, Flolo Corporation, noted that since the 1990's, increased windings protection has led to longer repair cycles and the repair frequency values used in the preliminary analysis were too low. (Pub. Mtg. Tr., No. 58 at p. 234)

For the preliminary analysis, DOE estimated that NEMA Design A, B and C electric motors were repaired on average after 32,000 hours of operation based on data for the industrial sector. This estimate reflected a situation where electric motors from 1 to 20-horsepower, with an average lifetime of 5 years, are not repaired; motors from 25- to 75-horsepower, with an average lifetime of 10 years, are repaired at half their lifetime; and motors from 100- to 500-horsepower, with an average lifetime of 15 years, are repaired at a third of their lifetime. In the NOPR analysis, DOE retained a similar approach for the industrial and commercial sectors. For the agricultural sector, DOE did not find sufficient data to distinguish by horsepower range and assumed that motors are repaired on average at half of their lifetime. With the revised NOPR mechanical lifetime and operating hour estimates, the repair frequency in hours increased to 48,600 hours in the industrial sector compared to DOE's earlier estimate of 32,000 hours.

5. Unit Energy Consumption

The NOPR analysis uses the same approach for determining unit energy consumptions (UECs) as the preliminary analysis. The UEC was determined for each application and sector based on estimated load points and annual operating hours. For the NOPR, DOE refined the average annual operating hours, average load, and shares of motors by application and sector.

In the preliminary analysis, DOE assumed that one-third of repairs are done following industry recommended practice as defined by EASA. (EASA Standard AR100–2010, Recommended Practice for the Repair of Rotating Electrical Apparatus) and do not impact the efficiency of the electric motor (i.e., no degradation of efficiency after repair). DOE assumed that two-thirds of repairs do not follow good practice and that a slight decrease in efficiency occurs when the electric motor is repaired. DOE assumed the efficiency decreases by 1 percent in the case of electric motors of less than 40 horsepower, and by 0.5 percent in the case of larger electric motors.

NEMA and EASA asked DOE to clarify its assumption regarding the share of repairs performed following industry recommended practices. (NEMA, No. 54 at p. 29) (EASA, No. 47 at p. 1) For the NOPR, DOE reviewed data from the U.S. Economic Census[68] and EASA[69] and estimated that the majority of motor repair shops are EASA members and follow industry recommended practices. DOE revised its assumption for the NOPR analysis and estimated that 90 percent of repairs are done following industry recommended practice and would not impact the

[67] Vaughen's (2011, 2013), Vaughen's Motor & Pump Repair Price Guide, 2011, 2013 Edition. *http://www.vaughens.com/.*

[68] U.S. Economic Census 1997 and 2007 data on the number of motor repair establishments (based on NAICS 811, 811310, and SIC 7694).

[69] Members of EASA available at: *http://www.easa.com/.*

efficiency of the motor (i.e. no degradation of efficiency after repair).

NEMA also requested clarification on whether the LCC is based on site energy or full fuel cycle energy. (NEMA, No. 54 at p. 31) In the LCC, DOE considers site energy use only.

6. Electricity Prices and Electricity Price Trends

In the preliminary analysis, DOE derived sector-specific weighted average electricity prices for four different U.S. Bureau of the Census (Census) regions (Northeast, Midwest, South, and West) using data from the Energy Information Administration (EIA Form 861). For each utility in a region, DOE used the average industrial or commercial price, and then weighted the price by the number of customers in each sector for each utility.

For each representative motor, DOE assigned electricity prices using a Monte Carlo approach that incorporated weightings based on the estimated share of electric motors in each region. The regional shares were derived based on indicators specific to each sector (e.g., commercial floor space from the Commercial Building Energy Consumption Survey for the commercial sector [70]) and assumed to remain constant over time. To estimate future trends in energy prices, DOE used projections from the EIA's Annual Energy Outlook 2011 (*AEO 2011*). The NOPR retains the same approach for determining electricity prices, and used *AEO 2013* to project electricity price trends.

IECA commented that the sector specific average electricity prices do not account for differences across census regions where industrial activity is concentrated. (IECA, No. 52 at p. 2) As noted above, the industrial electricity price for each region is a weighted average based on the number of industrial customers of each utility. Thus, the prices reasonably account for concentration of industrial activity.

7. Lifetime

In the preliminary analysis, DOE estimated the mechanical lifetime of electric motors in hours (i.e., the total number of hours an electric motor operates throughout its lifetime), depending on its horsepower size. DOE then developed Weibull distributions of mechanical lifetimes. The lifetime in years for a sampled electric motor was then calculated by dividing the sampled mechanical lifetime by the sampled annual operating hours of the electric motor. This model produces a negative correlation between annual hours of operation and electric motor lifetime: Electric motors operated many hours per year are likely to be retired sooner than electric motors that are used for only a few hundred hours per year. DOE considered that electric motors of less than 75-hp are most likely to be embedded in a piece of equipment (i.e., an application). For such applications, DOE developed Weibull distributions of application lifetimes expressed in years and compared the sampled motor mechanical lifetime (in years) with the sampled application lifetime. DOE assumed that the electric motor would be retired at the earlier of the two ages. For the NOPR analysis, DOE retained the same approach and revised some of the lifetime assumptions based on additional information collected.

NEMA and WEG commented that the mechanical lifetime of agricultural motors should be lower than in the commercial or industrial sectors due to lower levels of maintenance performed in the field and the lighter duty steel frame constructions of these motors. (Pub. Mtg. Tr., No. 58 at p. 253) The NOPR analysis estimates that the average motor lifetime (across all sizes) for the agricultural sector to be 20 years.[71] This revised estimate translates into average mechanical lifetimes between 24,000 and 30,000 hours depending on the horsepower range, which is lower than in the industrial sector.

For the NOPR, DOE collected sector-specific mechanical motor lifetime information where available and revised the lifetime assumptions where appropriate. For the industrial sector, DOE estimated average mechanical lifetimes of 5, 15, and 20 years, depending on the horsepower range (the values correspond to 43,800, 87,600, and 131,400 hours respectively). These values are higher than those used in the preliminary analysis.

8. Discount Rate

The discount rate is the rate at which future expenditures are discounted to estimate their present value. The cost of capital commonly is used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so the cost of capital is the weighted-average cost to the firm of equity and debt financing. DOE uses the capital asset pricing model (CAPM) to calculate the equity capital component, and financial data sources to calculate the cost of debt financing.

For the NOPR, DOE estimated a statistical distribution of industrial and commercial customer discount rates by calculating the average cost of capital for the different types of electric motor owners (e.g., chemical industry, food processing, and paper industry). For the agricultural sector, DOE assumed similar discount rates as in industry. More details regarding DOE's estimates of motor customer discount rates are provided in chapter 8 of the NOPR TSD.

9. Base Case Market Efficiency Distributions

For the LCC analysis, DOE analyzed the considered motor efficiency levels relative to a base case (i.e., the case without new or amended energy efficiency standards). This requires an estimate of the distribution of product efficiencies in the base case (i.e., what consumers would have purchased in the compliance year in the absence of new standards). DOE refers to this distribution of product energy efficiencies as the base case efficiency distribution.

Data on motor sales by efficiency are not available. In the preliminary analysis, DOE used the number of models meeting the requirements of each efficiency level from six major manufacturers and one distributor's catalog data to develop the base-case efficiency distributions. The distribution is estimated separately for each equipment class group and horsepower range and was assumed constant and equal to 2012 throughout the analysis period (2015–2044).

For the NOPR, DOE retained the same approach to estimate the base case efficiency distribution in 2012, but it updated the base case efficiency distributions to account for the NOPR engineering analysis (revised ELs) and for the update in the scope of electric motors considered in the analysis. Beyond 2012, DOE assumed the efficiency distributions for equipment class group 1 and 4 vary over time based on historical data [72] for the market penetration of NEMA Premium motors within the market for integral alternating current induction motors. The assumed trend is shown in chapter 10 of the NOPR TSD. For equipment class group 2 and 3, which represent a very minor share of the market (less

[70] U.S. Department of Energy Information Administration (2003), Commercial Buildings Energy Consumption Survey. *http://www.eia.gov/consumption/commercial/data/2003/pdf/a4.pdf.*

[71] Gallaher, M., Delhotal, K., & Petrusa, J. (2009). Estimating the potential CO_2 mitigation from agricultural energy efficiency in the United States. Energy Efficiency, 2 (2):207–220.

[72] Robert Boteler, USA Motor Update 2009, Energy Efficient Motor Driven Systems Conference (EEMODS) 2009.

than 0.2 percent), DOE believes the overall trend in efficiency improvement for the total integral AC induction motors may not be representative, so DOE kept the base case efficiency distributions in the compliance year equal to 2012 levels.

Two interested parties commented on the base case efficiency distributions. Regal-Beloit stated that the share of 1- to 5-horsepower motors in equipment class 1 at CSL 0 in the base case distribution was too low by at least one percentage point. (Pub. Mtg. Tr., No. 58 at p. 263) NEMA requested clarifications on how DOE derived its base case efficiency distributions and commented that it would expect CSL 0 to represent 60 percent of total units shipped when considering the expanded scope as proposed by NEMA. (NEMA, No. 54 at p. 84) Neither stakeholder, however, provided supporting data.

As mentioned previously, DOE developed the 2012 base case efficiency distributions based on catalog information on the number of models meeting the requirements of each efficiency level. For the NOPR, DOE retained the same methodology and revised the catalog information to account for the addition of brake motors and NEMA 56-frame size enclosed electric motors in the analysis. DOE has no data to assess the stakeholders' input on the base case efficiency distributions.

10. Compliance Date

Any amended standard for electric motors shall apply to electric motors manufactured on or after a date which is five years after the effective date of the previous amendment. (42 U.S.C. 6313(b)(4)) In this case, the effective date of the previous amendment (established by EISA in 2007) is December 19, 2010, and the compliance date of any amended energy conservation standards for electric motors would be December 19, 2015. In light of the proposal's attempt to establish amended or new standards for currently regulated and unregulated electric motor types, DOE has chosen to retain the same compliance date for both the amended and new energy conservation standards to simplify the requirements and to avoid any potential confusion from manufacturers. The final rule for this rulemaking is scheduled to be published in early 2014. DOE calculated the LCC and PBP for all end-users as if each would purchase a new piece of equipment in the year that compliance is required. As DOE notes elsewhere, DOE is interested in comments regarding the feasibility of achieving compliance with this proposed date.

11. Payback Period Inputs

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more efficient equipment, compared to baseline equipment, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation are the total installed cost of the product to the customer for each efficiency level and the average annual operating expenditures for each efficiency level. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed.

12. Rebuttable-Presumption Payback Period

EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy (and, as applicable, water) savings during the first year that the consumer will receive as a result of the standard, as calculated under the test procedure in place for that standard. (42 U.S.C. 6295(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 new or 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.

To populate the model with current data, DOE used data from a market research report,[73] confidential inputs from manufacturers, trade associations, and other interested parties' responses to the Request for Information (RFI) published in the **Federal Register**. 76 FR 17577 (March 30, 2011). DOE then used estimates of market distributions to redistribute the shipments across pole configurations, horsepower, and enclosures within each electric motor equipment class and also by sector.

DOE's shipments projection assumes that electric motor sales are driven by machinery production growth for equipment including motors. DOE estimated that growth rates for total motor shipments correlate to growth rates in fixed investment in equipment and structures including motors, which is provided by the U.S. Bureau of Economic Analysis (BEA).[74] Projections of real gross domestic product (GDP) from *AEO 2013* for 2015–2040 were used to project fixed investments in the equipment and structures including motors. The current market distributions are maintained over the forecast period.

For the NOPR, with the expanded scope by horsepower, DOE estimates total shipments in scope were 5.43 million units in 2011. This estimate represents an increase compared to the shipments estimated in the preliminary analysis because of the inclusion of integral brake motors and of NEMA integral enclosed 56-frame motors.

For the preliminary analysis, DOE collected data on historical series of shipment quantities and value for the 1990–2003 period, but concluded that the data were not sufficient to estimate motor price elasticity.[75] Consequently, DOE assumed zero price elasticity for all efficiency standards cases and did not estimate any impact of potential standards levels on shipments. DOE requested stakeholder recommendations on data sources to help better estimate the impacts of increased efficiency levels on shipments.

The Motor Coalition commented that higher equipment costs required to achieve efficiency levels above CSL 2 (NEMA Premium) would encourage the refurbishment of existing motors rather than their replacement by new, more efficient motors, leading to reduced cost effective energy savings at CSL 3. (Motor Coalition, No. 35 at p. 7)

DOE acknowledges that increased electric motor prices could affect the

[73] IMS Research (February 2012), The World Market for Low Voltage Motors, 2012 Edition, Austin.

[74] Bureau of Economic Analysis (March 01, 2012), Private Fixed Investment in Equipment and Software by Type and Private Fixed Investment in Structures by Type. *http://www.bea.gov/iTable/iTable.cfm?ReqID=12&step=1.*

[75] Business Trend Analysts, The Motor and Generator Industry, 2002; U.S. Census Bureau (November 2004), Motors and Generators—2003.MA335H(03)–1. *http://www.census.gov/manufacturing/cir/historical_data/discontinued/ma335h/index.html*; and U.S. Census Bureau (August 2003), Motors and Generators—2002.MA335H(02)–1. *http://www.census.gov/manufacturing/cir/historical_data/discontinued/ma335h/ma335h02.xls.*

"repair versus replace" decision, leading to the increased longevity of existing electric motors and a decrease in shipments of newly-manufactured energy-efficient electric motors. Considering the minimal cost increase between EL 2 and EL 3 in the preliminary analysis (approximately 3 percent for representative unit 1), DOE does not believe it is reasonable to consider non-zero price elasticity when calculating the standards-case shipments for levels above EL 2 and zero price elasticity when calculating shipments for the standards case at EL 2 of the preliminary analysis. For the above reasons, DOE retained its shipments projections, which do not incorporate price elasticities, for the NOPR. However, DOE also performed a sensitivity analysis that demonstrates the impact of possible price elasticities on projected shipments and the NIA results. See TSD appendix 10–C for more details and results.

NEMA commented that shipments of imported motors might decrease if higher efficiency levels are mandated. (NEMA, No. 54 at p. 29) NEMA, however, provided no data in support of its view. DOE has reviewed shipments information from market reports, the U.S. Census, as well as market information provided by the Motor Coalition and has been unable to obtain any data to assess the potential reduction in quantity of imported motors due to standards and whether this would impact the total number of motors shipped in the U.S.[76] DOE's shipments projection assumes that electric motor sales are driven by machinery production growth for equipment including motors without distinction between imported and domestic motors.

H. National Impact Analysis

The NIA assesses the national energy savings (NES) and the national NPV of total customer costs and savings that would be expected to result from new and amended standards at specific efficiency levels.

To make the analysis more accessible and transparent to all interested parties, DOE used an MS Excel spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL.[77] DOE used the NIA spreadsheet to calculate the NES and NPV, based on the annual energy consumption and total installed cost data from the energy use analysis and the LCC analysis. DOE forecasted the lifetime energy savings, energy cost savings, equipment costs, and NPV of customer benefits for each product class for equipment sold from 2015 through 2044. In addition, DOE analyzed scenarios that used inputs from the *AEO 2013* Low Economic Growth and High Economic Growth cases. These cases have higher and lower energy price trends compared to the reference case.

DOE evaluated the impacts of potential new and amended standards for electric motors by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and customer costs for each equipment class in the absence of new and amended energy conservation standards. DOE compared these projections with projections characterizing the market for each equipment class if DOE were to adopt new or amended standards at specific energy efficiency levels (i.e., the standards cases) for that class.

Table IV.25 summarizes all the major preliminary analysis inputs to the NIA and whether those inputs were revised for the NOPR.

TABLE IV.25—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	Preliminary analysis description	Changes for NOPR
Shipments	Annual shipments from shipments model	No change.
Compliance date of standard	Modeled used January 1, 2015	December 19, 2015 (modeled as January 1, 2016).
Equipment Classes	Three separate equipment class groups for NEMA Design A and B motors, NEMA Design C motors, and Fire Electric Pump Motors.	Added one equipment class group for brake motors.
Base case efficiencies	Constant efficiency from 2015 through 2044	No change for Equipment Class 2 and 3. Added a trend for the efficiency distribution of equipment class groups 1 and 4.
Standards case efficiencies	Constant efficiency at the specified standard level from 2015 to 2044	No change.
Annual energy consumption per unit.	Average unit energy use data are calculated for each horsepower rating and equipment class based on inputs from the Energy use analysis.	No change.
Total installed cost per unit	Based on the MSP and weight data from the engineering, and then scaled for different hp and enclosure categories.	No change.
Electricity expense per unit	Annual energy use for each equipment class is multiplied by the corresponding average energy price.	No change.
Escalation of electricity prices	*AEO 2011* forecasts (to 2035) and extrapolation for 2044 and beyond	Updated to AEO 2013.
Electricity site-to-source conversion	A time series conversion factor; includes electric generation, transmission, and distribution losses.	No change.
Discount rates	3% and 7% real	No change.
Present year	2012	2013.

[76] IMS Research (February 2012), The World Market for Low Voltage Motors, 2012 Edition, Austin; Business Trend Analysts, The Motor and Generator Industry, 2002; U.S. Census Bureau (November 2004), Motors and Generators—2003.MA335H(03)–1. *http://www.census.gov/manufacturing/cir/historical_data/discontinued/ma335h/index.html*; and U.S. Census Bureau (August 2003), Motors and Generators—2002.MA335H(02)–1. *http://www.census.gov/manufacturing/cir/historical_data/discontinued/ma335h/ma335h02.xls*.

[77] DOE understands that MS Excel is the most widely used spreadsheet calculation tool in the United States and there is general familiarity with its basic features. Thus, DOE's use of MS Excel as the basis for the spreadsheet models provides interested parties with access to the models within a familiar context. In addition, the TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them, and interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

1. Efficiency Trends

In the preliminary analysis, DOE did not include any change in base case efficiency in its shipments and national energy savings models. As explained in section IV.F, for equipment class groups 1 and 4, for the NOPR, DOE presumed that the efficiency distributions in the base case change over time. The projected share of 1 to 5 horsepower NEMA Premium motors (EL 2) for equipment class group 1 grows from 36.6 percent to 45.5 percent over the analysis period, and for equipment class group 4, it grows from 30.0 percent to 38.9 percent. For equipment class group 2 and 3, DOE assumed that the efficiency remains constant from 2015 to 2044.

In the standards cases, equipment with efficiency below the standard levels "roll up" to the standard level in the compliance year. Thereafter, for equipment class groups 1 and 4, DOE assumed that the level immediately above the standard would show a similar increase in market penetration as the NEMA Premium motors in the base case.

The presumed efficiency trends in the base case and standards cases are described in chapter 10 of the NOPR TSD.

2. National Energy Savings

For each year in the forecast period, DOE calculates the lifetime national energy savings for each standard level by multiplying the shipments of electric motors affected by the energy conservation standards by the per-unit lifetime annual energy savings. Cumulative energy savings are the sum of the NES for all motors shipped during the analysis period, 2015–2044.

DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy using annual conversion factors derived from the *AEO 2013* version of the NEMS. Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

DOE has historically presented NES in terms of primary energy savings. In response to the recommendations of a committee on "Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards" appointed by the National Academy of Science, DOE announced its intention to use full-fuel-cycle (FFC) measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). While DOE stated in that notice that it intended to use the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model to conduct the analysis, it also said it would review alternative methods, including the use of EIA's National Energy Modeling System (NEMS). After evaluating both models and the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is a more appropriate tool for this specific use. 77 FR 49701 (August 17, 2012). Therefore, DOE is using NEMS to conduct FFC analyses. The approach used for today's NOPR, and the FFC multipliers that were applied, are described in appendix 10–C of the TSD.

3. Equipment Price Forecast

As noted in section IV.F.2, DOE assumed no change in electric motor prices over the 2015–2044 period. In addition, DOE conducted a sensitivity analysis using alternative price trends. DOE developed one forecast in which prices decline after 2011, and one in which prices rise. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10–B of the NOPR TSD.

4. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by consumers of considered equipment are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculates the lifetime net savings for motors shipped each year as the difference between the base case and each standards case in total lifetime savings in lifetime operating costs and total lifetime increases in installed costs. DOE calculates lifetime operating cost savings over the life of each motor shipped during the forecast period.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. DOE estimates the NPV using both a 3-percent and a 7-percent real discount rate, in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis.[78] 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 impacts of new or amended standards, DOE evaluates impacts on identifiable groups (i.e., subgroups) of customers that may be disproportionately affected by a national standard. For the NOPR, DOE evaluated impacts on various subgroups using the LCC spreadsheet model.

The customer subgroup analysis is discussed in detail in chapter 11 of the TSD.

J. Manufacturer Impact Analysis

1. Overview

DOE conducted an MIA for electric motors to estimate the financial impact of proposed new and amended energy conservation standards on manufacturers of covered electric motors. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the GRIM, an industry cash flow model customized for electric motors covered in this rulemaking. The key GRIM inputs are data on the industry cost structure, equipment costs, shipments, and assumptions about markups and conversion expenditures. The key 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 (the standards case). The difference in INPV between the base and standards cases represents the financial impact of new and amended standards on manufacturers of covered electric motors. 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 sub-group 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, preliminary manufacturer interviews, and publicly available information. In the second phase, DOE estimated industry cash flows in the GRIM using industry financial parameters derived in the first

[78] OMB Circular A–4, section E (Sept. 17, 2003). *http://www.whitehouse.gov/o.nb/circulars_a004_a-4.*

phase and the shipment scenario used in the NIA. In the third phase, DOE conducted structured, detailed interviews with a variety of manufacturers that represent more than 75-percent of domestic electric motors 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 electric motor industry as a whole. The interviews provided valuable information that DOE used to evaluate the impacts of new and amended standards on manufacturers' cash flows, manufacturing capacities, and employment levels. See section IV.J.4 of this NOPR for 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 manufacturers that exhibit similar production and cost structure characteristics. DOE identified one sub-group for a separate impact analysis—small business manufacturers—using the small business employee threshold 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 13 electric motor manufacturers that qualify as small businesses.

The complete MIA is presented in chapter 12 of the NOPR TSD.

2. GRIM Analysis and Key Inputs

DOE uses the GRIM to quantify the changes in cash flow over time due to a standard. These changes in cash flow 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 energy conservation standards. The GRIM spreadsheet uses the inputs to calculate a series of annual cash flows beginning with the base year of the analysis, 2013, and continuing to 2044. DOE computes INPVs by summing the stream of annual discounted cash flows during this analysis period. DOE used a real discount rate of 9.1 percent for electric motor manufacturers. The discount rate estimates were derived from industry corporate annual reports to the Securities and Exchange Commission (SEC 10–Ks) and then modified according to feedback during manufacturer interviews. Many inputs into the GRIM come 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 sections below.

a. Product and Capital Conversion Costs

DOE expects new and amended energy conservation standards to cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance with new and amended standards. For the MIA, DOE classified these one-time conversion costs into two major groups: (1) Product conversion costs and (2) capital conversion costs. Product conversion costs are one-time investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with new and amended standards. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled.

DOE calculated the product and capital conversion costs using both a top-down approach and a bottom-up approach based on feedback from manufacturers during manufacturer interviews and manufacturer submitted comments. DOE then adjusted these conversion costs if there were any discrepancies in the final costs using the two methods to arrive at a final product and capital conversion cost estimate for each representative unit at each EL.

During manufacturer interviews, DOE asked manufacturers for their estimated total product and capital conversion costs needed to produce electric motors at specific ELs. To arrive at top-down industry wide product and capital conversion cost estimates for each representative unit at each EL, DOE calculated a market share weighted average value for product and capital conversion costs based on the data submitted during interviews and the market share of the interviewed manufacturers.

DOE also calculated bottom-up conversion costs based on manufacturer input on the types of costs and the dollar amounts necessary to convert a single electric motor frame size to each EL. Some of the types of capital conversion costs manufacturers identified were the purchase of lamination die sets, winding machines, frame casts, and assembly equipment as well as other retooling costs. The two main types of product conversion costs manufacturers shared with DOE during interviews were number of engineer hours necessary to re-engineer frames to meet higher efficiency standards and the testing and certification costs to comply with higher efficiency standards. DOE then took average values (i.e. costs or number of hours) based on the range of responses given by manufacturers for each product and capital conversion costs necessary for a manufacturer to increase the efficiency of one frame size to a specific EL. DOE multiplied the conversion costs associated with manufacturing a single frame size at each EL by the number of frames each interviewed manufacturer produces. DOE finally scaled this number based on the market share of the manufacturers DOE interviewed, to arrive at industry wide bottom-up product and capital conversion cost estimates for each representative unit at each EL. The bottom-up conversion costs estimates DOE created were consistent with the manufacturer top down estimates provided, so DOE used the bottom-up conversion cost estimates as the final values for each representative unit in the MIA.

In written comments and during manufacturer interviews, electric motor manufacturers stated there would be very large product and capital conversion costs associated with ELs above NEMA Premium, especially for any ELs that require manufacturers to switch to die-cast copper rotors. Manufacturers addressed the difficulties associated with using copper die-cast rotors and the uncertainty of a standard that requires manufacturers to produce electric motors on a commercial level for all horsepower ranges using this technology. NEMA stated that switching to die-cast copper rotors would cost each manufacturer approximately $80 million in retooling costs and approximately $68 million to redesign, test and certify electric motors at these ELs. (NEMA, No. 54 at p. 11) NEMA stated that significant conversion costs associated with any EL above NEMA Premium exist even if die-cast copper rotors are not used. Several manufacturers during interviews and in comments stated they would need to devote significant engineering time to redesign their entire production line to comply with ELs that are just one NEMA band higher than NEMA Premium. NEMA also stated that testing and certifying electric motors to ELs

above NEMA Premium would be a significant cost to each manufacturer, since each manufacturer could have thousands or hundreds of thousands of unique electric motor specifications they would need to certify. (NEMA, No. 54 at p. 4) DOE took these submitted comments into account when developing the industry product and capital conversion costs. The final product and capital conversion cost estimates were in the range of estimates submitted by NEMA.

See chapter 12 of the TSD for a complete description of DOE's assumptions for the product and capital conversion costs.

b. Manufacturer Production Costs

Manufacturing a more efficient electric motor is typically more expensive than manufacturing a baseline product due to the use of more costly materials and components. The higher MPCs for these more efficient equipment can affect the revenue, gross margin, and cash flows of electric motor manufacturers.

DOE developed the MPCs for the representative units at each EL analyzed in one of two ways: (1) DOE purchased, tested and then tore down a motor to create a bill of materials (BOM) for the motor; and (2) DOE created a BOM based on a computer software model for a specific motor that complies with the associated efficiency level. This second approach was used when DOE was unable to find and purchase a motor that matched the efficiency criteria for a specific representative unit. Once DOE created a BOM for a specific motor, either by tear downs or software modeling, DOE then estimated the labor hours and the associated scrap and overhead costs necessary to produce a motor with that BOM. DOE was then able to create an aggregated MPC based on the material costs from the BOM and the associated scrap costs, the labor costs based on an average labor rate and the labor hours necessary to manufacture the motor, and the overhead costs, including depreciation, based on a markup applied to the material, labor, and scrap costs based on the materials used.

DOE created a BOM from tear downs for 15 of the 21 analyzed representative unit ELs and applied these BOM data to create ELs for certain representative units. The representative unit ELs based on tear downs include: All five ELs for the Design B, 5-horsepower representative unit; the baseline and ELs 1, 2, and 3 for the Design B, 30-horsepower and 75-horsepower representative units; and the baseline for the Design C, 5-horsepower and 50-horsepower representative units. DOE created a BOM based on a computer software model for the remaining six analyzed representative unit ELs: EL 4 for the Design B, 30-horsepower and 75-horsepower representative units; and ELs 1 and 2 for the Design C, 5-horsepower and 50-horsepower representative units.

Due to the very large product and capital conversion costs manufacturers would face if standards forced manufacturers to produce motors above NEMA Premium ELs, DOE decided to include the product and capital conversion costs as a portion of the MPCs for all ELs above NEMA Premium. DOE applied a per unit adder, which was a flat percentage of the MPC at NEMA Premium, for all MPCs above NEMA Premium. For a complete description of MPCs and the inclusion of manufacturer conversion costs into the MPC see the engineering analysis discussion in section IV.C of this NOPR.

c. Shipment Forecast

INPV, the key GRIM output, depends on industry revenue, which in turn, depends on the quantity and prices of electric motors shipped in each year of the analysis period. Industry revenue calculations require forecasts of: (1) Total annual shipment volume; (2) the distribution of shipments across analyzed representative units (because prices vary by representative unit); and, (3) the distribution of shipments across efficiencies (because prices vary with efficiency).

In the NIA, DOE estimated the total number of electric motor shipments by year for the analysis period. The NIA projects electric motor shipments to generally increase over time. This is consistent with the estimates manufacturers revealed to DOE during manufacturer interviews. The NIA then estimated the percentage of shipments assigned to each ECG. DOE further estimated the percentage of shipments by horsepower rating, pole configuration, and enclosure type within each ECG. For the NIA, the shipment distribution across ECG and the shipment distribution across horsepower rating, pole configuration, and enclosure type do not change on a percentage basis over time. Nor does the shipment distribution across ECGs or across horsepower rating, pole configuration, and enclosure type change on a percentage basis due to an energy conservation standard (e.g. the number of shipments of Design C, 1 horsepower, 4 pole, open motor are the same in the base case as in the standards case). Finally, the NIA estimated a distribution of shipments across ELs (an efficiency distribution), for each horsepower range within each ECG. As described in further detail below, the efficiency distributions for ECG 1 and ECG 4 motors become more energy efficient over time in the base case, while the efficiency distributions for ECG 2 and ECG 3 do not change on a percentage basis over time (i.e., for ECG 2 and ECG 3 motors, the efficiency distributions at the beginning of the analysis period are the same as the efficiency distributions at the end of the analysis period). DOE also assumed the total volume of shipments does not decrease due to energy conservation standards, so total shipments are the same in the base case as in the standards case.

For the NIA, DOE modeled a "shift" shipment scenario for ECG 1 and ECG 4 motors and a "roll-up" shipment scenario for ECG 2 and ECG 3 motors. In the standards case of the "shift" shipment scenario, shipments continue to become more efficient after a standard is set—in this case, immediately after the standards go into effect, all shipments below the selected TSL are brought up to meet that TSL. However, motors at or above the selected TSL migrate to even higher efficiency levels and continue to do so over time. In contrast, in the standards case of the "roll-up" shipment scenario, when a TSL is selected to become the new energy conservation standard, all shipments that fall below that selected TSL roll-up to the selected TSL. Therefore, the shipments that are at or above the selected TSL remain unchanged in the standards case of the "roll-up" shipment scenario compared to the base case. For the "roll-up" shipment scenario, the only difference in the efficiency distribution between the standards case and the base case is that in the standards case all shipments falling below the selected TSL in the base case are now at the selected TSL in the standards case.

While the shipments from the NIA are broken out into a total number of motor shipments for each ECG, horsepower rating, pole configuration, and enclosure type, the MIA consolidates the number of motor shipments into the representative units for each ECG. For example, the Design B, 5-horsepower, 4-pole, enclosed motor was the representative unit for all Design A and B motors between 1 and 10-horsepower regardless of the number of poles or enclosure type. So in the MIA DOE treated all ECG 1 (Design A and B) motor shipments between 1 and 10-horsepower as shipments of the Design B, 5-horsepower representative unit; all ECG 1 motor shipments between 15-

and 50-horsepower as shipments of the Design B, 30-horsepower representative unit; and all ECG 1 motor shipments between 60- and 500-horsepower as shipments of the Design B, 75-horsepower representative unit. For ECG 2 (Design C) motors, ECG 3 (fire pump) motors, and ECG 4 (brake) motors the MIA consolidated shipments in a similar manner, treating all shipments in the representative units' horsepower range as shipments of that representative unit.

See the shipment analysis, chapter 9, of this NOPR TSD for additional details.

d. Markup Scenarios

As discussed in the MPC section above, the MPCs for the representative units are the factory costs of electric motor manufacturers; these costs include material, direct labor, overhead, depreciation, and any extraordinary conversion cost recovery. The MSP is the price received by electric motor manufacturers from their direct customer, typically either an OEM or a distributor. The MSP is not the cost the end-user pays for the electric motor since 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 electric motor manufacturer's non-production costs (i.e., selling, general and administrative expenses (SG&A), normal R&D, and interest, etc.) and profit. Total industry revenue for electric motor manufacturers equals the MSPs at each EL for each representative unit multiplied by the number of shipments at that EL.

Modifying these manufacturer markups in the standards case yields a different set of impacts on manufacturers than in the base case. For the MIA, DOE modeled three standards case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of new and amended energy conservation standards: (1) A flat markup scenario, (2) a preservation of operating profit scenario, and (3) a two-tiered markup scenario. These scenarios lead to different markup values, which, when applied to the inputted MPCs, result in varying revenue and cash flow impacts on manufacturers.

The flat markup scenario assumed that the cost of goods sold for each product is marked up by a flat percentage to cover SG&A expenses, R&D expenses, interest expenses, and profit. There were two values used for the flat markup, a 1.37 markup for high volume representative units and a 1.45 markup for low volume representative units. The 1.37 markup was used for the Design B, 5-horsepower representative unit; the Design C, 5-horsepower representative unit; the fire pump, 5-horsepower representative unit; and the brake, 5-horsepower representative unit. The 1.45 markup is used for the Design B, 30-horsepower and 75-horsepower representative units; the Design C, 50 horsepower representative unit; the fire pump, 30-horsepower and 75-horsepower representative units; and the brake, 30-horsepower and 75-horsepower representative units. This scenario represents the upper bound of industry profitability in the standards case because manufacturers are able to fully pass through additional costs due to standards to their customers. To derive the flat markup percentages, DOE examined the SEC 10-Ks of publicly traded electric motor manufacturers to estimate the industry average gross margin percentage. DOE then used that estimate along with the flat manufacturer markups used in the small electric motors rulemaking at 75 FR 10874 (March 9, 2010), since several of the small electric motor manufacturers are also manufacturers of electric motors covered in this rulemaking, to create a final estimate of the flat markups used for electric motors covered in this rulemaking.

DOE included an alternative markup scenario, the preservation of operating profit markup, because manufacturers stated that they do not expect to be able to markup the full cost of production given the highly competitive market, in the standards case. 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 product costs and investment. The base case total operating profit is derived from marking up the cost of goods sold for each product by the flat markup described above. In the standards case for the preservation of operating profit markup scenario, DOE adjusted the manufacturer markups in the GRIM at each TSL to yield approximately the same earnings before interest and taxes in the standards case in the year after the compliance date of the new and amended standards as in the base case. Under this scenario, while manufacturers are not able to yield additional operating profit from higher production costs and the investments that are required to comply with new and amended energy conservation standards, they are able to maintain the same operating profit in the standards case that was earned in the base case.

DOE modeled a third profitability scenario, a two-tiered markup scenario. During interviews, several manufacturers stated they offer two tiers of motor lines that are differentiated, in part, by efficiency level. For example, several manufacturers offer Design B motors that meet, and in some cases exceed, NEMA Premium levels. Motors that exceed these levels typically command higher prices over NEMA Premium level motors at identical horsepower levels. These manufacturers suggested that the premium currently earned by the higher efficiency tiers would erode as new and amended standards are set at higher efficiency levels, which would harm profitability. To model this effect, DOE used information from manufacturers to estimate the higher and lower markups for electric motors under a two-tier pricing strategy in the base case. In the standards case, DOE modeled the situation in which product efficiencies offered by a manufacturer are altered due to standards. This change reduces the markup of higher efficiency equipment as they become the new baseline caused by the energy conservation standard. The change in markup is based on manufacturer statements made during interviews and on DOE's understanding of industry pricing.

The preservation of operating profit and two-tiered markup scenarios represent the lower bound of industry profitability in the standards case because manufacturers are not able to fully pass through the additional costs due to standards, as manufacturers are able to do in the flat markup scenario. Therefore, manufacturers earn less revenue in the preservation of operating profit and two-tiered markup scenarios than they do in the flat markup scenario.

3. Discussion of Comments

During the August 2012 preliminary analysis public meeting, interested parties commented on the assumptions and results of the preliminary analysis TSD. Oral and written comments addressed several topics, including the scope of coverage, conversion costs, enforcement of standards, and the potential increase in the motor refurbishment market. DOE addresses these comments below.

a. Scope of Coverage

SEW-Eurodrive expressed concern about establishing energy conservation standards for integral gearmotors. SEW-Eurodrive stated that manufacturers

would have to review and ensure the compatibility between the motor and the gearbox for all new integral gearmotor designs. Setting standards for these motors, in its view, may cause manufacturers to review potentially millions of motor-gear box combinations. SEW-Eurodrive also stated that since integral gearmotors comprise a system whose overall efficiency is limited by the low efficiency of the mating gearing, an increase in the efficiency of the motor alone would have a very small effect on the overall system efficiency. (SEW-Eurodrive, No. 53 at p. 3) DOE believes that these integral gearmotors can be tested by removing the gearbox and simply testing the partial motor in accordance with the partial motor test procedure proposed at 78 FR 38455 (June 26, 2013). This approach would allow integral gearmotor motor manufacturers to test and certify the electric motors and not every combination of electric motor and gearbox.

b. Conversion Costs

NEMA made a few comments regarding the potential difficulties and costs associated with increasing energy conservation standards to efficiency levels above NEMA Premium. First, NEMA stated that DOE should consider the current difficulties that manufacturers from IEC countries are having when meeting the efficiency levels under NEMA MG 1 Table 12–12. NEMA stated these manufacturers already face difficulties due to the limits of an electric motor frame size and stack length, as these limits pose physical constraints to higher efficiency levels. Moreover, such limits to IEC frame size and stack length are comparable to what manufacturers of NEMA frame motors would face if required efficiency levels were increased above current NEMA Premium efficiency levels. (NEMA, No. 54 at p. 84) NEMA did not provide any cost data, in engineering time or dollars, that these manufacturers were faced with regarding their compliance with NEMA MG 1 Table 12–12 efficiency levels.

NEMA went on to give estimates for the conversion costs associated with manufacturers producing motors above NEMA Premium efficiency levels. NEMA stated that it would cost each manufacturer approximately $80 million in retooling and $68 million in reengineering, testing and prototyping to switch from currently used materials to die-cast copper rotor production. NEMA also stated there are other costs not directly related to the die-casting process manufacturers would incur, if standards required copper rotor technology. For example, NEMA noted that there are additional costs associated with redesigning the rotor and stator to maintain compliance with NEMA MG 1 performance requirements. NEMA also provided DOE with a few of the major costs placed on the manufacturers if energy conservation standards exceeded NEMA Premium efficiency levels. NEMA said manufacturers would incur significant costs due to retooling slot insulators, automatic winding machines, and progressive lamination stamping dies—the last of which can cost between $500,000 and $750,000 per set. Manufacturers would also need to reengineer potentially 100,000 to 200,000 specifications per manufacturer to comply with standards above NEMA Premium levels. (NEMA, No. 54 at p. 11)

DOE took these difficulties and costs that could be placed on manufacturers into consideration when creating the conversion costs of standards above NEMA Premium efficiency levels. DOE also recognizes the magnitude of the conversion costs on the industry at efficiency levels above NEMA Premium and this was one of the main reasons DOE included a portion of the conversion costs in the MPC for efficiency levels above NEMA Premium. DOE believes it is likely that motor manufacturers would attempt to recover these large one-time extraordinary conversion costs at standards above NEMA Premium through a variable cost increase in the MPCs of electric motors sold by manufacturers.

c. Enforcement of Standards

NEMA stated that large domestic manufacturers could be adversely impacted by higher energy conservation standards if DOE does not strictly enforce those new and amended standards, especially on imported machinery with embedded motors. NEMA commented that domestic manufacturers are currently competing with imported goods containing electric motors that are below current motor standards. This practice puts compliant motor manufacturers at a disadvantage because the machinery containing a non-compliant motor is often sold at a lower cost than machinery with a compliant motor. (NEMA, No. 54 at p. 11) DOE recognizes the need to enforce any energy conservation standard established for motors manufactured alone or as a component of another piece of equipment to ensure that all manufacturers are operating on a level playing field and to realize the actual reduction in energy consumption from these standards.

d. Motor Refurbishment

NEMA commented that if electric motors had to be redesigned to achieve higher energy conservation standards potential new motor customers may be forced to rewind older, less efficient motors because the longer or larger frame sizes that could be required to satisfy more stringent efficiency standards might not fit as drop-in replacements for existing equipment. (NEMA, No. 54 at p. 10) DOE agrees that adopting higher energy conservation standards for electric motors may force motor manufacturers to increase the length and/or the diameter of the frame. Such increase in motor frame size may cause some machinery using electric motors to be incompatible with previous electric motor designs. DOE requested comment on the quantitative impacts this could have on the electric motor and OEM markets but did not receive any quantitative responses regarding this issue. DOE is aware this could be a possible issue at the ELs above NEMA Premium, but does not consider this to be an issue at ELs that meet or are below NEMA Premium, since the majority of the electric motors used in existing equipment should already be at NEMA Premium efficiency levels. Therefore, based on data available at this time, DOE does not believe that motor refurbishment is likely to act as a barrier to the efficiency levels proposed in today's NOPR.

4. Manufacturer Interviews

DOE conducted additional interviews with manufacturers following the preliminary analysis in preparation for the NOPR analysis. In these interviews, DOE asked manufacturers to describe their major concerns with this rulemaking. The following section describes the key issues identified by manufacturers during these interviews.

a. Efficiency Levels above NEMA Premium

During these interviews, several manufacturers were concerned with the difficulties associated with increasing motor efficiency levels above NEMA Premium. Manufacturers stated that even increasing the efficiency of motors to one band above NEMA Premium would require each manufacturer to make a significant capital investment to retool their entire production line. It would also require manufacturers to completely redesign almost every motor configuration offered, which could take several years of engineering time.

According to manufacturers, another potential problem with setting standards above NEMA Premium is that this

would misalign U.S. electric motor standards with global motor standards (e.g., IEC motor standards). They noted that over the past few decades, there has been an effort to harmonize global motor standards that setting new U.S. electric motor standards at a level exceeding the NEMA Premium level would cause U.S. electric motor markets to be out of synchronization with the rest of the world's efficiency standards.

Several manufacturers also commented they believe any standard requiring die-casting copper rotors is infeasible. One main concern manufacturers have regarding copper is that not only has the price of copper significantly increased over the past several years, there has been tremendous volatility in the price as well. Manufacturers worry that if standards required manufacturers to use copper rotors, they would be subject to this volatile copper market. Manufacturers also noted that motor efficiency standards requiring copper rotors for all electric motors would likely increase the price of copper due to the increase in demand from the motors industry.

Another key concern that manufacturers have regarding standards that require using copper rotors is that copper has a much higher melting temperature than aluminum, and the pressure required to die-cast copper is much higher than aluminum. They contend that there is a much greater chance that a significant accident or injury to their employees could occur if manufacturers were required to produce copper rotors rather than aluminum rotors.

Lastly, several manufacturers stated they would not be able to produce copper die-cast rotors in-house and would have to outsource this production. Manufacturers stated that if the entire motor industry had to outsource their rotor production as a result of standards that required the use of die-cast copper rotors, there would be significant supply chain problems in the motor manufacturing process. Manufacturers emphasized during interviews that the capacity to produce copper rotors on a large commercial scale does not exist and would be very difficult to implement in even a three-year time period.

Overall, manufacturers are very concerned if any electric motor standard required motor efficiency levels beyond NEMA Premium, especially if those efficiency levels required the use of copper rotor technology. According to manufacturers, efficiency levels beyond NEMA Premium would require a significant level of investment from all electric motor manufacturers and would cause the U.S. to be out of sync with the electric motor standards around the world. If standards required the use of copper rotors, manufacturers would experience further difficulties due to the potential increase in copper prices and the volatility of the copper market, as well as the potential safety concerns regarding the higher melting temperature of copper than aluminum.

b. Increase in Equipment Repairs

Manufacturers have stated that as energy conservation standards increase customers are more likely to rewind old, less efficient motors, as opposed to purchasing newer more efficient and compliant motors. Therefore, if motor standards significantly increase the price of motors, manufacturers believe rewinding older motors might become a more attractive option for some customers. These customers would in turn be using more energy than if they simply purchased a currently compliant motor, since rewound motors typically do not operate at their original efficiency level after being rewound. Manufacturers believe that DOE must take the potential consumer rewinding decision into account when deciding on an electric motors standard.

c. Enforcement

Manufacturers have stated that one of their biggest concerns with additional energy conservation standards is the lack of enforcement of current electric motor standards. In general, domestic manufacturers have stated they comply with the current electric motor regulations and will continue to comply with any future standards. However, these manufacturers believe that there are several foreign motor manufacturers that do not comply with the current electric motor regulations and will not comply with any future standards if the efficiency standards are increased. This would cause compliant manufacturers to be placed at a competitive disadvantage, since complying with any increased efficiency standards will be very costly. Some domestic manufacturers believe the most cost effective way to reduce energy consumption of electric motors is to more strictly enforce the existing electric motor standards rather than increase the efficiency standards of electric motors.

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 electric motors. In addition, DOE estimates emissions impacts in production activities (extracting, processing, and transporting fuels) that provide the energy inputs to power plants. These are referred to as "upstream" emissions. Together, these emissions account for the full-fuel-cycle (FFC). In accordance with DOE's FFC Statement of Policy (76 FR 51282 (August 18, 2011) as amended at 77 FR 49701 (August 17, 2012)), the FFC analysis includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O, both of which are recognized as greenhouse gases.

DOE conducted the emissions analysis using emissions factors that were derived from data in the Energy Information Agency's (EIA's) *Annual Energy Outlook 2013* (*AEO 2013*), supplemented by data from other sources. DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the NOPR TSD.

EIA prepares the *Annual Energy Outlook* using the National Energy Modeling System (NEMS). Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2013* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2012.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (DC). SO_2 emissions from 28 eastern states and DC were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program that operates along with the Title IV program. CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect. See *North Carolina* v. *EPA*, 550 F.3d 1176 (D.C. Cir. 2008); *North Carolina* v. *EPA*, 531 F.3d 896 (D.C. Cir. 2008). On July 6, 2011 EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the DC Circuit issued a decision to vacate CSAPR. See *EME Homer City Generation, LP* v. *EPA*, No. 11–1302, 2012 WL 3570721 at *24 (D.C. Cir. Aug.

21, 2012). The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for today's NOPR assumes that CAIR remains a binding regulation through 2040.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector SO_2 emissions would occur as a result of standards.

Beginning in 2015, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO 2013* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2015. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, NEMS shows a reduction in SO_2 emissions when electricity demand decreases (e.g., as a result of energy efficiency standards). Emissions will be far below the cap established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions in 2015 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern States and the District of Columbia. Energy conservation standards are expected to have little effect on NO_X emissions in those States covered by CAIR because excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions. However, standards would be expected to reduce NO_X emissions in the States not affected by the caps, so DOE estimated NO_X emissions reductions from the standards considered in today's NOPR for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO 2013*, which incorporates the MATS.

NEMA commented that DOE should consider emissions related to all aspects involved in the production of higher efficiency motors. (NEMA, No. 54 at p. 31) In response, DOE notes that EPCA directs DOE to consider the total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard when determining whether a standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(III) and 6316(a)) DOE interprets this to include energy used in the generation, transmission, and distribution of fuels used by appliances or equipment. In addition, DOE is using the full-fuel-cycle measure, which includes the energy consumed in extracting, processing, and transporting primary fuels. DOE's current accounting of primary energy savings and the full-fuel-cycle measure are directly linked to the energy used by appliances or equipment. DOE believes that energy used in manufacturing of appliances or equipment falls outside the boundaries of "directly" as intended by EPCA. Thus, DOE did not consider such energy use and air emissions in the NIA or in the emissions analysis.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For today's NOPR, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by an interagency process. A summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the NOPR TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b)(6) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions that have small, or "marginal," impacts on cumulative global emissions. 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 serious challenges. A recent report from the National Research Council points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise serious questions of science, economics, and ethics and should be viewed as provisional.

Despite the serious limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing carbon dioxide emissions. Most Federal regulatory actions can be expected to have marginal impacts on global emissions. For such policies, the agency can estimate the benefits from reduced emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of the benefits can then be calculated by multiplying the future benefits by an appropriate discount factor and summing across all affected years. This approach assumes that the marginal damages from increased emissions are constant for small departures from the baseline emissions path, an approximation that is reasonable for policies that have effects on emissions that are small relative to cumulative global carbon dioxide emissions. For policies that have a large (non-marginal) impact on global cumulative emissions, there is a separate question of whether the SCC is an appropriate tool for calculating the benefits of reduced emissions. This concern is not applicable to this rulemaking, however.

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. Social Cost of Carbon Values Used in Past Regulatory Analyses

Economic analyses for Federal regulations have used a wide range of values to estimate the benefits associated with reducing carbon dioxide emissions. In the final model year 2011 CAFE rule, the U.S. Department of Transportation (DOT) used both a "domestic" SCC value of $2 per metric ton of CO_2 and a "global" SCC value of $33 per metric ton of CO_2 for 2007 emission reductions (in 2007$), increasing both values at 2.4 percent per year. DOT also included a sensitivity analysis at $80 per metric ton of CO_2.[79] A 2008 regulation proposed by DOT assumed a domestic SCC value of $7 per metric ton of CO_2 (in 2006$) for 2011 emission reductions (with a range of $0–$14 for sensitivity analysis), also increasing at 2.4 percent per year.[80] A regulation for packaged terminal air conditioners and packaged terminal heat pumps finalized by DOE in October of 2008 used a domestic SCC range of $0 to $20 per metric ton CO_2 for 2007 emission reductions (in 2007$). 73 FR 58772, 58814 (Oct. 7, 2008). In addition, EPA's 2008 Advance Notice of Proposed Rulemaking on Regulating Greenhouse Gas Emissions Under the Clean Air Act identified what it described as "very preliminary" SCC estimates subject to revision. 73 FR 44354 (July 30, 2008). EPA's global mean values were $68 and $40 per metric ton CO_2 for discount rates of approximately 2 percent and 3 percent, respectively (in 2006$ for 2007 emissions).

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: Global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

Since the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: The FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change. Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in 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.[81] Three sets of

[79] See *Average Fuel Economy Standards Passenger Cars and Light Trucks Model Year 2011*, 74 FR 14196 (March 30, 2009) (Final Rule); Final Environmental Impact Statement Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015 at 3–90 (Oct. 2008) (Available at: *http://www.nhtsa.gov/fuel-economy*) (Last accessed December 2012).

[80] See *Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015*, 73 FR 24352 (May 2, 2008) (Proposed Rule); Draft Environmental Impact Statement Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015 at 3–58 (June 2008) (Available at: *http://www.nhtso.gov/fuel-economy*) (Last accessed December 2012).

[81] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866*. Interagency Working Group on Social Cost of Carbon, United States Government, February 2010. *http://*

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 domestic effects, although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.26 presents the values in the 2010 interagency group report, which is reproduced in appendix 14–A of the NOPR TSD.

TABLE IV.26—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for today's notice were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[82] Table IV.27shows the updated sets of SCC estimates from the 2013 interagency update in five-year increments from 2010 to 2050. Appendix 14A 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.27—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned above points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of concerns and problems that should be addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions resulting from today's rule, DOE used the values from the 2013 interagency report, adjusted to 2012$ using the Gross Domestic Product

www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.

[82] *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.*

price deflator. For each of the four cases specified, the values used for emissions in 2015 were $11.8, $39.7, $61.2, and $117 per metric ton avoided (values expressed in 2012$). DOE derived values after 2050 using the relevant growth rate 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.

2. Valuation of Other Emissions Reductions

DOE investigated the potential monetary benefit of reduced NO_X emissions from the TSLs it considered. As noted above, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 states not affected by the CAIR. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for today's NOPR based on estimates found in the relevant scientific literature. Available estimates suggest a very wide range of monetary values per ton of NO_X from stationary sources, ranging from $468 to $4,809 per ton in 2012$).[83] In accordance with OMB guidance,[84] DOE calculated a range of monetary benefits using each of the economic values for NO_X and real discount rates of 3-percent and 7-percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. It has not included monetization in the current analysis.

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electricity capacity and generation that would result for each trial standard level. The utility impact analysis uses a variant of NEMS,[85] which is a public domain, multi-sectored, partial equilibrium model of the U.S. energy sector. DOE uses a variant of this model, referred to as NEMS–BT,[86] to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* Reference Case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 15 of the NOPR TSD describes the utility impact analysis in further detail.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the equipment subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient equipment. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new equipment; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (i.e., the utility sector) to more labor-intensive sectors (e.g., the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from new and amended standards.

For the standard levels considered in the NOPR, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET). ImSET is a special purpose version of the "U.S. Benchmark National Input-Output" (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. For the NOPR, DOE used ImSET only to estimate short-term employment impacts.

For more details on the employment impact analysis, see chapter 16 of the NOPR TSD.

O. Other Comments Received

IECA commented that motor end-users have not participated in DOE's electric motor standards process, and they urge DOE to provide an outreach effort to include those who buy motors. (IECA, No. 52 at p. 3) Throughout the rulemaking process, DOE makes a

[83] For additional information, refer to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, Washington, DC.

[84] OMB, Circular A–4: Regulatory Analysis (Sept. 17, 2003).

[85] For more information on NEMS, refer to the U.S. Department of Energy, Energy Information Administration documentation. A useful summary is *National Energy Modeling System: An Overview 2003*, DOE/EIA–0581(2003) (March, 2003).

[86] DOE/EIA approves use of the name NEMS to describe only an official version of the model without any modification to code or data. Because this analysis entails some minor code modifications and the model is run under various policy scenarios that are variations on DOE/EIA assumptions, DOE refers to it by the name "NEMS–BT" ("BT" is DOE's Building Technologies Program, under whose aegis this work has been performed).

considerable effort to understand rulemaking impacts to consumers, most specifically in the life-cycle cost analysis. It encourages various interested parties, including end-users of electric motors, to attend public meetings and submit comments. DOE recognizes the central importance of the consumer perspective, and welcomes comment from IECA and any other organizations serving consumer interest, as well as from individual consumers, themselves.

V. Analytical Results

A. Trial Standard Levels

DOE ordinarily considers several Trial Standard Levels (TSLs) in its analytical process. TSLs are formed by grouping different Efficiency Levels (ELs), which are standard levels for each Equipment Class Grouping (ECG) of motors. DOE analyzed the benefits and burdens of the TSLs developed for today's proposed rule. DOE examined four TSLs for electric motors. Table V.1 presents the TSLs analyzed and the corresponding efficiency level for each equipment class group.

The efficiency levels in each TSL can be characterized as follows: TSL 1 represents each equipment class group moving up one efficiency level from the current baseline, with the exception of fire-pump motors, which remain at their baseline level; TSL 2 represents NEMA Premium levels for all equipment class groups with the exception of fire-pump motors, which remain at the baseline; TSL 3 represents 1 NEMA band above NEMA Premium for all groups except fire-pump motors, which move up to NEMA Premium; and TSL 4 represents the maximum technologically feasible level (max tech) for all equipment class groups. Because today's proposal includes equipment class groups containing both currently regulated motors and those proposed to be regulated, at certain TSLs, an equipment class group may encompass different standard levels, some of which may be above one EL above the baseline. For example, at TSL1, EL1 is being proposed for equipment class group 1. However, a large number of motors in equipment class group 1 already have to meet EL2. If TSL1 was selected, these motors would continue to be required to meet the standards at TSL2, while currently un-regulated motors would be regulated to TSL1.

TABLE V.1—SUMMARY OF PROPOSED TSLS

Equipment class group	TSL 1	TSL 2	TSL 3	TSL 4
1	EL 1	EL 2	EL 3	EL 4
2	EL 1	EL 1	EL 2	EL 2
3	EL 0	EL 0	EL 1	EL 3
4	EL 1	EL 2	EL 3	EL 4

B. Economic Justification and Energy Savings

As discussed in section II.A, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)) The following sections generally discuss how DOE is addressing each of those seven factors in this rulemaking.

1. Economic Impacts on Individual Customers

DOE analyzed the economic impacts on electric motor customers by looking at the effects standards would have on the LCC and PBP. DOE also examined the rebuttable presumption payback periods for each equipment class, and the impacts of potential standards on customer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

To evaluate the net economic impact of standards on electric motor customers, DOE conducted LCC and PBP analyses for each TSL. In general, higher-efficiency equipment would affect customers in two ways: (1) Annual operating expense would decrease, and (2) purchase price would increase. Section IV.F of this notice discusses the inputs DOE used for calculating the LCC and PBP. The LCC and PBP results are calculated from electric motor cost and efficiency data that are modeled in the engineering analysis (section IV.C).

For each representative unit, the key outputs of the LCC analysis are a mean LCC savings and a median PBP relative to the base case, as well as the fraction of customers for which the LCC will decrease (net benefit), increase (net cost), or exhibit no change (no impact) relative to the base-case product forecast. No impacts occur when the base-case efficiency equals or exceeds the efficiency at a given TSL. Table V.2 through Table V.5 show the key shipment weighted average of results for the representative units in each equipment class group.

TABLE V.2—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 1

Trial standard level *	1	2	3	4
Efficiency level	1	2	3	4
Customers with Net LCC Cost (%) **	0.3	8.4	38.0	84.6
Customers with Net LCC Benefit (%) **	9.7	32.0	40.4	7.6
Customers with No Change in LCC (%) **	90.0	59.6	21.5	7.7
Mean LCC Savings ($)	43	132	68	−417
Median PBP (Years)	1.1	3.3	6.7	29.9

* The results for equipment class group 1 are the shipment weighted averages of the results for representative units 1, 2, and 3.
** Rounding may cause some items to not total 100 percent.

TABLE V.3—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 2

Trial Standard level *	1	2	3	4
Efficiency level	1	1	2	2
Customers with Net LCC Cost (%) **	21.5	21.5	94.7	94.7
Customers with Net LCC Benefit (%) **	68.6	68.6	5.3	5.3
Customers with No Change in LCC (%) **	9.9	9.9	0.0	0.0
Mean LCC Savings ($)	38	38	−285	−285
Median PBP (Years)	5.0	5.0	22.8	22.8

* The results for equipment class group 2 are the shipment weighted averages of the results for representative units 4 and 5.
** Rounding may cause some items to not total 100 percent.

TABLE V.4—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 3

Trial standard level *	1	2	3	4
Efficiency level	0	0	1	3
Customers with Net LCC Cost (%) **	0.0	0.0	81.7	100.0
Customers with Net LCC Benefit (%) **	0.0	0.0	0.0	0.0
Customers with No Change in LCC (%) **	0.0	0.0	18.3	0.0
Mean LCC Savings ($)	N/A ***	N/A ***	−61	−763
Median PBP (Years)	N/A ***	N/A ***	3,299	11,957

* The results for equipment class group 3 are the shipment weighted averages of the results for representative units 6, 7, and 8.
** Rounding may cause some items to not total 100 percent.
*** For equipment class group 3, TSL 1 and 2 are the same as the baseline; thus, no customers are affected.

TABLE V.5—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 4

Trial standard level *	1	2	3	4
Efficiency level	1	2	3	4
Customers with Net LCC Cost (%) **	1.0	10.8	33.1	79.6
Customers with Net LCC Benefit (%) **	31.8	60.8	65.8	19.9
Customers with No Change in LCC (%) **	67.3	28.4	1.1	0.3
Mean LCC Savings ($)	137	259	210	−291
Median PBP (Years)	1.2	1.9	3.7	16.0

* The results for equipment class group 4 are the shipment weighted averages of the results for representative units 9 and 10.
** Rounding may cause some items to not total 100 percent.

b. Consumer Subgroup Analysis

In the customer subgroup analysis, DOE estimated the LCC impacts of the electric motor TSLs on various groups of customers. Table V.6 and Table V.7 compare the weighted average mean LCC savings and median payback periods for ECG 1 at each TSL for different customer subgroups.

Chapter 11 of the TSD presents the detailed results of the customer subgroup analysis and results for the other equipment class groups.

TABLE V.6—SUMMARY LIFE-CYCLE COST RESULTS FOR SUBGROUPS FOR EQUIPMENT CLASS GROUP 1: AVERAGE LCC SAVINGS

EL	TSL	Average LCC savings (2012$) *					
		Default	Low energy price	Small business	Industrial sector only	Commercial sector only	Agricultural sector only
1	1	43	38	37	53	40	16
2	2	132	115	111	169	118	5
3	3	68	46	45	111	53	−103
4	4	−417	−447	−448	−356	−440	−675

* The results for equipment class group 1 are the shipment weighted averages of the results for representative units 1, 2, and 3.

TABLE V.7—SUMMARY LIFE-CYCLE COST RESULTS FOR SUBGROUPS FOR EQUIPMENT CLASS GROUP 1: MEDIAN PAYBACK PERIOD

EL	TSL	Median payback period (Years)*					
		Default	Low energy price	Small business	Industrial sector only	Commercial sector only	Agricultural sector only
1	1	1.1	1.3	1.1	0.8	1.3	3.5
2	2	3.3	3.7	3.3	2.1	3.9	7.0
3	3	6.7	7.6	6.7	4.2	7.9	22.7
4	4	29.9	33.7	29.9	18.8	34.7	123.5

*The results for equipment class group 1 are the shipment weighted averages of the results for representative units 1, 2, and 3.

c. Rebuttable Presumption Payback

As discussed in section IV.F.12, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for equipment that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. (42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a)) DOE calculated a rebuttable-presumption PBP for each TSL to determine whether DOE could presume that a standard at that level is economically justified. DOE based the calculations on average usage profiles. As a result, DOE calculated a single rebuttable-presumption payback value, and not a distribution of PBPs, for each TSL. Table V.8 shows the rebuttable-presumption PBPs for the considered TSLs. The rebuttable presumption is fulfilled in those cases where the PBP is three years or less. However, DOE routinely conducts an economic analysis that considers the full range of impacts to the customer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) as applied to equipment via 42 U.S.C. 6316(a). The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any three-year PBP analysis). Section V.C addresses how DOE considered the range of impacts to select today's NOPR.

TABLE V.8—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS)

	Trial standard level			
	1	2	3	4
Equipment Class Group 1*	0.6	0.8	1.2	4.3
Equipment Class Group 2*	1.8	1.8	8.0	8.0
Equipment Class Group 3*	0.0	0.0	900	5,464
Equipment Class Group 4*	0.6	0.9	1.3	4.5

*The results for each equipment class group (ECG) are a shipment weighted average of results for the representative units in the group. ECG 1: Representative units 1, 2, and 3; ECG 2: Representative units 4 and 5; ECG 3: Representative units 6, 7, and 8; ECG 4: Representative units 9 and10.

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of new and amended energy conservation standards on manufacturers of electric motors. The section below describes the expected impacts on manufacturers at each TSL. Chapter 12 of the TSD explains the analysis in further detail.

The tables below depict the financial impacts (represented by changes in INPV) of new and amended energy conservation standards on manufacturers as well as the conversion costs that DOE estimates manufacturers would incur at each TSL. DOE displays the INPV impacts by TSL for each ECG in accordance with the grouping described in detail in section V.A. To evaluate the range of cash flow impacts on the electric motor industry, DOE modeled three 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 value at each TSL. All three markup scenarios are presented below. 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 (2013) through the end of the analysis period. The results also discuss the difference in cash flow 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 how large the required conversion costs are relative to the cash flow generated by the 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 representative units within an ECG. For descriptions of these technology options and the required efficiencies at each TSL, see section IV.C of today's notice.

a. Industry Cash-Flow Analysis Results

The results below show three INPV tables representing the three markup scenarios used for the analysis. The first table reflects the flat markup scenario, which is the upper (less severe) bound of impacts. To assess the lower end of the range of potential impacts, DOE modeled two potential markup scenarios, a two-tiered markup scenario and a preservation of operating profit markup scenario. As discussed in section IV.J.2.d, the two-tiered markup scenario assumes manufacturers offer two different tiers of markups—one for lower efficiency levels and one for higher efficiency levels. Meanwhile the preservation of operating profit markup scenario assumes that in the standards case, manufacturers would be able to earn the same operating margin in

absolute dollars in the standards case as in the base case. In general, the larger the product price increases, the less likely manufacturers are able to fully pass through additional costs due to standards calculated in the flat markup scenario.

Table V.9, Table V.10, and Table V.11 present the projected results for all electric motors under the flat, two-tiered and preservation of operating profit markup scenarios. DOE examined all four ECGs (Design A and B motors, Design C motors, fire pump motors, and brake motors) together. The INPV results follow in the tables below.

TABLE V.9—MANUFACTURER IMPACT ANALYSIS FOR ELECTRIC MOTORS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	(2012$ millions)	$3,371.2	$3,378.7	$3,759.2	$4,443.7	$5,241.3
Change in INPV	(2012$ millions)		$7.5	$388.0	$1,072.5	$1,870.1
	(%)		0.2%	11.5%	31.8%	55.5%
Product Conversion Costs	(2012$ millions)		$6.1	$57.4	$611.7	$620.6
Capital Conversion Costs	(2012$ millions)		$0.0	$26.4	$220.5	$699.8
Total Conversion Costs	(2012$ millions)		$6.2	$83.7	$832.3	$1,320.4

TABLE V.10—MANUFACTURER IMPACT ANALYSIS FOR ELECTRIC MOTORS—TWO-TIERED MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	(2012$ millions)	$3,371.2	$3,374.3	$3,087.6	$2,979.6	$3,335.7
Change in INPV	(2012$ millions)		$3.2	$(283.5)	$(391.6)	$(35.5)
	(%)		0.1%	−8.4%	−11.6%	−1.1%
Product Conversion Costs	(2012$ millions)		$6.1	$57.4	$611.7	$620.6
Capital Conversion Costs	(2012$ millions)		$0.0	$26.4	$220.5	$699.8
Total Conversion Costs	(2012$ millions)		$6.2	$83.7	$832.3	$1,320.4

TABLE V.11—MANUFACTURER IMPACT ANALYSIS FOR ELECTRIC MOTORS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	(2012$ millions)	$3,371.2	$3,019.5	$3,089.7	$2,356.8	$1,383.1
Change in INPV	(2012$ millions)		$(351.7)	$(281.5)	$(1,014.4)	$(1,988.1)
	(%)		−10.4%	−8.4%	−30.1%	−59.0%
Product Conversion Costs	(2012$ millions)		$6.1	$57.4	$611.7	$620.6
Capital Conversion Costs	(2012$ millions)		$0.0	$26.4	$220.5	$699.8
Total Conversion Costs	(2012$ millions)		$6.2	$83.7	$832.3	$1,320.4

TSL 1 represents EL 1 for ECG 1, ECG 2 and ECG 4 motors and baseline for ECG 2 motors. At TSL 1, DOE estimates impacts on INPV to range from $7.5 million to −$351.7 million, or a change in INPV of 0.2 percent to −10.4 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 1.1 percent to $164.9 million, compared to the base case value of $166.7 million in the year leading up to the proposed energy conservation standards.

The INPV impacts at TSL 1 range from slightly positive to moderately negative, however DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL. This is because the vast majority of shipments already meets or exceeds the efficiency levels prescribed at TSL 1. DOE estimates that in the year of compliance, 90 percent of all electric motor shipments (90 percent of ECG 1, eight percent of ECG 2, 100 percent of ECG 3, and 67 percent of ECG 4 shipments) would meet the efficiency levels at TSL 1 or higher in the base case. Since ECG 1 shipments account for over 97 percent of all electric motor shipments the effects on those motors are the primary driver for the impacts at this TSL. Only a few ECG 1 shipments not currently covered by the existing electric motors rule and a small amount of ECG 2 and ECG 4 shipments would need to be converted at TSL 1 to meet this efficiency standard.

DOE expects conversion costs to be small compared to the industry value because most of the electric motor shipments, on a volume basis, already meet the efficiency levels analyzed at this TSL. DOE estimates product conversion costs of $6.1 million due to the proposed expanded scope of this rulemaking which includes motors previously not covered by the current electric motor energy conservation standards. DOE believes that at this TSL, there will be some engineering costs as well as testing and certification costs associated with this proposed scope expansion. DOE estimates the capital conversion costs to be minimal at TSL 1. This is mainly because almost all manufacturers currently produce some motors that are compliant at TSL 1 efficiency levels and it would not be much of a capital investment to bring all motor production to this efficiency level.

TSL 2 represents EL 2 for ECG 1 and ECG 4 motors; EL 1 for ECG 2 motors; and baseline for ECG 3 motors. At TSL 2, DOE estimates impacts on INPV to range from $388 million to −$283.5 million, or a change in INPV of 11.5 percent to −8.4 percent. At this

proposed level, industry free cash flow is estimated to decrease by approximately 17.2 percent to $138 million, compared to the base case value of $166.7 million in the year leading up to the proposed energy conservation standards.

The INPV impacts at TSL 2 range from moderately positive to moderately negative. DOE estimates that in the year of compliance, 59 percent of all electric motor shipments (60 percent of ECG 1, eight percent of ECG 2, 100 percent of ECG 3, and 30 percent of ECG 4 shipments) would meet the efficiency levels at TSL 2 or higher in the base case. The majority of shipments are currently covered by an electric motors standard that requires general purpose Design A and B motors to meet this TSL. Therefore, only previously non-covered Design A and B motors and a few ECG 2 and ECG 4 motors would have to be converted at TSL 2 to meet this efficiency standard.

DOE expects conversion costs to increase significantly from TSL 1, however, these conversion costs do not represent a large portion of the base case INPV, since again the majority of electric motor shipments already meet the efficiency levels analyzed at this TSL. DOE estimates product conversion costs of $57.4 million due to the proposed expanded scope of this rulemaking, which includes motors previously not covered by the current electric motor energy conservation standards and the inclusion of ECG 2 and ECG 4 motors. DOE believes there will be sizable engineering costs as well as testing and certification costs at this TSL associated with this proposed scope expansion. DOE estimates the capital conversion costs to be approximately $26.4 million at TSL 2. While most manufacturers already produce at least some motors that are compliant at TSL 2, these manufacturers would likely have to invest in expensive machinery to bring all motor production to these efficiency levels.

TSL 3 represents EL 3 for ECG 1 and ECG 4 motors, EL 2 for ECG 2 motors and EL 1 for ECG 3 motors. At TSL 3, DOE estimates impacts on INPV to range from $1,072.5 million to −$1,014.4 million, or a change in INPV of 31.8 percent to −30.1 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 167.5 percent to −$112.5 million, compared to the base case value of $166.7 million in the year leading up to the proposed energy conservation standards.

The INPV impacts at TSL 3 range from significantly positive to significantly negative. DOE estimates that in the year of compliance, 23 percent of all electric motor shipments (24 percent of ECG 1, less than one percent of ECG 2, 19 percent of ECG 3, and four percent of ECG 4 shipments) would meet the efficiency levels at TSL 3 or higher in the base case. The majority of shipments would need to be converted to meet energy conservation standards at this TSL.

DOE expects conversion costs to increase significantly at TSL 3 and become a substantial investment for manufacturers. DOE estimates product conversion costs of $611.7 million at TSL 3, since most electric motors in the base case do not exceed the current motor standards set at NEMA Premium for Design A and B motors, which represent EL 2 for ECG 1. DOE believes there would be a massive reengineering effort that manufacturers would have to undergo to have all motors meet this TSL. Additionally, motor manufacturers would have to increase the efficiency levels for ECG 2, ECG 3, and ECG 4 motors. DOE estimates the capital conversion costs to be approximately $220.5 million at TSL 3. Most manufacturers would have to make significant investments to their production facilities in order to convert all their motors to be compliant at TSL 3.

TSL 4 represents EL 4 for ECG 1 and ECG 4 motors, EL 3 for ECG 3 motors and EL 2 for ECG 2 motors. At TSL 4, DOE estimates impacts on INPV to range from $1,870.1 million to −$1,988.1 million, or a change in INPV of 55.5 percent to −59.0 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 298.4 percent to −$330.8 million, compared to the base case value of $166.7 million in the year leading up to the proposed energy conservation standards.

The INPV impacts at TSL 4 range from significantly positive to significantly negative. DOE estimates that in the year of compliance only eight percent of all electric motor shipments (nine percent of ECG 1, less than one percent of ECG 2, zero percent of ECG 3, and less than one percent of ECG 4 shipments) would meet the efficiency levels at TSL 2 or higher in the base case. Almost all shipments would need to be converted to meet energy conservation standards at this TSL.

DOE expects conversion costs again to increase significantly from TSL 3 to TSL 4. Conversion costs at this TSL now represent a massive investment for electric motor manufacturers. DOE estimates product conversion costs of $620.6 million at TSL 4, which are the same conversion costs at TSL 3. DOE believes that manufacturers would need to completely reengineer almost all electric motors sold as well as test and certify those motors. DOE estimates capital conversion costs of $699.8 million at TSL 4. This is a significant increase in capital conversion costs from TSL 3 since manufacturers would need to adopt copper die-casting at this TSL. This technology requires a significant level of investment because the majority of the machinery would need to be replaced or significantly modified.

b. Impacts on Employment

DOE quantitatively assessed the impact of potential 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 the announcement of any potential new and amended energy conservation standards in 2013 to the end of the analysis period in 2044. 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 electric motors are a function of the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time.

In the GRIM, DOE used the labor content of each product and the manufacturing production costs to estimate the annual labor expenditures of the industry. DOE used Census data and interviews with manufacturers to estimate the portion of the total labor expenditures attributable to domestic labor.

The production worker estimates in this employment section cover only workers up to the line-supervisor level who are directly involved in fabricating and assembling an electric motor within a motor facility. Workers performing services that are closely associated with production operations, such as material handling with a forklift, are also included as production labor. DOE's estimates account for only production workers who manufacture the specific equipment covered by this rulemaking. For example, a worker on an electric motor line manufacturing a fractional horsepower motor (i.e. a motor with less than one horsepower) would not be included with this estimate of the number of electric motor workers, since

fractional motors are not covered by this rulemaking.

The employment impacts shown in the tables below represent the potential production employment impact resulting from 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 equipment 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 all existing production were moved outside of the U.S. While the results present a range of employment impacts following 2015, the sections below also include qualitative discussions of the likelihood of negative employment impacts at the various TSLs. Finally, the employment impacts shown are independent of the indirect employment impacts from the broader U.S. economy, which are documented in chapter 16 of the NOPR TSD.

Based on 2011 ASM data and interviews with manufacturers, DOE estimates approximately 60 percent of electric motors sold in the U.S. are manufactured domestically. Using this assumption, DOE estimates that in the absence of new and amended energy conservation standards, there would be approximately 7,237 domestic production workers involved in manufacturing all electric motors covered by this rulemaking in 2015. The table below shows the range of potential impacts of new and amended energy conservation standards for all ECGs on U.S. production workers in the electric motor industry. However, because ECG 1 motors comprise more than 97 percent of the electric motors covered by this rulemaking, DOE believes that potential changes in domestic employment will be driven primarily by the standards that are selected for ECG 1, Design A and B electric motors.

TABLE V.12—POTENTIAL CHANGES IN THE TOTAL NUMBER OF ALL DOMESTIC ELECTRIC MOTOR PRODUCTION WORKERS IN 2015

Base case		Trial standard level			
		1	2	3	4
Total Number of Domestic Production Workers in 2015 (without changes in production locations)	7,237	7,270	7,420	8,287	15,883
Potential Changes in Domestic Production Workers in 2015*		33 – 0	183 – (362)	1,050 – (3,619)	8,646 – (7,237)

*DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers.

Most manufacturers agree that any standards that involve expanding the scope of equipment required to meet NEMA Premium would not significantly change domestic employment levels. At this efficiency level (TSL 2), manufacturers would not be required to make major modifications to their production lines nor would they have to undertake new manufacturing processes. A few small business manufacturers who primarily make electric motors currently out of the scope of coverage, but whose equipment would be covered by new electric motor standards, could be impacted by efficiency standards at TSL 2. These impacts, including employment impacts, are discussed in section VI.B of today's NOPR. Overall, DOE believes there would not be a significant decrease in domestic employment levels at TSL 2. DOE created a lower bound of the potential loss of domestic employment at 362 employees for TSL 2. DOE estimated only five percent of the electric motors market is comprised of manufacturers that do not currently produce any motors at NEMA Premium efficiency levels. DOE estimated that at most five percent of domestic electric motor manufacturing could potentially move abroad or exit the market entirely. DOE similarly estimated that all electric motor manufacturers produce some electric motors at or above TSL 1 efficiency levels. Therefore, DOE does not believe that any potential loss of domestic employment would occur at TSL 1.

Manufacturers, however, cautioned that any standard set above NEMA Premium would require major changes to production lines, large investments in capital and labor, and would result in extensive stranded assets. This is largely because manufacturers would have to design and build motors with larger frame sizes and could potentially have to use copper, rather than aluminum rotors. Several manufacturers pointed out that this would require extensive retooling, vast engineering resources, and would ultimately result in a more labor-intensive production process. Manufacturers generally agreed that a shift toward copper rotors would have uncertain impacts on energy efficiency and would cause companies to incur higher labor costs. These factors could cause manufacturers to consider moving production offshore to reduce labor costs or they may choose to exit the market entirely. Therefore, DOE believes it is more likely that efficiency standards set above NEMA Premium could result in a decrease of labor. Accordingly, DOE set the lower bound on the potential loss of domestic employment at 50 percent of the existing domestic labor market for TSL 3 and 100 percent of the domestic labor market for TSL 4. However, these values represent the worst case scenario DOE modeled. Manufacturers also stated that larger motor manufacturing (that is for motors above 200 horsepower) would be very unlikely to move abroad since the shipping costs associated with those motors are very large. Consequently, DOE does not currently believe standards set at TSL 3 and TSL 4 would likely result in a large loss of domestic employment.

c. Impacts on Manufacturing Capacity

Most manufacturers agreed that any standard expanding the scope of equipment required to meet NEMA Premium would not have a significant impact on manufacturing capacity. Manufacturers pointed out, however, that a standard that required them to use copper rotors would severely disrupt manufacturing capacity. Most manufacturers emphasized they do not currently have the machinery, technology, or engineering resources to produce copper rotors in-house. Some

manufacturers claim that the few manufacturers that do have the capability of producing copper rotors are not able to produce these motors in volumes sufficient to meet the demands of their customers. For manufacturers to either completely redesign their motor production lines or significantly expand their fairly limited copper rotor production line would require a massive retooling and engineering effort, which could take several years to complete. Most manufacturers stated they would have to outsource copper rotor production because they would not be able to modify their facilities and production processes to produce copper rotors in-house within a three year time period. Most manufacturers agreed that outsourcing rotor die casting would constrain capacity by creating a bottleneck in rotor production, as there are very few companies that produce copper rotors.

Manufacturers also pointed out that there is substantial uncertainty surrounding the global availability and price of copper, which has the potential to constrain capacity. Several manufacturers expressed concern that the combination of all of these factors would make it difficult to support existing business while redesigning product lines and retooling. The need to support existing business would also cause the redesign effort to take several years.

In summary, for those TSLs that require copper rotors, DOE believes there is a likelihood of capacity constraints in the near term due to fluctuations in the copper market and limited copper die casting machinery and expertise. However, for the levels proposed in this rule, DOE does not foresee any capacity constraints.

d. Impacts on Sub-Group 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 equipment 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 electric motor-related subgroups for this rulemaking based on the results of the industry characterization.

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 equipment. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

During previous stages of this rulemaking, DOE identified a number of requirements, in addition to new and amended energy conservation standards for electric motors, that manufacturers will face for equipment they manufacture approximately three years prior to and three years after the compliance date of the new and amended standards. The following section briefly addresses comments DOE received with respect to cumulative regulatory burden and summarizes other key related concerns that manufacturers raised during interviews.

Several manufacturers expressed concern about the compliance date of this rulemaking to the proximity of the 2015 compliance date for the small electric motors rulemaking at 75 FR 10874 (March 9, 2010). Most manufacturers of electric motors covered by this rulemaking also produce electric motors that are covered by the small electric motors rulemaking. Manufacturers stated that adopting these two regulations in a potentially short timeframe could strain R&D and capital expenditure budgets for motor manufacturers. Some manufacturers also raised concerns about other existing regulations separate from DOE's energy conservation standards that electric motors must meet: the National Fire Protection Association (NFPA) 70, National Electric Code; the NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection; and Occupational Safety and Health Administration (OSHA) regulations. DOE discusses these and other requirements in chapter 12 of the NOPR TSD. DOE takes into account the cost of compliance with other published Federal energy conservation standards in weighing the benefits and burdens of today's proposed rulemaking. In the 2010 small motors final rule, DOE estimated that manufacturers may lose up to 11.3 percent of their INPV, which was approximately $39.5 million, in 2009$. To see the range of impacts DOE estimated for the small motors rule, see chapter 12 of the NOPR TSD. DOE does not describe the quantitative impacts of standards that have not yet been finalized because any impacts would be highly speculative. DOE also notes that certain standards are optional for manufacturers and takes that into account when creating the cumulative regulatory burden analysis.

3. National Impact Analysis

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for electric motors purchased in the 30-year period that begins in the year of compliance with new and amended standards (2015–2044). The savings are measured over the entire lifetime of equipment purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. Table V.13 presents the estimated primary energy savings for each considered TSL, and Table V.14 presents the estimated FFC energy savings for each considered TSL. The approach for estimating national energy savings is further described in section IV.H.

TABLE V.13—CUMULATIVE PRIMARY ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2015–2044

Equipment class	Trial standard level			
	1	2	3	4
	quads			
Group 1 (NEMA Design A and B)	0.82	6.27	9.86	12.64

TABLE V.13—CUMULATIVE PRIMARY ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2015–2044—Continued

Equipment class	Trial standard level			
	1	2	3	4
Group 2 (NEMA Design C)	0.02	0.02	0.03	0.03
Group 3 (Fire Pump Electric Motors)	0.00	0.00	0.00	0.00
Group 4 (Brake Motors)	0.26	0.58	0.71	0.81
Total All Classes	1.10	6.87	10.60	13.49

TABLE V.14—CUMULATIVE FULL-FUEL-CYCLE ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2015–2044

Equipment class	Trial standard level			
	1	2	3	4
	quads			
Group 1 (NEMA Design A and B)	0.83	6.38	10.02	12.85
Group 2 (NEMA Design C)	0.02	0.02	0.03	0.03
Group 3 (Fire Pump Electric Motors)	0.00	0.00	0.00	0.00
Group 4 (Brake Motors)	0.26	0.59	0.73	0.83
Total All Classes	1.11	6.98	10.78	13.71

Circular A–4 requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine rather than 30 years of equipment shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[87] We would note that the review timeframe established in EPCA generally does not overlap with the equipment lifetime, equipment manufacturing cycles or other factors specific to electric motors. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The NES results based on a 9-year analytical period are presented in Table V.15. The impacts are counted over the lifetime of electric motors purchased in 2015–2023.

TABLE V.15—CUMULATIVE NATIONAL ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2015–2023

Equipment class	Trial standard level			
	1	2	3	4
	quads			
Group 1 (NEMA Design A and B)	0.355	1.440	2.168	2.833
Group 2 (NEMA Design C)	0.004	0.004	0.006	0.006
Group 3 (Fire Pump Electric Motors)	0.000	0.000	0.000	0.000
Group 4 (Brake Motors)	0.060	0.125	0.152	0.176
Total All Classes	0.420	1,569	2.326	3.015

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for customers that would result from the TSLs considered for electric motors. In accordance with OMB's guidelines on regulatory analysis,[88] DOE calculated the NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital as well as corporate capital. This discount rate approximates the opportunity cost of capital in the private sector (OMB analysis has found the average rate of return on capital to be near this rate). The 3-percent rate reflects the potential effects of standards on private consumption (*e.g.*, through higher prices for equipment and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to

[87] 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.

[88] OMB Circular A–4, section E (Sept. 17, 2003). *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.*, yield on United States Treasury notes), which has averaged about 3 percent for the past 30 years.

Table V.16 shows the customer NPV results for each TSL considered for electric motors. In each case, the impacts cover the lifetime of equipment purchased in 2015–2044.

TABLE V.16—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2015–2044

[Billion 2012$]

Equipment class	Discount rate %	Trial standard level			
		1	2	3	4
Group 1 (NEMA Design A and B)	3	4.5	20.7	1.5	−41.2
Group 2 (NEMA Design C)		0.0	0.0	0.0	0.0
Group 3 (Fire Pump Electric Motors)		0.0	0.0	0.0	0.0
Group 4 (Brake Motors)		1.3	2.5	1.5	−1.2
Total All Classes		5.8	23.3	3.0	−42.4
Group 1 (NEMA Design A and B)	7	2.2	7.7	−3.7	−29.1
Group 2 (NEMA Design C)		0.0	0.0	0.0	0.0
Group 3 (Fire Pump Electric Motors)		0.0	0.0	0.0	0.0
Group 4 (Brake Motors)		0.5	1.0	0.3	−1.2
Total All Classes		2.7	8.7	−3.4	−30.3

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.17. The impacts are counted over the lifetime of equipment purchased in 2015–2023. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.17—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2015–2023

[Billion 2012$]

Equipment class	Discount rate %	Trial standard level			
		1	2	3	4
Group 1 (NEMA Design A and B)	3	2.253	6.473	2.541	−12.055
Group 2 (NEMA Design C)		0.011	0.011	−0.012	−0.012
Group 3 (Fire Pump Electric Motors)		0.000	0.000	−0.001	−0.009
Group 4 (Brake Motors)		0.389	0.706	0.495	−0.372
Total All Classes		2.654	7.190	3.023	−12.448
Group 1 (NEMA Design A and B)	7	1.344	3.492	−0.102	−12.017
Group 2 (NEMA Design C)		0.005	0.005	−0.016	−0.016
Group 3 (Fire Pump Electric Motors)		0.000	0.000	−0.001	−0.007
Group 4 (Brake Motors)		0.225	0.391	0.201	−0.498
Total All Classes		1.574	3.887	0.083	−12.537

c. Indirect Impacts on Employment

DOE expects energy conservation standards for electric motors to reduce energy costs for equipment owners, and the resulting net savings to be redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section IV.N, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames (2015–2019), where these uncertainties are reduced.

The results suggest that today's standards are likely to have negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents detailed results.

4. Impact on Utility or Performance

DOE believes that the standards it is proposing today will not lessen the utility or performance of electric motors.

5. Impact of Any Lessening of Competition

DOE has also considered any lessening of competition that is likely to result from new and amended standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination to the Secretary, together with an analysis of the nature and extent of such impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii))

To assist the Attorney General in making such determination, DOE will provide DOJ with copies of this NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final

rule, and DOE will publish and respond to DOJ's comments in that document.

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation's energy security, strengthens the economy, and reduces the environmental impacts or costs of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 15 in the NOPR TSD presents the estimated reduction in generating capacity in 2044 for the TSLs that DOE considered in this rulemaking.

Energy savings from standards for electric motors could also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. Table V.18 provides DOE's estimate of cumulative emissions reductions projected 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.18—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS

	Trial standard level			
	1	2	3	4
Primary Energy Emissions				
CO_2 (million metric tons)	62.4	374.1	576.0	733.3
NO_X (thousand tons)	105.3	669.7	1,034.7	1,315.5
SO_2 (thousand tons)	33.5	196.3	301.9	384.5
Hg (tons)	0.1	0.8	1.3	1.6
N_2O (thousand tons)	1.2	8.3	12.9	16.4
CH_4 (thousand tons)	7.3	46.3	71.6	91.0
Upstream Emissions				
CO_2 (million metric tons)	3.5	22.0	34.0	43.2
NO_X (thousand tons)	0.8	4.7	7.3	9.3
SO_2 (thousand tons)	48.6	303.1	467.8	595.0
Hg (tons)	0.0	0.0	0.0	0.0
N_2O (thousand tons)	0.0	0.2	0.3	0.4
CH_4 (thousand tons)	294.8	1,841,4	2,841.9	3,614.6
Total Emissions				
CO_2 (million metric tons)	65.9	396.1	610.0	776.5
NO_X (thousand tons)	106.0	674.4	1,042.0	1,324.8
SO_2 (thousand tons)	82.1	499.4	769.6	979.5
Hg (tons)	0.1	0.8	1.3	1.6
N_2O (thousand tons)	1.3	8.5	13.2	16.8
CH_4 (thousand tons)	302.2	1,887.7	2,913.5	3,705.5

As part of the analysis for this rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered. As discussed in section IV.L, DOE used values for the SCC developed by an interagency process. The four sets of SCC values resulting from that process (expressed in 2012$) are represented by $12.9/metric ton (the average value from a distribution that uses a 5-percent discount rate), $40.8/metric ton (the average value from a distribution that uses a 3-percent discount rate), $62.2/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $117.0/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). These values correspond to the value of emission reductions in 2015; the values for later years are higher due to increasing damages as the projected magnitude of climate change increases.

Table V.19 presents the global value of CO_2 emissions reductions at each TSL. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the NOPR TSD.

TABLE V.19—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER ELECTRIC MOTORS TRIAL STANDARD LEVELS

[Million 2012$]

TSL	SCC Case *			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile *
Primary Energy Emissions				
1	433	1,961	3,113	6,040
2	2,366	11,179	17,876	34,552
3	3,622	17,159	27,452	53,047
4	4,622	21,871	34,985	67,609
Upstream Emissions				
1	24	110	174	338
2	136	650	1,042	2,012
3	209	1,001	1,604	3,097
4	266	1,274*	2,042	3,943
Total Emissions				
1	457	2,071	3,287	6,378
2	2,502	11,829	18,918	36,564
3	3,831	18,159	29,056	56,143
4	4,888	23,145	37,027	71,552

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $11.8, $39.7, $61.2, and $117.0 per metric ton (2012$).

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (GHG) emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed on reducing CO_2 emissions in this rulemaking is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this proposed rule the most recent values and analyses resulting from the ongoing interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from new and amended standards for electric motors. The low and high dollar-per-ton values that DOE used are discussed in section IV.L present the cumulative present values for each TSL calculated using seven-percent and three-percent discount rates.

TABLE V.20—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER ELECTRIC MOTORS TRIAL STANDARD LEVELS

[Million 2012$]

TSL	3% discount rate	7% discount rate
Power Sector Emissions		
1	49.5	26.4
2	257.1	120.2
3	392.2	181.6
4	501.3	233.2
Upstream Emissions		
1	68.0	33.8
2	378.4	164.8
3	579.9	250.3
4	739.7	320.6
Total Emissions		
1	117.5	60.2
2	635.4	285.0
3	972.2	432.0

TABLE V.20—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER ELECTRIC MOTORS TRIAL STANDARD LEVELS—Continued

[Million 2012$]

TSL	3% discount rate	7% discount rate
4	1,241.0	553.8

7. Summary of National Economic Impacts

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this rulemaking. Table V.21 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of customer savings calculated for each TSL considered in this rulemaking, at both a seven-percent and three-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE V.21—NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

[Billion 2012$]

TSL	SCC Case $11.8/metric ton CO_2* and low value for NO_X**	SCC Case $39.7/metric ton CO_2* and medium value for NO_X**	SCC Case $61.2/metric ton CO_2* and medium value for NO_X**	SCC Case $117.0/metric ton CO_2* and high value for NO_X**
	Customer NPV at 3% discount rate added with:			
1	6.3	8.0	9.2	12.4
2	25.9	35.7	42.8	61.0
3	7.0	22.1	33.0	60.9
4	−37.3	−18.0	−4.1	31.4
	Customer NPV at 7% discount rate added with:			
1	3.2	4.8	6.1	9.2
2	11.2	20.8	27.9	45.7
3	0.5	15.2	26.1	53.5
4	−25.3	−6.6	7.3	42.3

*These label values represent the global SCC in 2015, in 2012$.

**Low Value corresponds to $468 per ton of NO_X emissions. Medium Value corresponds to $2,639 per ton, and High Value corresponds to $4,809 per ton.

Although adding the value of customer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. customer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use quite different time frames for analysis. The national operating cost savings is measured for the lifetime of equipment shipped in 2015–2044. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year. These impacts continue well beyond 2100.

8. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) No other factors were considered in this analysis.

C. Proposed Standards

When considering proposed standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered equipment shall be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(a)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a)) The new or amended standard must also "result in significant conservation of energy." (42 U.S.C. 6295(o)(3)(B) and 6316(a))

For today's NOPR, DOE considered the impacts of standards at each TSL, beginning with the max-tech 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 technologically feasible, economically justified and saves a significant amount of energy. Throughout this process DOE also considered the recommendations made by the Motors Coalition and other stakeholders in their submitted comments. For more details on the Motors Coalition see Section II.B.2.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficiency levels contained in each TSL are described in section V.A. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of customers who may be disproportionately affected by a national standard, and impacts on employment. Section V.B.1.b presents the estimated impacts of each TSL for the considered subgroup. DOE discusses the impacts on employment in electric motor manufacturing in section V.B.2.b, and discusses the indirect employment impacts in section V.B.3.c.

1. Benefits and Burdens of Trial Standard Levels Considered for Electric Motors

Table V.22 and Table V.23 summarize the quantitative impacts estimated for each TSL for electric motors.

TABLE V.22—SUMMARY OF ANALYTICAL RESULTS FOR ELECTRIC MOTORS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
National Full-Fuel-Cycle Energy Savings *quads:*				
	1.1	7.0	10.8	13.7
NPV of Consumer Benefits *2012$ billion:*				

TABLE V.22—SUMMARY OF ANALYTICAL RESULTS FOR ELECTRIC MOTORS: NATIONAL IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4
3% discount rate	5.8	23.3	3.0	−42.4
7% discount rate	2.7	8.7	−3.4	−30.3
Cumulative Emissions Reduction (Total FFC Emissions):				
CO_2 *million metric tons*	65.9	396.1	610.0	776.5
SO_2 *thousand tons*	106.0	674.4	1,042.0	1,324.8
NO_X *thousand tons*	82.1	499.4	769.6	979.5
Hg *tons*	0.1	0.8	1.3	1.6
N_2O *thousand tons*	1.3	8.5	13.2	16.8
CH_4 *thousand tons*	302.2	1,887.7	2,913.5	3,705.5
Value of Emissions Reduction (Total FFC Emissions):				
CO_2 2012$ *million**	457 to 6,378	2,502 to 36,564	3,831 to 56,143	4,888 to 71,552
NO_X—3% discount rate *2012$ million*	117.5	635.4	972.2	1,241.0
NO_X—7% discount rate *2012$ million*	60.2	285.0	432.0	553.8

* Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE V.23—SUMMARY OF ANALYTICAL RESULTS FOR ELECTRIC MOTORS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
Manufacturer Impacts:				
Industry NPV 2012$ million	3,378.7–3,019.5	3,759.2–3,087.6	4,443.7–2,356.8	5,241.3–1,383.1
Industry NPV % change	0.2–(10.4)	11.5–(8.4)	31.8–(30.1)	55.5–(59.0)
Consumer Mean LCC Savings * *2012$:*				
Equipment Class Group 1	43	132	68	−417
Equipment Class Group 2	38	38	−285	−285
Equipment Class Group 3	N/A **	N/A **	−61	−763
Equipment Class Group 4	137	259	210	−291
Consumer Median PBP * *years:*				
Equipment Class Group 1	1.1	3.3	6.7	29.9
Equipment Class Group 2	5.0	5.0	22.8	22.8
Equipment Class Group 3	N/A **	N/A **	3,299	11,957
Equipment Class Group 4	1.2	1.9	3.7	16.0
Equipment Class Group 1:				
Net Cost %	0.3	8.4	38.0	84.6
Net Benefit %	9.7	32.0	40.4	7.6
No Impact %	90.0	59.6	21.5	7.7
Equipment Class Group 2:				
Net Cost %	21.5	21.5	94.7	94.7
Net Benefit %	68.6	68.6	5.3	5.3
No Impact %	9.9	9.9	0.0	0.0
Equipment Class Group 3:				
Net Cost (%)	0.0	0.0	81.7	100.0
Net Benefit (%)	0.0	0.0	0.0	0.0
No Impact (%)	0.0	0.0	18.3	0.0
Equipment Class Group 4:				
Net Cost (%)	1.0	10.8	33.1	79.6
Net Benefit (%)	31.8	60.8	65.8	19.9
No Impact (%)	67.3	28.4	1.1	0.3

** The results for each equipment class group (ECG) are a shipment weighted average of results for the representative units in the group. ECG 1: Representative units 1, 2, and 3; ECG 2: Representative units 4 and 5; ECG 3: Representative units 6, 7, and 8; ECG 4: Representative units 9 and 10.

** For equipment class group 3, TSL 1 and 2 are the same as the baseline; thus, no customers are affected.

First, DOE considered TSL 4, the most efficient level (max tech), which would save an estimated total of 13.7 quads of energy, an amount DOE considers significant. TSL 4 has an estimated NPV of customer benefit of −30.3 billion using a 7 percent discount rate, and −42.4 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 4 are 776.5 million metric tons of CO_2, 979.5 thousand tons of NO_X, 1,324.8 thousand tons of SO_2, and 1.6 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $4,888 million to $71,552 million.

At TSL 4, the weighted average LCC impact ranges from $−763 for ECG 3 to $−285 for ECG 2. The weighted average median PBP ranges from 16 years for ECG 4 to 11,957 years for ECG 3. The weighted average share of customers experiencing a net LCC benefit ranges from 0 percent for ECG 3 to 19.9 percent for ECG 4.

At TSL 4, the projected change in INPV ranges from a decrease of $1,988.1 million to an increase of $1,870.1 million. If the decrease of $1,988.1 million were to occur, TSL 4 could result in a net loss of 59 percent in INPV to manufacturers of covered electric motors.

In view of the foregoing, DOE concludes that, at TSL 4 for electric

motors, the benefits of energy savings, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential multi-billion dollar negative net economic cost; the economic burden on customers as indicated by the increase in customer LCC (negative savings), large PBPs, the large percentage of customers who would experience LCC increases; the increase in the cumulative regulatory burden on manufacturers; and the capital and engineering costs that could result in a large reduction in INPV for manufacturers at TSL 4. Additionally, DOE believes that efficiency standards at this level, could result in significant impacts on OEMs due to larger and faster motors. Although DOE has not quantified these potential impacts, DOE believes that it is possible that these impacts could be significant and further reduce any potential benefits of standards established at this TSL. Consequently, DOE has concluded that TSL 4 is not economically justified.

Next, DOE considered TSL 3, which would save an estimated total of 10.6 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of customer benefit of $-3.4 billion using a 7 percent discount rate, and $3.0 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 3 are 610.0 million metric tons of CO_2, 769.6 thousand tons of NO_X, 1,042.0 thousand tons of SO_2, and 1.3 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $3,831 million to $56,143 million.

At TSL 3, the weighted average LCC impact ranges from $-285 for ECG 2 to $210 for ECG 4. The weighted average median PBP ranges from 3.7 years for ECG 4 to 3,299 years for ECG 3. The share of customers experiencing a net LCC benefit ranges from 0 percent for ECG 3 to 65.8 percent for ECG 4.

At TSL 3, the projected change in INPV ranges from a decrease of $1,014,4 million to an increase of $1,072.5 million. If the decrease of $1,014.4 million were to occur, TSL 3 could result in a net loss of 30.1 percent in INPV to manufacturers of covered electric motors.

In view of the foregoing, DOE concludes that, at TSL 3 for electric motors, the benefits of energy savings, positive weighted average customer LCC savings for some ECGs, generating capacity reductions, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential negative net economic cost; the economic burden on customers as indicated by the increase in weighted average LCC for some ECGs (negative savings), large PBPs, the large percentage of customers who would experience LCC increases; the increase in the cumulative regulatory burden on manufacturers; and the capital and engineering costs that could result in a large reduction in INPV for manufacturers at TSL 3. Additionally, DOE believes that efficiency standards at this level could result in significant impacts on OEMs due to larger and faster motors. Although DOE has not quantified these potential impacts, DOE believes that it is possible that these impacts could be significant and further reduce any potential benefits of standards established at this TSL. Consequently, DOE has concluded that TSL 3 is not economically justified.

Next, DOE considered TSL 2, which would save an estimated total of 7.0 quads of energy, an amount DOE considers significant. TSL 2 has an estimated NPV of customer benefit of $8.7 billion using a 7 percent discount rate, and $23.3 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 2 are 396.1 million metric tons of CO_2, 674.4 thousand tons of NO_X, 499.4 thousand tons of SO_2, and 0.8 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $2,502 million to $36,564 million.

At TSL 2, the weighted average LCC impact ranges from no impacts for ECG 3 to $259 for ECG 4. The weighted average median PBP ranges from 0 years for ECG 3 to 5 years for ECG 2. The share of customers experiencing a net LCC benefit ranges from 0 percent for ECG 3 to 68.6 percent for ECG 2. The share of motors already at TSL 2 efficiency levels varies by equipment class group and by horsepower range (from 0 to 62 percent). For ECG 1, which represents the most significant share of the market, about 30 percent of motors meet the TSL 2 levels.

At TSL 2, the projected change in INPV ranges from a decrease of $283.5 million to an increase of $388 million. If the decrease of $283.5 million were to occur, TSL 2 could result in a net loss of 8.4 percent in INPV to manufacturers of covered electric motors.

After considering the analysis and weighing the benefits and the burdens, DOE has tentatively concluded that at TSL 2 for electric motors, the benefits of energy savings, positive NPV of customer benefit, positive impacts on consumers (as indicated by positive weighted average LCC savings for all ECGs impacted at TSL 2, favorable PBPs, and the large percentage of customers who would experience LCC benefits, emission reductions, and the estimated monetary value of the emissions reductions would outweigh the slight increase in the cumulative regulatory burden on manufacturers and the risk of small negative impacts if manufacturers are unable to recoup investments made to meet the standard. In particular, the Secretary of Energy has concluded that TSL 2 would save a significant amount of energy and is technologically feasible and economically justified.

In addition, DOE notes that TSL 2 most closely corresponds to the standards that were proposed by the Motor Coalition, as described in section II.B.2. Based on the above considerations, DOE today proposes to adopt the energy conservation standards for electric motors at TSL 2. Table V.24 through Table V.27 present the proposed energy conservation standards for electric motors.

TABLE V.24—PROPOSED ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B ELECTRIC MOTORS

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	77.0	77.0	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	84.0	84.0	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	85.5	85.5	86.5	86.5	88.5	87.5	84.0	86.5

TABLE V.24—PROPOSED ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B ELECTRIC MOTORS—Continued

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
3/2.2	86.5	85.5	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	88.5	86.5	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	89.5	88.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	90.2	89.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	91.0	90.2	92.4	93.0	91.7	91.7	89.5	90.2
20/15	91.0	91.0	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	91.7	91.7	93.6	93.6	93.0	93.0	90.2	91.0
30/22	91.7	91.7	93.6	94.1	93.0	93.6	91.7	91.7
40/30	92.4	92.4	94.1	94.1	94.1	94.1	91.7	91.7
50/37	93.0	93.0	94.5	94.5	94.1	94.1	92.4	92.4
60/45	93.6	93.6	95.0	95.0	94.5	94.5	92.4	93.0
75/55	93.6	93.6	95.4	95.0	94.5	94.5	93.6	94.1
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0
300/224	95.8	95.4	96.2	95.8	95.8	95.8	95.0	95.0
350/261	95.8	95.4	96.2	95.8	95.8	95.8	95.0	95.0
400/298	95.8	95.8	96.2	95.8	95.8	95.8	95.0	95.0
450/336	95.8	96.2	96.2	96.2	95.8	96.2	95.0	95.0
500/373	95.8	96.2	96.2	96.2	95.8	96.2	95.0	95.0

TABLE V.25—PROPOSED ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN C ELECTRIC MOTORS

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7
40/30	94.1	94.1	94.1	94.1	91.7	91.7
50/37	94.5	94.5	94.1	94.1	92.4	92.4
60/45	95.0	95.0	94.5	94.5	92.4	93.0
75/55	95.4	95.0	94.5	94.5	93.6	94.1
100/75	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.8	95.8	95.8	95.4	94.1	94.1
200/150	96.2	95.8	95.8	95.4	94.5	94.1

TABLE V.26—PROPOSED ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	75.5	75.5	82.5	82.5	80.0	80.0	74.0	74.0
1.5/1.1	82.5	82.5	84.0	84.0	85.5	84.0	77.0	75.5
2/1.5	84.0	84.0	84.0	84.0	86.5	85.5	82.5	85.5

TABLE V.26—PROPOSED ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS—Continued

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
3/2.2	85.5	84.0	87.5	86.5	87.5	86.5	84.0	86.5
5/3.7	87.5	85.5	87.5	87.5	87.5	87.5	85.5	87.5
7.5/5.5	88.5	87.5	89.5	88.5	89.5	88.5	85.5	88.5
10/7.5	89.5	88.5	89.5	89.5	89.5	90.2	88.5	89.5
15/11	90.2	89.5	91.0	91.0	90.2	90.2	88.5	89.5
20/15	90.2	90.2	91.0	91.0	90.2	91.0	89.5	90.2
25/18.5	91.0	91.0	92.4	91.7	91.7	91.7	89.5	90.2
30/22	91.0	91.0	92.4	92.4	91.7	92.4	91.0	91.0
40/30	91.7	91.7	93.0	93.0	93.0	93.0	91.0	91.0
50/37	92.4	92.4	93.0	93.0	93.0	93.0	91.7	91.7
60/45	93.0	93.0	93.6	93.6	93.6	93.6	91.7	92.4
75/55	93.0	93.0	94.1	94.1	93.6	93.6	93.0	93.6
100/75	93.6	93.0	94.5	94.1	94.1	94.1	93.0	93.6
125/90	94.5	93.6	94.5	94.5	94.1	94.1	93.6	93.6
150/110	94.5	93.6	95.0	95.0	95.0	94.5	93.6	93.6
200/150	95.0	94.5	95.0	95.0	95.0	94.5	94.1	93.6
250/186	95.4	94.5	95.0	95.4	95.0	95.4	94.5	94.5
300/224	95.4	95.0	95.4	95.4	95.0	95.4	94.5	94.5
350/261	95.4	95.0	95.4	95.4	95.0	95.4	94.5	94.5
400/298	95.4	95.4	95.4	95.4	95.0	95.4	94.5	94.5
450/336	95.4	95.8	95.4	95.8	95.0	95.4	94.5	94.5
500/373	95.4	95.8	95.8	95.8	95.0	95.4	94.5	94.5

TABLE V.27—PROPOSED ENERGY CONSERVATION STANDARDS FOR BRAKE MOTORS

[Compliance starting December 19, 2015]

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7

2. Summary of Benefits and Costs (Annualized) of the Proposed Standards

The benefits and costs of today's proposed standards, for equipment sold in 2015–2044, can also be expressed in terms of annualized values. The annualized monetary values are the sum of: (1) The annualized national economic value of the benefits from consumer operation of equipment that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[89]

[89] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2013, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2045 through 2044) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of electric motors shipped in 2015 –2044. The SCC values, on the other hand, reflect the present value of some future

climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards for electric motors are shown in Table V.28. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $462 million per year in increased equipment costs; while the estimated benefits are $1,114 million per year in reduced equipment operating costs, $586 million in CO_2 reductions, and $21.5 million in reduced NO_X emissions. In this case, the net benefit would amount to $957 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated cost of the standards proposed in today's rule is $577 million per year in increased equipment costs; while the estimated benefits are $1,730 million per year in reduced operating costs, $586 million in CO_2 reductions, and $31.5 million in reduced NO_X emissions. In this case, the net benefit would amount to approximately $1,354 million per year.

TABLE V.28—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR ELECTRIC MOTORS

[million 2012$/year]

	Discount rate	Primary estimate *	Low Net benefits estimate *	High Net benefits estimate *
Benefits:				
Consumer Operating Cost Savings	7%	1,114	924	1,358.
	3%	1,730	1,421	2,134.
CO_2 Reduction Monetized Value ($11.8/t case) *.	5%	155	134	179.
CO_2 Reduction Monetized Value ($39.7/t case) *.	3%	586	506	679.
CO_2 Reduction Monetized Value ($61.2/t case) *.	2.5%	882	762	1022.
CO_2 Reduction Monetized Value $117.0/t case) *.	3%	1,811	1,565	2,098.
NO_X Reduction Monetized Value (at $2,639/ ton) **.	7%	21.46	18.55	24.68.
	3%	31.48	27.20	36.39.
	7% plus CO_2 range	1,290 to 2,947	1,077 to 2,507	1,562 to 3,481.
Total Benefits †	7%	1,721	1,449	2,061.
	3% plus CO_2 range	1,916 to 3,572	1,583 to 3,014	2,350 to 4,268.
	3%	2,347	1,955	2,849.
Costs:				
Consumer Incremental Equipment Costs	7%	462	492	447.
	3%	577	601	569.
Net Benefits:				
	7% plus CO_2 range	585 to 2,016.	1,115 to 3,033	1,353 to 3,438.
	7%	957	1,614	1,887.
Total †	3% plus CO_2 range	982 to 2,413	1,781 to 3,700	1,957 to 4,043.
	3%	1,354	2,280	2,492.

* This table presents the annualized costs and benefits associated with electric motors shipped in 2015–2044. These results include benefits to consumers which accrue after 2044 from the equipment purchased in years 2015–2044. Costs incurred by manufacturers, some of which may be incurred in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates are in view of projections of energy prices from the Annual Energy Outlook (AEO) 2013 Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium constant projected equipment price in the Primary Estimate, a decline rate for projected equipment price trends in the Low Benefits Estimate, and an increasing rate for projected equipment price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that today's standards address are as follows:

(1) There are external benefits resulting from improved energy efficiency of covered electric motors which are not captured by the users of such equipment. These benefits include externalities related to environmental protection and energy security that are not reflected in energy prices, such as emissions of greenhouse gases. DOE attempts to quantify some of the external benefits through use of Social Cost of Carbon values.

In addition, DOE has determined that today's regulatory action is an "economically significant regulatory action" under section 3(f)(1) of Executive Order 12866. Accordingly,

section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on today's rule and that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, 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 today's 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 an IRFA for this rulemaking, a copy of which DOE will transmit to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b). As presented and discussed below, the IFRA describes potential impacts on electric motors manufacturers associated with capital and product conversion costs and discusses alternatives that could minimize these impacts.

A statement of the objectives of, and reasons and legal basis for, the proposed rule are set forth elsewhere in the preamble and not repeated here.

1. Description and Estimated Number of Small Entities Regulated

a. Methodology for Estimating the Number of Small Entities

For manufacturers of electric motors, 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. The size standards are listed by North American Industry Classification System (NAICS) code and industry description available at: *http://www.sba.gov/content/table-small-business-size-standards*. Electric motor manufacturing is classified under NAICS 335312, "Motor and Generator Manufacturing." The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small business manufacturers of equipment covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE's research involved industry trade association membership directories (including NEMA), information from previous rulemakings, UL qualification directories, individual company Web sites, and market research tools (e.g., Hoover's reports). DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers during manufacturer interviews and DOE public meetings. DOE used information from these sources to create a list of companies that potentially manufacture electric motors covered by this rulemaking. As necessary, DOE contacted companies to determine whether they met the SBA's definition of a small business manufacturer. DOE screened out companies that do not offer equipment covered by this rulemaking, do not meet the definition of a "small business," or are foreign owned and operated.

DOE initially identified 60 potential manufacturers of electric motors sold in the U.S. After reviewing publicly available information DOE contacted 27 of the companies that DOE suspected were small business manufacturers to determine whether they met the SBA definition of a small business and whether they manufactured the equipment that would be affected by today's proposal. Based on these efforts, DOE estimates that there are 13 small business manufacturers of electric motors.

b. Manufacturer Participation

DOE contacted the 13 identified small businesses to invite them to take part in a small business manufacturer impact analysis interview. Of the electric motor manufacturers DOE contacted, 10 responded and three did not. Eight of the 10 responding manufacturers declined to be interviewed. Therefore, DOE was able to reach and discuss potential standards with two of the 13 small business manufacturers. DOE also obtained information about small business manufacturers and potential impacts while interviewing large manufacturers.

c. Electric Motor Industry Structure and Nature of Competition

Eight major manufacturers supply approximately 90 percent of the market for electric motors. None of the major manufacturers of electric motors

covered in this rulemaking is a small business. DOE estimates that approximately 50 percent of the market is served by imports. Many of the small businesses that compete in the electric motor market produce specialized motors, many of which have not been regulated under previous standards. Most of these low-volume manufacturers do not compete directly with large manufacturers and tend to occupy niche markets for their equipment. There are a few small business manufacturers that produce general purpose motors; however, these motors currently meet NEMA Premium efficiency levels, the efficiency levels being proposed in today's notice.

d. Comparison Between Large and Small Entities

For electric motors, small manufacturers differ from large manufacturers in several ways that affect the extent to which a manufacturer would be impacted by proposed standards. Characteristics of small manufacturers include: lower production volumes, fewer engineering resources, less technical expertise, and less access to capital.

Lower production volumes lie at the heart of most small business disadvantages, particularly for a small manufacturer that is vertically integrated. A lower-volume manufacturer's conversion costs would need to be spread over fewer units than a larger competitor. Thus, unless the small business can differentiate its product in some way that earns a price premium, the small business is a 'price taker' and experiences a reduction in profit per unit relative to the large manufacturer. Therefore, because much of the same equipment would need to be purchased by both large and small manufacturers in order to produce electric motors at higher TSLs, undifferentiated small manufacturers would face a greater variable cost penalty because they must depreciate the one-time conversion expenditures over fewer units.

Smaller companies are also more likely to have more limited engineering resources and they often operate with lower levels of design and manufacturing sophistication. Smaller companies typically also have less experience and expertise in working with more advanced technologies. Standards that required these technologies could strain the engineering resources of these small manufacturers if they chose to maintain a vertically integrated business model. Small business electric motor manufacturers can also be at a disadvantage due to their lack of purchasing power for high performance materials. For example, more expensive low-loss steels are needed to meet higher efficiency standards and steel cost grows as a percentage of the overall product cost. Small manufacturers who pay higher per-pound prices would be disproportionately impacted by these prices.

Lastly, small manufacturers typically have less access to capital, which may be needed by some to cover the conversion costs associated with new technologies.

2. Description and Estimate of Compliance Requirements

In its market survey, DOE identified three categories of small business electric motor manufacturers that may be impacted differently by today's proposed rule. The first group, which includes approximately five of the 13 small businesses, consists of manufacturers that produce specialty motors that were not required to meet previous Federal standards, but would need to do so under the expanded scope of today's proposed rule. DOE believes that this group would likely be the most impacted by expanding the scope of equipment required to meet NEMA Premium efficiency levels. The second group, which includes approximately five different small businesses, consists of manufacturers that produce a small amount of covered equipment and primarily focus on other types of motors not covered in this rulemaking, such as single-phase or direct-current motors. Because generally less than 10 percent of these manufacturers' revenue comes from covered equipment, DOE does not believe new standards will substantially impact their business. The third group, which includes approximately three small businesses, consists of manufacturers that already offer NEMA Premium general purpose and specialty motors. DOE expects these manufacturers to face similar conversion costs as large manufacturers, in that they will not experience high capital conversion costs as they already have the design and production experience necessary to bring their motors up to NEMA Premium efficiency levels. It is likely, however, that some of the specialty equipment these manufacturers produce will be included in the expanded scope of this proposed rule and is likely to result in these small businesses incurring additional certification and testing costs. These manufacturers could also face product development costs if they have to redesign any motors that are not currently meeting the NEMA Premium level.

At TSL 2, the level proposed in today's notice, DOE estimates capital conversion costs of $1.88 million and product conversion costs of $3.75 million for a typical small manufacturer in the first group (manufacturers that produce specialized motors previously not covered by Federal standards). Meanwhile, DOE estimates a typical large manufacturer would incur capital and product conversion costs of $3.29 million and $7.25 million, respectively, at the same TSL. Small manufacturers that predominately produce specialty motors would face higher relative capital conversion costs at TSL 2 than large manufacturers because large manufacturers have been independently pursuing higher efficiency motors as a result of the efficiency standards prescribed by EISA 2007 (10 CFR part 431.25) and consequently have built up more design and production experience. Large manufacturers have also been innovating as a result of the small electric motors rulemaking at 75 FR 10874 (March 9, 2010), which exempted many of the specialized equipment that these small business manufacturers produce. Many large manufacturers of general purpose motors offer equipment that was covered by the 2010 small electric motors rule, as well as equipment that falls under this proposed rule. Small manufactures pointed out that this would give large manufacturers an advantage in that they already have experience with the technology necessary to redesign their equipment and are familiar with the steps they will have to take to upgrade their manufacturing equipment and processes. Small manufactures, whose specialized motors were not required to meet the standards prescribed by the small electric motors rule and EISA 2007 have not undergone these processes and, therefore, would have to put more time and resources into redesign efforts.

The small businesses whose product lines consist of a high percentage of equipment that are not currently required to meet efficiency standards would need to make significant capital investments relative to large manufacturers to upgrade their production lines with equipment necessary to produce NEMA Premium motors. As Table VI.1 illustrates, these manufacturers would have to drastically increase their capital expenditures to purchase new lamination die sets, and new winding and stacking equipment.

TABLE VI.1—ESTIMATED CAPITAL AND PRODUCT CONVERSION COSTS AS A PERCENTAGE OF ANNUAL CAPITAL EXPENDITURES AND R&D EXPENSE

	Capital conversion cost as a percentage of annual capital expenditures (%)	Product conversion cost as a percentage of annual R&D expense (%)	Total conversion cost as a percentage of annual revenue (%)
Typical Large Manufacturer	14	31	2
Typical Small Manufacturer	188	490	75

Table VI.1 also illustrates that small manufacturers whose product lines contain many motors that are not currently required to meet Federal standards face high relative product conversion costs compared to large manufacturers, despite the lower dollar value. In interviews, these small manufacturers expressed concern that they would face a large learning curve relative to large manufacturers, due to the fact that many of the equipment they produce has not had to meet Federal standards. In its market survey, DOE learned that for some manufacturers, the expanded scope of specialized motors that would have to meet NEMA Premium could affect nearly half the equipment they offer. They would need to hire additional engineers and would have to spend considerable time and resources redesigning their equipment and production processes. DOE does not expect the small businesses that already manufacture NEMA Premium equipment or those that offer very few alternating-current motors to incur these high costs.

Manufacturers also expressed concern about testing and certification costs associated with new standards. They pointed out that these costs are particularly burdensome on small businesses that produce a wide variety of specialized equipment. As a result of the wide variety of equipment they produce and their relatively low output, small manufacturers are forced to certify multiple small batches of motors, the costs of which need to be spread out over far fewer units than large manufacturers.

Small manufacturers that produce equipment not currently required to meet efficiency standards also pointed out that they would face significant challenges supporting current business while making changes to their production lines. While large manufacturers could shift production of certain equipment to different plants or product lines while they made updates, small businesses would have limited options. Most of these small businesses have only one plant and would have to find a way to continue to fulfill customer needs while redesigning production lines and installing new equipment. In interviews with DOE, small manufacturers said that it would be difficult to quantify the impacts that downtime and the possible need for external support could have on their 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 considered today.

4. Significant Alternatives to the Proposed Rule

The discussion above analyzes impacts on small businesses that would result from the TSL DOE is proposing in today's notice. Though TSLs lower than the proposed TSL are expected to reduce the impacts on small entities, DOE is required by EPCA to establish standards that achieve the maximum improvement in energy efficiency that are technically feasible and economically justified, and result in a significant conservation of energy. Therefore, DOE rejected the lower TSLs.

In addition to the other TSLs being considered, the NOPR TSD includes a regulatory impact analysis in chapter 17. For electric motors, this report discusses the following policy alternatives: (1) Consumer rebates, (2) consumer tax credits, and (3) manufacturer tax credits. DOE does not intend to consider these alternatives further because they either are not feasible to implement or are not expected to result in energy savings as large as those that would be achieved by the standard levels under consideration.

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.

5. Significant Issues Raised by Public Comments

DOE's MIA suggests that, while TSL 2 presents greater difficulties for small businesses than lower efficiency levels, the business impacts at higher TSLs would be greater. DOE expects that most small businesses will generally be able to maintain profitability at the TSL proposed in today's rulemaking. It is possible, however, that the small manufacturers whose product lines consist of a high percentage of previously exempted motors could incur significant costs as a result of this proposed rule, and those high costs could endanger their business. DOE's MIA is based on its interviews of both small and large manufacturers, and consideration of small business impacts explicitly enters into DOE's choice of the TSLs proposed in this NOPR.

DOE did not receive any public comments suggesting that small businesses would not be able to achieve the efficiency levels at TSL 2.

C. Review Under the Paperwork Reduction Act

Manufacturers of electric motors that are currently subject to energy conservation standards must certify to DOE that their equipment comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the DOE test procedures for electric motors, including any amendments adopted for those test procedures. The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. DOE intends to address revised certification requirements for electric motors in a separate rulemaking.

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 equipment that are the subject of today's 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/downloads/unfunded-mandates-reform-act-intergovernmental-consultation.*

Although today's 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 electric motor 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 electric motors, 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. As required by 42 U.S.C. 6295(d), (f), and (o) and 6316(a), today's proposed rule would establish energy conservation standards for electric motors 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 today's 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 proposed 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 proposed 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 today's 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 today's proposed regulatory action, which sets forth potential energy conservation standards for commercial and industrial electric motors, 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.* As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *https://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/42.* 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 requests comment on the potential impacts of new and amended standards on small electric motor manufacturers, especially regarding DOE's proposed expansion of scope of covered electric motors.

2. DOE requests comment on whether the proposed standards help resolve the potential issue on which it had previously issued clarification of whether a [IEC] motor may be considered to be subject to two standards.

3. DOE seeks comment on any additional sources of data that could be used to establish the distribution of electric motors across equipment class groups.

4. DOE seeks comment on any additional sources of data that could be used to establish the distribution of electric motors across sectors by horsepower range and within each equipment class group.

5. DOE seeks comment on any additional sources for determining the frequency of motor repair depending on equipment class group and sector.

6. DOE seeks comment on any additional sources of data on motor lifetime that could be used to validate DOE's estimates of motor mechanical lifetime and its method of estimating lifetimes. DOE defines equipment lifetime as the lesser of the age at which electric motors are retired from service or the equipment in which they are embedded is retired. For the NIA, DOE uses motor average lifetime in years derived from motor mechanical lifetime in hours (see Chapter 8, Section 8.2.3) and from annual operating hours (see Section 10.2.2.2). DOE based expected equipment lifetime on discussions with industry experts and developed a distribution of typical lifetimes for several categories of electric motors. DOE welcomes further input on the average equipment lifetimes for the LCC and NIA analyses.

7. DOE seeks comment on the estimated base case distribution of product efficiencies and on any additional sources of data.

8. DOE seeks comments on its decision to use efficiency trends for equipment class groups 1 and 4 and constant efficiencies for equipment class groups 2 and 3 over the analysis period. Specifically, DOE would like comments on additional sources of data on trends in efficiency improvement.

9. DOE seeks comment on any sources of data that could be used to establish the elasticity of electric motor shipments with respect to changes in purchase price.

10. DOE seeks comment on its scaled values for MSPs. In particular, DOE seeks comments on its methodology for scaling MSP data from the representative equipment classes to the remaining equipment classes.

11. DOE seeks comment on the scaled values for motor weights. In particular, DOE seeks comments on its methodology for scaling weight data from the representative equipment classes to the remaining equipment classes.

12. DOE seeks comment on the trial standard levels (TSLs) developed for the NOPR.

13. DOE seeks comment on its proposed compliance date of December 19, 2015.

14. DOE seeks comment on its decision to analyze brake motors in a separate equipment class group.

15. DOE seeks comment on its decision to limit standards for brake motors to 1–30 hp, and 4, 6, and 8 pole configurations. DOE selected these ratings after reviewing manufacturer catalogs and only finding brake motors in these configurations.

16. DOE seeks comment on its decision to not screen out copper die-cast copper rotor motors.

17. DOE seeks comment on the availability of copper in the market to manufacture die-cast copper rotor motors on a "mass quantity" scale.

18. DOE seeks comment on its decision to not screen out hand winding in its analysis.

19. DOE seeks comment on its estimation for labor hours for each representative unit.

20. DOE seeks comments on the cost to manufacturers to change their product lines to meet EL3.

21. DOE seeks comments on the cost to manufacturers to change their product lines to meet EL4.

22. DOE is aware that motors used in fire pump applications may carry various definitions, including, but not limited to, NEMA, IEC, and NFPA designations. DOE requests comment on its current definition of fire pump motors, the suitability of that definition for the United States market, and on its advantages or disadvantages relative to other potential definitions.

23. In DOE's view any Design B or IEC-equivalent motor that otherwise satisfies the relevant NFPA requirements would meet the fire pump electric motor definition in 10 CFR 431.12. To the extent that there is confusion regarding this view, DOE invites comments on this issue, along with any data demonstrating whether any IEC-equivalent motors are listed for fire pump service either under the NFPA 20 or another relevant industry standard.

24. DOE seeks data on any other subsets of 56-frame motors, particularly those motors that are: (1) Enclosed general purpose electric motors that have a rating of under 1 horsepower and (2) open, special or definite purpose (inclusive) electric motors. The types of data that DOE seeks include, but are not limited to, the following categories: Efficiency distribution; shipment breakdown between horsepower ratings, open and enclosed motors, and between general and special and definite purpose electric motors; and typical applications that use these motors.

25. Currently, DOE's reference case projects that prices for future shipments of motors will remain constant. DOE is seeking input on the appropriateness of this assumption.

26. DOE requests comment on whether there are features or attributes of the more energy-efficient electric motors that manufacturers would produce to meet the standards in this proposed rule that might affect how they would be used by consumers. DOE requests comment specifically on how any such effects should be weighed in the choice of standards for the electric motors for the final rule.

27. For this rulemaking, DOE analyzed the effects of this proposal assuming that the electric motors would be available to purchase for 30 years and undertook a sensitivity analysis using 9 years rather than 30 years of product shipments. The choice of a 30-year period of shipments is consistent with the DOE analysis for other products and commercial equipment. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards. We are seeking input, information and data on whether there are ways to further refine the analytic timeline.

28. DOE solicits comment on the application of the new SCC values used to determine the social benefits of CO_2 emissions reductions over the rulemaking analysis period. (The rulemaking analysis period covers from 2015 to 2044 plus the appropriated number of years to account for the lifetime of the equipment purchased between 2015 and 2044.) In particular, the agency solicits comment on the

agency's derivation of SCC values after 2050 where the agency applied the average annual growth rate of the SCC estimates in 2040–2050 associated with each of the four sets of values.

29. DOE solicits comment on whether its proposal presents a sufficiently broad scope of regulatory coverage to help ensure that significant energy savings would be met or whether further adjustments to the proposed scope—whether to exclude certain categories or to include others—are necessary.

30. DOE requests comment on the nine characteristics listed in section III.C and their appropriateness for outlining scope of coverage.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's proposed rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Commercial and industrial equipment, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on November 25, 2013.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 431 of chapter II of title 10 of the Code of Federal Regulations, as set forth below:

PART 431—ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317

■ 2. Revise § 431.25 to read as follows:

§ 431.25 Energy conservation standards and effective dates.

(a) Except as provided for fire pump electric motors in paragraph (b) of this section, each general purpose electric motor (subtype I) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, including a NEMA Design B or an equivalent IEC Design N motor that is a general purpose electric motor (subtype I), manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before December 19, 2015, shall have a nominal full-load efficiency that is not less than the following:

TABLE 1—NOMINAL FULL-LOAD EFFICIENCIES OF GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I), EXCEPT FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency					
	Open motors (number of poles)			Enclosed motors (number of poles)		
	6	4	2	6	4	2
1/.75	82.5	85.5	77.0	82.5	85.5	77.0
1.5/1.1	86.5	86.5	84.0	87.5	86.5	84.0
2/1.5	87.5	86.5	85.5	88.5	86.5	85.5
3/2.2	88.5	89.5	85.5	89.5	89.5	86.5
5/3.7	89.5	89.5	86.5	89.5	89.5	88.5
7.5/5.5	90.2	91.0	88.5	91.0	91.7	89.5
10/7.5	91.7	91.7	89.5	91.0	91.7	90.2
15/11	91.7	93.0	90.2	91.7	92.4	91.0
20/15	92.4	93.0	91.0	91.7	93.0	91.0
25/18.5	93.0	93.6	91.7	93.0	93.6	91.7
30/22	93.6	94.1	91.7	93.0	93.6	91.7
40/30	94.1	94.1	92.4	94.1	94.1	92.4
50/37	94.1	94.5	93.0	94.1	94.5	93.0
60/45	94.5	95.0	93.6	94.5	95.0	93.6
75/55	94.5	95.0	93.6	94.5	95.4	93.6
100/75	95.0	95.4	93.6	95.0	95.4	94.1
125/90	95.0	95.4	94.1	95.0	95.4	95.0
150/110	95.4	95.8	94.1	95.8	95.8	95.0
200/150	95.4	95.8	95.0	95.8	96.2	95.4

(b) Each fire pump electric motor that is a general purpose electric motor (subtype I) or general purpose electric motor (subtype II) manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before December 19, 2015, shall have a nominal full-load efficiency that is not less than the following:

TABLE 2—NOMINAL FULL-LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
1/.75	74.0	80.0	82.5	—	74.0	80.0	82.5	75.5
1.5/1.1	75.5	84.0	84.0	82.5	77.0	85.5	84.0	82.5

TABLE 2—NOMINAL FULL-LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS—Continued

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
2/1.5	85.5	85.5	84.0	84.0	82.5	86.5	84.0	84.0
3/2.2	86.5	86.5	86.5	84.0	84.0	87.5	87.5	85.5
5/3.7	87.5	87.5	87.5	85.5	85.5	87.5	87.5	87.5
7.5/5.5	88.5	88.5	88.5	87.5	85.5	89.5	89.5	88.5
10/7.5	89.5	90.2	89.5	88.5	88.5	89.5	89.5	89.5
15/11	89.5	90.2	91.0	89.5	88.5	90.2	91.0	90.2
20/15	90.2	91.0	91.0	90.2	89.5	90.2	91.0	90.2
25/18.5	90.2	91.7	91.7	91.0	89.5	91.7	92.4	91.0
30/22	91.0	92.4	92.4	91.0	91.0	91.7	92.4	91.0
40/30	91.0	93.0	93.0	91.7	91.0	93.0	93.0	91.7
50/37	91.7	93.0	93.0	92.4	91.7	93.0	93.0	92.4
60/45	92.4	93.6	93.6	93.0	91.7	93.6	93.6	93.0
75/55	93.6	93.6	94.1	93.0	93.0	93.6	94.1	93.0
100/75	93.6	94.1	94.1	93.0	93.0	94.1	94.5	93.6
125/90	93.6	94.1	94.5	93.6	93.6	94.1	94.5	94.5
150/110	93.6	94.5	95.0	93.6	93.6	95.0	95.0	94.5
200/150	93.6	94.5	95.0	94.5	94.1	95.0	95.0	95.0
250/186	94.5	95.4	95.4	94.5	94.5	95.0	95.0	95.4
300/224	—	95.4	95.4	95.0	—	95.0	95.4	95.4
350/261	—	95.4	95.4	95.0	—	95.0	95.4	95.4
400/298	—	—	95.4	95.4	—	—	95.4	95.4
450/336	—	—	95.8	95.8	—	—	95.4	95.4
500/373	—	—	95.8	95.8	—	—	95.8	95.4

(c) Except as provided for fire pump electric motors in paragraph (b) of this section, each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, including a NEMA Design B or an equivalent IEC Design N motor that is a general purpose electric motor (subtype II), manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before December 19, 2015, shall have a nominal full-load efficiency that is not less than the following:

TABLE 3—NOMINAL FULL-LOAD EFFICIENCIES OF GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE II), EXCEPT FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
1/.75	74.0	80.0	82.5	—	74.0	80.0	82.5	75.5
1.5/1.1	75.5	84.0	84.0	82.5	77.0	85.5	84.0	82.5
2/1.5	85.5	85.5	84.0	84.0	82.5	86.5	84.0	84.0
3/2.2	86.5	86.5	86.5	84.0	84.0	87.5	87.5	85.5
5/3.7	87.5	87.5	87.5	85.5	85.5	87.5	87.5	87.5
7.5/5.5	88.5	88.5	88.5	87.5	85.5	89.5	89.5	88.5
10/7.5	89.5	90.2	89.5	88.5	88.5	89.5	89.5	89.5
15/11	89.5	90.2	91.0	89.5	88.5	90.2	91.0	90.2
20/15	90.2	91.0	91.0	90.2	89.5	90.2	91.0	90.2
25/18.5	90.2	91.7	91.7	91.0	89.5	91.7	92.4	91.0
30/22	91.0	92.4	92.4	91.0	91.0	91.7	92.4	91.0
40/30	91.0	93.0	93.0	91.7	91.0	93.0	93.0	91.7
50/37	91.7	93.0	93.0	92.4	91.7	93.0	93.0	92.4
60/45	92.4	93.6	93.6	93.0	91.7	93.6	93.6	93.0
75/55	93.6	93.6	94.1	93.0	93.0	93.6	94.1	93.0
100/75	93.6	94.1	94.1	93.0	93.0	94.1	94.5	93.6
125/90	93.6	94.1	94.5	93.6	93.6	94.1	94.5	94.5
150/110	93.6	94.5	95.0	93.6	93.6	95.0	95.0	94.5
200/150	93.6	94.5	95.0	94.5	94.1	95.0	95.0	95.0

(d) Each NEMA Design B or an equivalent IEC Design N motor that is a general purpose electric motor (subtype I) or general purpose electric motor (subtype II), excluding fire pump electric motors, with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component

of another piece of equipment) on or after December 19, 2010, but before December 19, 2015 shall have a nominal full-load efficiency that is not less than the following:

TABLE 4—NOMINAL FULL-LOAD EFFICIENCIES OF NEMA DESIGN B GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I AND II), EXCEPT FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)	Enclosed motors (number of poles)						
		8	6	4	2	8	6	4
250/186	94.5	95.4	95.4	94.5	94.5	95.0	95.0	95.4
300/224	—	95.4	95.4	95.0	—	95.0	95.4	95.4
350/261	—	95.4	95.4	95.0	—	95.0	95.4	95.4
400/298	—	—	95.4	95.4	—	—	95.4	95.4
450/336	—	—	95.8	95.8	—	—	95.4	95.4
500/373	—	—	95.8	95.8	—	—	95.8	95.4

(e) For purposes of determining the required minimum nominal full-load efficiency of an electric motor that has a horsepower or kilowatt rating between two horsepower or two kilowatt ratings listed in any table of energy conservation standards in paragraphs (a) through (d) of this section, each such motor shall be deemed to have a listed horsepower or kilowatt rating, determined as follows:

(1) A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

(2) A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; or

(3) A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula 1 kilowatt = ($^{1}/_{0.746}$) horsepower. The conversion should be calculated to three significant decimal places, and the resulting horsepower shall be rounded in accordance with paragraph (e)(1) or (2) of this section, whichever applies.

(f) The standards in Table 1 through Table 4 of this section do not apply to definite purpose motors, special purpose motors, or those motors exempted by the Secretary.

(g) The standards in Table 5 through Table 8 of this section apply to electric motors that satisfy the following criteria:

(1) Are single-speed, induction motors;

(2) Are rated for continuous duty (MG 1) operation or for duty type S1 (IEC);

(3) Contain a squirrel-cage (MG 1) or cage (IEC) rotor;

(4) Operate on polyphase alternating current 60-hertz sinusoidal line power;

(5) Are rated 600 volts or less;

(6) Have a 2-, 4-, 6-, or 8-pole configuration,

(7) Have a three-digit NEMA frame size (or IEC metric equivalent) or an enclosed 56 NEMA frame size (or IEC metric equivalent),

(8) Are rated no more than 500 horsepower, but greater than or equal to 1 horsepower (or kilowatt equivalent), and

(9) Meet all of the performance requirements of one of the following motor types: a NEMA Design A, B, or C motor or an IEC design N or H motor.

(h) Starting on December 19, 2015, each NEMA Design A and NEMA Design B motor that is an electric motor meeting the criteria in paragraph (g) of this section and with a power rating from 1 horsepower through 500 horsepower, but excluding fire pump electric motors, integral-brake electric motors, and non-integral brake electric motors, manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency of not less than the following:

TABLE 5—NOMINAL FULL LOAD EFFICIENCIES OF NEMA DESIGN A AND NEMA DESIGN B ELECTRIC MOTORS

[Excluding fire pump electric motors, integral-brake electric motors, and non-integral brake electric motors]

Motor horsepower/ standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	77.0	77.0	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	84.0	84.0	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	85.5	85.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	86.5	85.5	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	88.5	86.5	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	89.5	88.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	90.2	89.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	91.0	90.2	92.4	93.0	91.7	91.7	89.5	90.2
20/15	91.0	91.0	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	91.7	91.7	93.6	93.6	93.0	93.0	90.2	91.0
30/22	91.7	91.7	93.6	94.1	93.0	93.6	91.7	91.7
40/30	92.4	92.4	94.1	94.1	94.1	94.1	91.7	91.7
50/37	93.0	93.0	94.5	94.5	94.1	94.1	92.4	92.4
60/45	93.6	93.6	95.0	95.0	94.5	94.5	92.4	93.0
75/55	93.6	93.6	95.4	95.0	94.5	94.5	93.6	94.1
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1

TABLE 5—NOMINAL FULL LOAD EFFICIENCIES OF NEMA DESIGN A AND NEMA DESIGN B ELECTRIC MOTORS—Continued

[Excluding fire pump electric motors, integral-brake electric motors, and non-integral brake electric motors]

Motor horsepower/ standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
125/90	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0
300/224	95.8	95.4	96.2	95.8	95.8	95.8	95.0	95.0
350/261	95.8	95.4	96.2	95.8	95.8	95.8	95.0	95.0
400/298	95.8	95.8	96.2	95.8	95.8	95.8	95.0	95.0
450/336	95.8	96.2	96.2	96.2	95.8	96.2	95.0	95.0
500/373	95.8	96.2	96.2	96.2	95.8	96.2	95.0	95.0

(i) Starting on December 19, 2015, each NEMA Design C electric motor that is an electric motor meeting the criteria in paragraph (g) of this section and with a power rating from 1 horsepower through 200 horsepower, but excluding non-integral brake electric motors and integral brake electric motors, manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency that is not less than the following:

TABLE 6—NOMINAL FULL LOAD EFFICIENCIES OF NEMA DESIGN C ELECTRIC MOTORS

[excluding non-integral brake electric motors and integral brake electric motors]

Motor horsepower/standard kilowatt equivalent	Nominal Full Load Efficiency (%)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7
40/30	94.1	94.1	94.1	94.1	91.7	91.7
50/37	94.5	94.5	94.1	94.1	92.4	92.4
60/45	95.0	95.0	94.5	94.5	92.4	93.0
75/55	95.4	95.0	94.5	94.5	93.6	94.1
100/75	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.8	95.8	95.8	95.4	94.1	94.1
200/150	96.2	95.8	95.8	95.4	94.5	94.1

(j) Starting on December 19, 2015, each fire pump electric motor meeting the criteria in paragraph (g) of this section and with a power rating of 1 horsepower through 500 horsepower, manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency that is not less than the following:

TABLE 7—NOMINAL FULL LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	75.5	75.5	82.5	82.5	80.0	80.0	74.0	74.0
1.5/1.1	82.5	82.5	84.0	84.0	85.5	84.0	77.0	75.5
2/1.5	84.0	84.0	84.0	84.0	86.5	85.5	82.5	85.5
3/2.2	85.5	84.0	87.5	86.5	87.5	86.5	84.0	86.5
5/3.7	87.5	85.5	87.5	87.5	87.5	87.5	85.5	87.5
7.5/5.5	88.5	87.5	89.5	88.5	89.5	88.5	85.5	88.5

TABLE 7—NOMINAL FULL LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS—Continued

Motor horsepower/ standard kilowatt equivalent	Nominal full load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
10/7.5	89.5	88.5	89.5	89.5	89.5	90.2	88.5	89.5
15/11	90.2	89.5	91.0	91.0	90.2	90.2	88.5	89.5
20/15	90.2	90.2	91.0	91.0	90.2	91.0	89.5	90.2
25/18.5	91.0	91.0	92.4	91.7	91.7	91.7	89.5	90.2
30/22	91.0	91.0	92.4	92.4	91.7	92.4	91.0	91.0
40/30	91.7	91.7	93.0	93.0	93.0	93.0	91.0	91.0
50/37	92.4	92.4	93.0	93.0	93.0	93.0	91.7	91.7
60/45	93.0	93.0	93.6	93.6	93.6	93.6	91.7	92.4
75/55	93.0	93.0	94.1	94.1	93.6	93.6	93.0	93.6
100/75	93.6	93.0	94.5	94.1	94.1	94.1	93.0	93.6
125/90	94.5	93.6	94.5	94.5	94.1	94.1	93.6	93.6
150/110	94.5	93.6	95.0	95.0	95.0	94.5	93.6	93.6
200/150	95.0	94.5	95.0	95.0	95.0	94.5	94.1	93.6
250/186	95.4	94.5	95.0	95.4	95.0	95.4	94.5	94.5
300/224	95.4	95.0	95.4	95.4	95.0	95.4	94.5	94.5
350/261	95.4	95.0	95.4	95.4	95.0	95.4	94.5	94.5
400/298	95.4	95.4	95.4	95.4	95.0	95.4	94.5	94.5
450/336	95.4	95.8	95.4	95.8	95.0	95.4	94.5	94.5
500/373	95.4	95.8	95.8	95.8	95.0	95.4	94.5	94.5

(k) Starting on December 19, 2015, each integral brake electric motor and non-integral brake electric motor meeting the criteria in paragraph (g) of this section, and with a power rating of 1 horsepower through 30 horsepower, manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency that is not less than the following:

TABLE 8—NOMINAL FULL LOAD EFFICIENCIES OF INTEGRAL BRAKE ELECTRIC MOTORS AND NON-INTEGRAL BRAKE ELECTRIC MOTORS

Motor horsepower/standard kilowatt equivalent	Nominal full load efficiency (%)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7

(l) For purposes of determining the required minimum nominal full-load efficiency of an electric motor that has a horsepower or kilowatt rating between two horsepower or two kilowatt ratings listed in any table of energy conservation standards in paragraphs (h) through (k) of this section, each such motor shall be deemed to have a listed horsepower or kilowatt rating, determined as follows:

(1) A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

(2) A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; or

(3) A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula 1 kilowatt = (1/0.746) horsepower. The conversion should be calculated to three significant decimal places, and the resulting horsepower shall be rounded in accordance with paragraph (l)(1) or (2) of this section, whichever applies.

(m) The standards in Table 5 through Table 8 of this section do not apply to the following electric motors exempted by the Secretary, or any additional electric motors that the Secretary may exempt:

(1) Air-over electric motors;

(2) Component sets of an electric motor;

(3) Liquid-cooled electric motors;

(4) Submersible electric motors; and

(5) Definite-purpose, inverter-fed electric motors.

[FR Doc. 2013–28776 Filed 12–5–13; 8:45 am]

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FEDERAL REGISTER

Vol. 78 Friday,
No. 235 December 6, 2013

Part III

The President

Proclamation 9066—International Day of Persons With Disabilities, 2013

Federal Register
Vol. 78, No. 235
Friday, December 6, 2013

Presidential Documents

Title 3—

The President

Proclamation 9066 of December 2, 2013

International Day of Persons With Disabilities, 2013

By the President of the United States of America

A Proclamation

Nearly a quarter century has gone by since our Nation passed the Americans with Disabilities Act (ADA), a landmark civil rights bill that enshrined the principles of inclusion, access, and equal opportunity into law. The ADA was born out of a movement sparked by those who understood their disabilities should not be an obstacle to success and took up the mission of tearing down physical and social barriers that stood in their way. On this International Day of Persons with Disabilities, we celebrate the enormous progress made at home and abroad and we strengthen our resolve to realize a world free of prejudice.

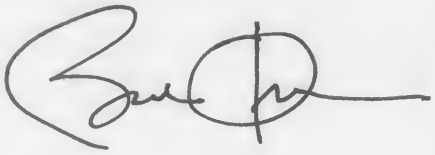
Every child deserves a decent education, every adult deserves equal access to the workplace, and every nation that allows injustice to stand denies itself the full talents and contributions of individuals with disabilities. I was proud that under my Administration the United States signed the Convention on the Rights of Persons with Disabilities, an international convention based on the principles of the ADA, and I urge the Senate to provide its advice and consent to ratification. By joining the 138 parties to this convention, the United States would carry forward its legacy of global leadership on disability rights, enhance our ability to bring other countries up to our own high standards of access and inclusion, and expand opportunities for Americans with disabilities—including our 5.5 million disabled veterans—to work, study, and travel abroad.

My Administration remains committed to leading by example. This year, as we celebrated the 40th anniversary of the Rehabilitation Act, we updated rules to improve hiring of veterans and people with disabilities, especially among Federal contractors and subcontractors. Thanks to the Affordable Care Act, insurers can no longer put lifetime dollar limits on essential health benefits for Americans with disabilities. And in January, it will be illegal to deny coverage because of pre-existing conditions.

The changes achieved in the last two decades speak to what people can accomplish when they refuse to accept the world as it is. Today let us once again reach for the world that should be—one where all people, regardless of country or disability, enjoy equal access, equal opportunity, and the freedom to realize their limitless potential.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim December 3, 2013, as International Day of Persons with Disabilities. I call on all Americans to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of December, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.



[FR Doc. 2013–29397
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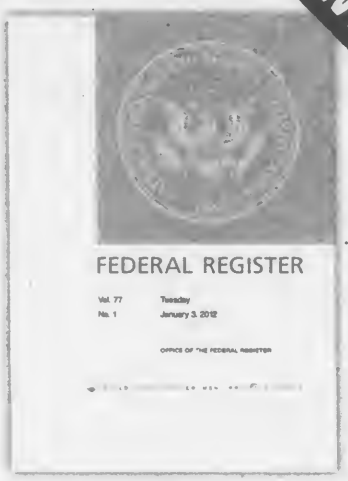

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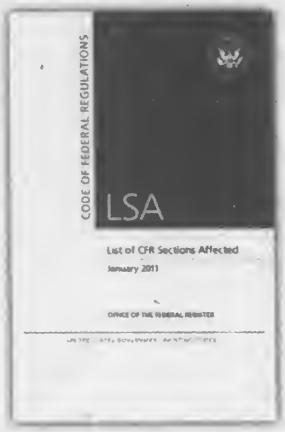

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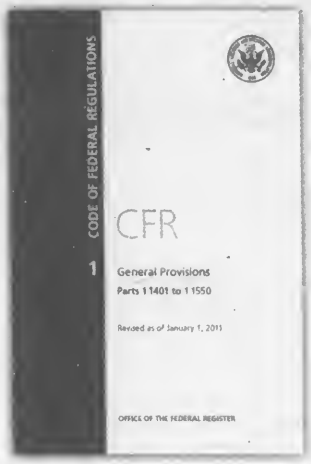

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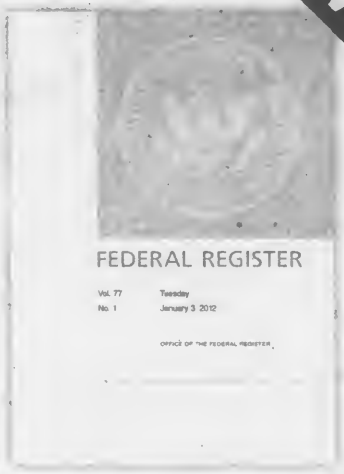

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