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EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

2 CFR Part 3603

21 CFR Parts 1403, 1404, and 1405

RIN 3201–AA00

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

AGENCY: Office of National Drug Control Policy, Executive Office of the President.

ACTION: Final rule.

SUMMARY: The Office of National Drug Control Policy (ONDCP), Executive Office of the President, finalizes its portion of the uniform Federal assistance rule published by the Office of Management and Budget, in the **Federal Register** on December 19, 2014.

DATES: This rule is effective on September 23, 2015.

FOR FURTHER INFORMATION CONTACT: David A. Shull, Deputy General Counsel, Office of National Drug Control Policy, 750 17th Street NW., Washington, DC 20504. Telephone: (202) 395–6650.

SUPPLEMENTARY INFORMATION: On December 19, 2014, the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget, published an interim final rule that provided comprehensive modifications to the principles and requirements for Federal awards (79 FR 75871). The uniform rules were initially published as 2 CFR part 200. As a part of that rulemaking, the Office of National Drug Control Policy (ONDCP) adopted 2 CFR part 200 in a new part 3603 and removed and reserved its past rules from 21 CFR parts 1403–1405.

The ONDCP received no relevant comments in response to the rule. Therefore, 2 CFR part 3603, as described in the interim final rule, is adopted with no changes.

Regulatory Analysis

For the regulatory findings and analysis regarding this rulemaking, please refer to the analysis prepared by OIRA in the interim final rule, which is incorporated herein (79 FR at 75876).

Accordingly, the interim rule adding 2 CFR part 3603 and amending 21 CFR parts 1403, 1404, and 1405, which was published at 79 FR 75871 on December 19, 2014, is adopted as a final rule without change.

Dated: September 16, 2015.

David A. Shull,

Deputy General Counsel.

[FR Doc. 2015–24114 Filed 9–22–15; 8:45 am]

BILLING CODE 3280–F5–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133–AE52

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing this final rule to exclude Central Liquidity Facility-related bridge loans (CLF-related bridge loans) from the aggregate unsecured lending cap to one borrower applicable to corporate credit unions (Corporates). Specifically, a CLF-related bridge loan that is exempt from that cap is a bridge loan made by a Corporate to a natural person credit union where the natural person credit union has been approved for a loan by the CLF and is awaiting funding from the CLF. Additionally, this rule excludes CLF-related bridge loans from the calculation of ''net assets'' and ''net risk weighted assets'' for determining minimum capital requirements.

DATES: This rule is effective October 23, 2015.

FOR FURTHER INFORMATION CONTACT: J. Owen Cole, President, Central Liquidity Facility, at 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518–6360; David Shetler, Deputy Director, Office of National Examinations and Supervision, at the above address or telephone (703) 518–6640; or Justin M. Anderson, Senior Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

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I. Background

At its April 2015 meeting,[1] the Board issued a proposed rule to exclude CFL-related bridge loans from the aggregate unsecured lending cap to one borrower applicable to Corporates. The Board issued this proposed rule to provide flexibility to Corporates to enhance their ability to serve natural person credit unions. That proposal was largely in response to comments received on a November 2014 proposed rule that made several technical amendments to NCUA's corporate regulation.[2]

II. Comment Summary and Final Amendments

In response to the April 2015 proposal, the Board received seven comment letters. The commenters were comprised of Corporates and credit union trade associations. All of the commenters supported the proposed changes and did not recommend any amendments. Accordingly, for the reasons set forth in the preamble to the April 2015 proposal, the Board is finalizing that proposed rule as published.

III. Regulatory Procedures

1. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $50 million in assets).[3] This rule only affects Corporates, all of which have more than $50 million in assets. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

[1] 80 FR 27108 (May 12, 2015).

[2] 79 FR 65353 (Nov. 4, 2014).

[3] 5 U.S.C. 603(a); 12 U.S.C. 1787(c)(1).

2. Paperwork Reduction Act.

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden.[4] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. This rule does not create any new burdens or increase any existing burdens. Therefore, a PRA analysis is not required.

3. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

4. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

5. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

[4] 44 U.S.C. 3507(d); 5 CFR part 1320.

List of Subjects in 12 CFR Part 704

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 704 as follows:

PART 704—CORPORATE CREDIT UNIONS

■ 1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, and 1789.

■ 2. Amend § 704.2 by adding a definition for *CLF-related bridge loan* in alphabetical order and revising the definitions of *Net assets* and *Net risk-weighted assets* to read as follows:

§ 704.2 Definitions.

* * * * *

CLF-related bridge loan means interim financing, extending up to ten business days, that a corporate credit union provides for a natural person credit union from the time the CLF approves a loan to the natural person credit union until the CLF funds the loan. To repay a CLF-related bridge loan, the borrowing natural person credit union assigns the proceeds of the CLF advance to the corporate credit union making the CLF-related bridge loan for the duration of the bridge loan.

* * * * *

Net assets means total assets less Central Liquidity Facility (CLF) stock subscriptions, CLF-related bridge loans, loans guaranteed by the National Credit Union Share Insurance Fund (NCUSIF), and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net assets.

* * * * *

Net risk-weighted assets means risk-weighted assets less CLF stock subscriptions, CLF-related bridge loans, loans guaranteed by the NCUSIF, and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net risk-weighted assets.

* * * * *

■ 3. Amend § 704.7 by revising paragraph (c)(1)(i) and revising paragraph (d)(1) to read as follows:

§ 704.7 Lending.

* * * * *

(c) * * *

(1) * * *

(i) The maximum aggregate amount in unsecured loans and lines of credit from a corporate credit union to any one member credit union, excluding CLF-related bridge loans and pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of the corporate credit union's total capital.

* * * * *

(d) * * *

(1) *Credit unions.* A loan to a nonmember credit union, other than through a loan participation with another corporate credit union or a CLF-related bridge loan, is only permissible if the loan is for an overdraft related to the providing of correspondent services pursuant to § 704.12. Generally, such a loan will have a maturity of one business day.

* * * * *

[FR Doc. 2015–24160 Filed 9–22–15; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 740, 741, 747, and 796

RIN 3133–AE56

Civil Monetary Penalty Inflation Adjustment

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: This rule is effective September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Ian Marenna, Trial Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314, or by telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Legal Background

The Debt Collection Improvement Act of 1996 [1] (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 [2] (FCPIA Act) to require every federal agency to enact regulations that adjust each CMP provided by law under its jurisdiction by the rate of inflation at least once every four years. These periodic adjustments are to be calculated pursuant to the inflation adjustment formula in section 5(b) of the FCPIA Act. Section 6 of the FCPIA Act specifies that inflation-adjusted CMPs will only apply to violations that occur after the effective date of the adjustment.

The inflation adjustment is based on the percentage increase in the Consumer Price Index for all urban customers (CPI–U) published by the Department of Labor.[3] Specifically, section 5(b) of the FCPIA Act defines the term ''cost-of-living adjustment'' as ''the percentage (if any) for each civil monetary penalty by which—(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.'' The amount of each inflation adjustment must then be rounded to a number prescribed by section 5(a) of the FCPIA Act, depending on the amount of the CMP. In some cases, this rounding results in no increase to a particular CMP maximum amount.

II. Mathematical Calculation of the Adjustments

A. Inflation Percentage and Penalty Adjustment Calculations

The Board recently became aware that NCUA last reviewed CMPs within its jurisdiction for inflation and made corresponding adjustments in 2009,[4] and that three CMPs have not previously been adjusted by NCUA. This failure to adjust the CMPs within the appropriate timeframe was inadvertent. The Board notes, however, that because NCUA has never assessed any CMPs at the maximum level, this delay has not affected any CMP assessed by the agency.

As noted above, in this final rule, the Board is correcting NCUA's oversight by reviewing and adjusting, as appropriate, all relevant CMPs. In addition, the Board is publishing a new maximum amount for an existing CMP that Congress modified in 2012. For this CMP and the three CMPs that have not previously been adjusted, the Board refers to the CPI–U for June of the year in which Congress set the amount of the CMP. For all other CMPs, the Board refers to the year that it last adjusted the maximum amount.

Consistent with NCUA's 2009 CMP adjustments, the Board provides the inflation calculations in a table below. Following the table, the Board describes the three CMPs that it is adjusting for the first time and the CMP that Congress modified. The table to be published at 12 CFR 747.1001 shows only the adjusted CMPs, not the calculations. The dollar amount in the far right column of the table is the new maximum for each CMP or the existing maximum for those CMPs that NCUA is not increasing because the rounding procedure in the FCPIA Act results in no increase to those maximums.

CALCULATION OF MAXIMUM CMP ADJUSTMENTS

Citation	Description/Tier [5]	Current maximum ($)	Percentage increase (%) [6]	Raw increase ($)	Adjusted increase ($) [7]	Adjusted maximum ($)
12 U.S.C. 1782(a)(3)	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	2,200	38.3 (2000)	843	1,000	3,200.
12 U.S.C. 1782(a)(3)	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	22,000	38.3 (2000)	8,426	5,000	32,000.
12 U.S.C. 1782(a)(3)	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	Lesser of 1,300,000 or 1% of total CU assets.	10.5 (2009)	136,500	125,000	Lesser of 1,425,000 or 1% of total CU assets.
12 U.S.C. 1782(d)(2)(A)	Tier 1 CMP for inadvertent failure to submit certified statement of insured shares and charges due to NCUSIF, or inadvertent submission of false or misleading statement.	2,200	38.3 (2000)	843	1,000	3,200.
12 U.S.C. 1782(d)(2)(B)	Tier 2 CMP for non-inadvertent failure to submit certified statement or submission of false or misleading statement.	22,000	38.3 (2000)	8,426	5,000	32,000.
12 U.S.C. 1782(d)(2)(C)	Tier 3 CMP for failure to submit a certified statement or the submission of a false or misleading statement done knowingly or with reckless disregard.	Lesser of 1,300,000 or 1% of total CU assets.	10.5 (2009)	136,500	125,000	Lesser of 1,425,000 or 1% of total CU assets.
12 U.S.C. 1785(a)(3)	Non-compliance with insurance logo requirements.	100	14.4 (2007)	14	10	110.
12 U.S.C. 1785(e)(3)	Non-compliance with NCUA security requirements.	110	38.3 (2000)	42	0	110.

[1] Public Law 104–134, section 31001(s), 110 Stat. 1321–373 (Apr. 26, 1996). The provision is codified at 28 U.S.C. 2461 note.

[2] Public Law 101–410, 104 Stat. 890 (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

[3] The CPI–U is published by the Department of Labor, Bureau of Labor Statistics, and is available at its Web site: *http://www.bls.gov/cpi/*.

[4] 74 FR 9349 (Mar. 4, 2009). NCUA also reviewed CMPs for inflation and made corresponding adjustments in 2000 and 2004. 65 FR 57277 (Sept. 22, 2000), 69 FR 60077 (Oct. 7, 2004). All of the CMPs that were increased in 2004 were also increased in 2009. Because of the rounding procedure, not all CMPs that are reviewed for inflation are increased.

CALCULATION OF MAXIMUM CMP ADJUSTMENTS—Continued

Citation	Description/Tier [5]	Current maximum ($)	Percentage increase (%) [6]	Raw increase ($)	Adjusted increase ($) [7]	Adjusted maximum ($)
12 U.S.C. 1786(k)(2)(A)	Tier 1 CMP for violations of law, regulation, and other orders or agreements.	7,500	10.5 (2009)	788	1,000	8,500.
12 U.S.C. 1786(k)(2)(B)	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	37,500	10.5 (2009)	3,938	5,000	42,500.
12 U.S.C. 1786(k)(2)(C)	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	1,375,000	10.5 (2009)	144,375	150,000	1,525,000.
12 U.S.C. 1786(k)(2)(C)	Tier 3 (same) (CU)	Lesser of 1,375,000 or 1% of total CU assets.	10.5 (2009)	144,375	150,000	Lesser of 1,525,000 or 1% of total CU assets.
12 U.S.C. 1786(w)(5)(A)(ii)	Non-compliance with senior examiner post-employment restrictions.	250,000	22.5 (2005)	56,250	25,000	275,000.
15 U.S.C. 1639e(k)	Non-compliance with appraisal independence standards (first violation).	10,000	5.6 (2011)	560	1,000	11,000.
15 U.S.C. 1639e(k)	Subsequent violations of the same	20,000	5.6 (2011)	1,120	0	20,000.
42 U.S.C. 4012a(f)(5)	Non-compliance with flood insurance requirements.	2,000	2.9 (2012)	78	0	2,000.

B. Description of Initial Adjustments and Modified CMP

NCUA recently determined that three penalties that it has not previously adjusted for inflation meet the definition of CMPs. Also, Congress has changed the amount and structure of one additional penalty that the Board has previously adjusted for inflation.

[5] The table uses shorthand descriptions of CMP tiers. Refer to the U.S. Code citations for complete descriptions.

[6] The year that NCUA last adjusted the CMP or that Congress set it is shown in parentheses. With the exception of 12 U.S.C. 1785(a)(3), 12 U.S.C. 1786(w)(5)(A)(ii), and 15 U.S.C. 1639e(k), NCUA reviewed all of the CMPs in the table for inflation in 2009. The rounding procedure described in the next footnote resulted in some of these CMPs remaining at the same level. The year in parentheses is the last year the maximum CMP was actually increased, or, for 15 U.S.C. 1639e(k) and 42 U.S.C. 4012a(f)(5), the year that Congress set the maximum CMP amounts. The percentage change used in this column to determine the raw increase in each CMP is the difference between the June 2014 CPI–U (238.343) and the CPI–U for June of the relevant year noted in parentheses, divided by the CPI–U for June of the relevant year. The CPI–U figures are available at *http://www.bls.gov/cpi/*.

[7] The FCPIA Act's rounding rules require that an increase of a CMP be rounded to the nearest multiple of: $10 in the case of penalties less than or equal to $100; $100 in the case of penalties greater than $100 but less than or equal to $1,000; $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000; $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000; $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and $25,000 in the case of penalties greater than $200,000. Section 5(a) of the FCPIA Act, 28 U.S.C. 2461 note. Also, the first adjustment of any penalty is limited to 10 percent of the maximum penalty amount. Public Law 104–134, § 31001(s)(2), codified at 28 U.S.C. 2461 note. The 10 percent cap only affects the increase of the CMP under 12 U.S.C. 1786(w)(5)(A)(ii).

Below, the Board describes the three CMPs that NCUA is reviewing for adjustment for the first time and the additional CMP that Congress changed in 2012. The Board does not describe the other CMPs included in the table above, as NCUA reviewed all of the other CMPs for inflation in 2009 and made adjustments as appropriate under the rounding procedure.

1. 12 U.S.C. 1785(a)(3)

Federally insured credit unions must display signs relating to the insurance of share accounts.[8] Under the Federal Credit Union Act, the Board may impose a penalty of $100 for each day that a federally insured credit union violates this requirement or the Board's implementing regulations.[9] The Board has prescribed regulations on this subject.[10] Congress added this penalty to the Federal Credit Union Act in 2006,[11] but it was not effective until 2007.[12]

2. 12 U.S.C. 1786(w)(5)(A)(ii)

Congress amended the Federal Credit Union Act in 2004 to impose post-NCUA employment restrictions on NCUA senior examiners.[13] The provision authorizes the Board to impose a CMP of not more than $250,000 in an administrative proceeding or civil action against former NCUA senior examiners who violate conflict-of-interest restrictions that apply to their post-NCUA employment.[14] The Board has prescribed regulations to implement these restrictions and is making a conforming amendment to the penalty amount set forth in that part.[15]

3. 15 U.S.C. 1639e(k)

The Dodd-Frank Wall Street Reform and Consumer Protection Act [16]

[8] 12 U.S.C. 1785(a)(1).

[9] 12 U.S.C. 1785(a)(3).

[10] 12 CFR 740.4.

[11] Public Law 109–173, section 2, 119 Stat. 3604–605 (Feb. 15, 2006).

[12] Congress set the effective date for section 2 of Public Law 109–173, including the penalty provision, as the date on which the final regulations required by section 2109(a)(2) of the Federal Insurance Reform Act of 2005 took effect. *Id.* Section 2(e). These regulations took effect on January 1, 2007. 71 FR 69323–01 (Nov. 30, 2006). Accordingly, the Board refers to the CPI–U for June 2007 to adjust this CMP for inflation.

[13] Public Law 108–458, section 6303(c), 118 Stat. 3753–754 (Dec. 17, 2004). Section 6303(d) stated that this provision would take effect at the end of the 12-month period following its enactment. The public law was enacted on December 17, 2004, so the CMP became effective in 2005. The Board uses the June 2005 CPI–U to adjust this CMP for inflation.

[14] 12 U.S.C. 1785(w)(5)(A)(ii).

[15] 12 CFR 796.5.

[16] Public L.aw 111–203, title XIV, section 1472(a), 124 Stat. 2187–190 (Jul. 21, 2010). Title XIV, Section 1400(c) stated that any section or provision of that title would become effective once the regulation implementing the section or provision became effective. On October 28, 2010, the Board of Governors of the Federal Reserve System published an interim final rule to implement the appraisal independence section, as required by 15 U.S.C. 1639e(g)(2). 75 FR 66554 (Oct. 28, 2010). The interim final rule had an effective date of December 27, 2010. Compliance with the new standards, however, was optional until April 2011, which means that the Board and other agencies could not have imposed a penalty for violating this law before 2011. Therefore, the Board refers to the June 2011 CPI–U to adjust this CMP for inflation.

amended the Truth in Lending Act to establish independence standards for property appraisals. The provision authorizes the Board and other federal agencies to assess a civil penalty against persons who violate regulations implementing this law.[17]

4. 42 U.S.C. 4012a(f)(5)

The Board is authorized to impose CMPs against a credit union that is found to have a pattern or practice of committing certain specified actions in violation of the National Flood Insurance Program. The Board first adjusted this CMP for inflation in 2000.[18] At that time, 42 U.S.C. 4012a(f)(5) authorized a $350 penalty for each violation, subject to an annual cap of $100,000. The Board also adjusted this CMP for inflation in 2004 [19] and 2009.[20] Congress amended this CMP in 2012 to increase the amount per violation to $2,000 and eliminate the annual cap.[21] NCUA's calculation of inflation results in no increase to this modified CMP, but the Board includes this description to explain that the CMP has changed.

C. Conforming Amendments

The Board is also making conforming amendments to other parts of NCUA's regulations that state a specific maximum dollar amount for a CMP.[22] The final rule replaces the current specific dollar amounts with a non-numerical reference to the inflation-adjusted maximum amounts table at 12 CFR 747.1001.

III. Regulatory Procedures

A. Final Rule Under the Administrative Procedure Act

The FCPIA Act requires adjustments of CMPs for inflation to occur at least every four years. Federal agencies have no discretion in calculating the adjustments. Thus, the Board cannot vary the amount of the adjustments to reflect any views or suggestions submitted by commenters. Further, the regulation is ministerial and technical. For all these reasons, public notice and comment for this new regulation is unnecessary, impracticable, and contrary to the public interest under the Administrative Procedure Act (APA).[23] For the same reasons, there is no good cause to impose a 30-day delayed effective date requirement under the APA.[24]

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the Board to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.[25] For purposes of this analysis, the Board considers small credit unions to be those having under $50 million in assets.[26] This final rule would not have a significant economic impact on a substantial number of small credit unions because it only affects the maximum amounts of CMPs that may be assessed in individual cases, which are not numerous and generally do not involve assessments at the maximum level. In addition, several of the CMPs are limited to a percentage of a credit union's assets. Finally, in assessing CMPs, the Board generally must consider a party's financial resources.[27] Because this final rule would affect few, if any, small entities, the Board certifies that the final rule will not have a significant economic impact on small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden.[28] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. This final rule adjusts the maximum amounts of certain CMPs that the Board may assess against individuals, entities, or credit unions but does not require any reporting or recordkeeping. Therefore, this final rule will not create new paperwork burdens or modify any existing paperwork burdens.

D. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule adjusts the maximum amounts of certain CMPs that the Board may assess against individuals, entities, and federally insured credit unions, including state-chartered credit unions. However, the final rule does not create any new authority or alter the underlying statutory authorities that enable the Board to assess CMPs. Accordingly, this rule will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The Board has determined this rule does not constitute a policy that has federalism implications for purposes of the executive order.

E. Assessment of Federal Regulations and Policies on Families

The Board has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[29]

F. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 [30] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the Board issues a final rule as defined by Section 551 of the Administrative Procedure Act.[31] The Office of Management and Budget has determined that this final rule is not a ''major rule'' within the meaning of the relevant sections of SBREFA.

List of Subjects

12 CFR Part 740

Advertisements, Credit unions.

12 CFR Part 741

Credit, Credit unions, Reporting and recordkeeping requirements, Share insurance.

12 CFR Part 747

Credit unions, Civil monetary penalties.

[17] 15 U.S.C. 1639e(k) refers to 15 U.S.C. 1607(a), which authorizes the Board to enforce the appraisal independence requirements, among other provisions.

[18] 65 FR 57277 (Sept. 22, 2000).

[19] 69 FR 60077 (Oct. 7, 2004).

[20] 74 FR 9349 (Mar. 4, 2009).

[21] Public Law 112–141, section 100208, 126 Stat. 919 (Jul. 6, 2012). The Board refers to the June 2012 CPI–U to adjust this CMP because Congress set the modified CMP in 2012.

[22] 12 CFR 740.4(f); 12 CFR 741.4(k)(4)(i); 12 CFR 796.5(a)(2).

[23] 5 U.S.C. 553(b)(3)(B).

[24] 5 U.S.C. 553(d)(3).

[25] 5 U.S.C. 603(a).

[26] Interpretive Ruling and Policy Statement 03–2, 68 FR 31949 (May 29, 2003), as amended by Interpretive Ruling and Policy Statement 13–1, 78 FR 4032 (Jan. 18, 2013).

[27] 12 U.S.C. 1786(k)(2)(G)(i).

[28] 44 U.S.C. 3507(d); 5 CFR part 1320.

[29] Public Law 105–277, 112 Stat. 2681 (Oct. 21, 1998).

[30] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[31] 5 U.S.C. 551.

12 CFR Part 796

Conflicts of interest, Credit unions, Ethical conduct, Government employees.

By the National Credit Union Administration Board on September 17, 2015.

Gerard S. Poliquin,

Secretary of the Board.

For the reasons stated above, the NCUA Board amends 12 CFR parts 740, 741, 747, and 796 as follows:

PART 740—ACCURACY OF ADVERTISING AND NOTICE OF INSURED STATUS

■ 1. The authority citation for part 740 continues to read as follows:

Authority: 12 U.S.C. 1766, 1781, 1785, and 1789.

■ 2. In § 740.4, paragraph (f) is revised to read as follows:

§ 740.4 Requirements for the official sign.

* * * * *

(f) An insured credit union that fails to comply with Section 205(a) of the Federal Credit Union Act regarding the official sign, 12 U.S.C. 1785(a), or any requirement in this part is subject to a daily penalty in the amount set forth in § 747.1001 of this chapter.

PART 741—REQUIREMENTS FOR INSURANCE

■ 3. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 4. In § 741.4, paragraph (k)(4)(i) is revised to read as follows:

§ 741.4 Insurance premium and one percent deposit.

* * * * *

(k) * * *

(4) * * *

(i) Section 202(d)(2)(B) of the Act (12 U.S.C. 1782(d)(2)(B)) provides that the Board may assess and collect a penalty from an insured credit union, up to the amount specified in § 747.1001 of this chapter, for each day the credit union fails or refuses to pay any deposit or premium due to the fund; and

* * * * *

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

■ 5. The authority for part 747 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787, 1790a, 1790d; 15 U.S.C. 1639e; 42 U.S.C. 4012a; Pub. L. 101–410; Pub. L. 104–134; Pub. L. 109–351; 120 Stat. 1966.

■ 6. Section 747.1001 is revised to read as follows:

§ 747.1001 Adjustment of civil monetary penalties by the rate of inflation.

(a) NCUA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note)) to adjust the maximum amount of each civil monetary penalty within its jurisdiction by the rate of inflation. The following chart displays those adjustments, as calculated pursuant to the statute:

U.S. Code citation	CMP description	New maximum amount
(1) 12 U.S.C. 1782(a)(3)	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	$3,200.
(2) 12 U.S.C. 1782(a)(3)	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	$32,000.
(3) 12 U.S.C. 1782(a)(3)	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	$1,425,000 or 1 percent of the total assets of the credit union, whichever is less.
(4) 12 U.S.C. 1782(d)(2)(A)	Tier 1 CMP for inadvertent failure to submit certified statement of insured shares and charges due to NCUSIF, or inadvertent submission of false or misleading statement.	$3,200.
(5) 12 U.S.C. 1782(d)(2)(B)	Tier 2 CMP for non-inadvertent failure to submit certified statement or submission of false or misleading statement.	$32,000.
(6) 12 U.S.C. 1782(d)(2)(C)	Tier 3 CMP for failure to submit a certified statement or the submission of a false or misleading statement done knowingly or with reckless disregard.	$1,425,000 or 1 percent of the total assets of the credit union, whichever is less.
(7) 12 U.S.C. 1785(a)(3)	Non-compliance with insurance logo requirements	$110.
(8) 12 U.S.C. 1785(e) (3)	Non-compliance with NCUA security requirements	$110.
(9) 12 U.S.C. 1786(k)(2)(A)	Tier 1 CMP for violations of law, regulation, and other orders or agreements.	$8,500.
(10) 12 U.S.C. 1786(k)(2)(A)	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	$42,500.
(11) 12 U.S.C. 1786(k)(2)(A)	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	For a person other than an insured credit union: $1,525,000; For an insured credit union: $1,525,000 or 1 percent of the total assets of the credit union, whichever is less.
(12) 12 U.S.C. 1786(w)(5)(ii)	Non-compliance with senior examiner post-employment restrictions	$275,000.
(13) 15 U.S.C. 1639e(k)	Non-compliance with appraisal independence requirements	First violation: $11,000 Subsequent violations: $20,000.
(14) 42 U.S.C. 4012a(f)(5)	Non-compliance with flood insurance requirements	$2,000.

(b) The adjustments displayed in paragraph (a) of this section apply to acts occurring after the date of publication in the **Federal Register**.

PART 796—POST-EMPLOYMENT RESTRICTIONS FOR CERTAIN NCUA EXAMINERS

■ 7. The authority citation for part 796 continues to read as follows:

Authority: 12 U.S.C. 1786(w).

■ 8. In § 796.5, paragraph (a)(2) is revised to read as follows:

§ 796.5 What are the penalties for violating these special post-employment restrictions?

(a) * * *

(2) Assessed a civil monetary penalty up to the amount specified in § 747.1001 of this chapter.

* * * * *

[FR Doc. 2015–24157 Filed 9–22–15; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2015–3881; Special Conditions No. 23–267–SC]

Special Conditions: Cirrus Design Corporation, SF50; Full Authority Digital Engine Control (FADEC) System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Cirrus Design Corporation SF50 airplane. This airplane will have a novel or unusual design feature(s) associated with the use of an electronic engine control system instead of a traditional mechanical control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is September 23, 2015.

We must receive your comments by October 23, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3881 using any of the following methods:

- Federal eRegulations Portal: Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- Hand Delivery of Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Federal Aviation Administration, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–3239; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined, in accordance with 5 U.S.C. 553(b)(3)(B) and 553(d)(3), that notice and opportunity for prior public comment hereon are unnecessary because the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Special condition number	Company/airplane model
23–237–SC	Spectrum Aeronautical Model S–40.
23–246–SC	Cirrus Design Corporation Model SF50.
23–253–SC	Diamond Aircraft Industries Model DA–40NG.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On September 9, 2008, Cirrus Design Corporation applied for a type certificate for their new Model SF50. On December 11, 2012, Cirrus Design Corporation requested to revise the SF50 part 23 certification basis to include amendment 23–62. The Cirrus Design Corporation SF50 is a low-wing, seven-seat, single-engine turbofan-powered airplane. It incorporates an Electronic Flight Information System (EFIS), pressurized cabin, retractable gear, and a V-tail. The turbofan engine is mounted on the upper fuselage/tail cone along the aircraft centerline. It is constructed largely of carbon and fiberglass composite materials. Like other Cirrus products, the SF50 includes an airframe ballistic parachute system.

The model SF50 has a maximum operating altitude of 28,000 feet, where it cruises at speeds up to 300 knots true airspeed. Its maximum operating limit speed (V_{MO}) will not exceed 0.62 Mach. The maximum takeoff weight will be at or below 6,000 pounds with a range at economy cruise of roughly 1,000 nautical miles. Cirrus intends for the SF50 to be certified for single-pilot operations under 14 CFR parts 91 and 135 operating rules. The following operating conditions will be included:

- Day and Night VFR
- IFR
- Flight Into Known Icing

The Cirrus Design Corporation SF50 airplane is equipped with a Williams International FJ33–5A turbofan engine, which uses an Electronic Engine Control

System (EEC, also commonly referred to as a FADEC) instead of a traditional mechanical control system. Even though the engine control system will be certificated as part of the engine, the installation of an engine with an electronic control system requires evaluation due to critical environmental effects and possible effects on or by other airplane systems. For example, indirect effects of lightning, radio interference with other airplane electronic systems, shared engine and airplane data and power sources.

The regulatory requirements in part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in §§ 23.1306, Electrical and electronic system lightning protection; 23.1308, High-intensity Radiated Fields (HIRF) Protection; and 23.1309, Equipment, systems, and installations. However, when § 23.1309 was developed, the use of electronic control systems for engines was not envisioned. The integral nature of these systems makes it necessary to ensure the airplane functions included in the EEC are properly evaluated and that the installation does not degrade the EEC reliability, both of which are approved under part 33. Sections 23.1306(a) and 23.1308(a) are applied to the EEC to ensure it remains equivalent to a mechanical system, which is not generally susceptible to the HIRF and lightning environments.

In some cases, the airplane, which the engine is being installed in, will determine a higher classification than the engine controls are certificated for, requiring the EEC systems be analyzed at a higher classification. As of November 2005, EEC special conditions mandated the § 23.1309 classification for loss of EEC control as catastrophic for any airplane. This is not to imply an engine failure is classified as catastrophic, but that the EEC must provide an equivalent reliability to mechanical engine controls. In addition, §§ 23.1141, Powerplant controls: General, paragraph (e) and 25.901, Powerplant—General—Installation, paragraph (b)(2), are applied to provide the fault tolerant design requirements of turbine engine mechanical controls to the EEC and ensure adequate inspection and maintenance interval of the EEC.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Cirrus Design Corporation must show that the SF50 meets the applicable provisions of part 23, as amended by amendments 23–1 through 23–62 thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the SF50 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the SF50 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''.

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2). Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The SF50 will incorporate the following novel or unusual design features:

Electronic engine control system

Discussion

As discussed in the summary section, the SF50 makes use of an electronic engine control system instead of a traditional mechanical control system, which is considered a novel design for this type of airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. Mandating a structured assessment to determine potential installation issues mitigates the concerns that the addition of an electronic engine control may produce failure conditions not previously considered.

Applicability

As discussed above, these special conditions are applicable to the SF50. Should Cirrus Design Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the model SF50 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has previously been subjected to the notice and comment period as identified above, and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, notice and opportunity for prior public comment hereon are unnecessary and the FAA finds good cause, in accordance with 5 U.S.C. 553(b)(3)(B) and 553(d)(3), making these special conditions effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cirrus Design Corporation SF50 airplane.

1. Full Authority Digital Engine Control (FADEC) System

a. For electronic engine control system installations, it must be established that no single failure or malfunction or probable combinations of failures of Electronic Engine Control System (EEC) system components will have an effect on the system, as installed in the airplane, that causes the LOTC probability of the system to exceed those allowed in part 33 certification.

b. Electronic engine control system installations must be evaluated for environmental and atmospheric conditions, including lightning. The EEC system lightning and HIRF effects that could result in LOTC must be evaluated in accordance with §§ 23.1306(a) and 23.1308(a).

c. The components of the installation must be constructed, arranged, and installed to ensure their continued safe

operation between normal inspections or overhauls.

d. Functions incorporated into any electronic engine control that make it part of any equipment, systems, or installation whose functions are beyond that of basic engine control, and which may also introduce system failures and malfunctions, are not exempt from § 23.1309 and must be shown to meet part 23 levels of safety as derived from § 23.1309. Part 33 certification data, if applicable, may be used to show compliance with any part 23 requirements. If part 33 data is used to substantiate compliance with part 23 requirements, then the applicant must be able to provide this data for showing or compliance.

Issued in Kansas City, Missouri on September 14, 2015.

Mel Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24156 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No.FAA–2015–0721; Notice No. 23–269–SC]

Special Conditions: Honda Aircraft Company, Model HA–420 HondaJet, Lithium-ion Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Honda Aircraft Company, Model HA–420 airplane. This airplane will have a novel or unusual design feature associated with the installation of lithium-ion (Li-ion) batteries. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: These special conditions are effective September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Les Lyne, Policies & Procedures Branch, ACE–114, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust; Kansas City, Missouri 64106; telephone (816) 329–4171; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2006, Honda Aircraft Company applied for a type certificate for their new Model HA–420. On October 10, 2013, Honda Aircraft Company requested an extension with an effective application date of October 1, 2013. This extension changed the type certification basis to amendment 23–62.

The HA–420 is a four to five passenger (depending on configuration), two crew, lightweight business jet with a 43,000-foot service ceiling and a maximum takeoff weight of 9963 pounds. The airplane is powered by two GE-Honda Aero Engines (GHAE) HF–120 turbofan engines.

The current regulatory requirements for part 23 airplanes do not contain adequate requirements for the application of Li-ion batteries in airborne applications. This type of battery possesses certain failure, operational characteristics, and maintenance requirements that differ significantly from that of the nickel cadmium and lead acid rechargeable batteries currently approved in other normal, utility, acrobatic, and commuter category airplanes. Therefore, the FAA is proposing this special condition to require that (1) all characteristics of the rechargeable lithium batteries and their installation that could affect safe operation of the HA–420 are addressed, and (2) appropriate Instructions for Continued Airworthiness which include maintenance requirements are established to ensure the availability of electrical power from the batteries when needed.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Honda Aircraft Company must show that the HA–420 meets the applicable provisions of part 23, as amended by Amendments 23–1 through 23–62 thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 23) do not contain adequate or appropriate safety standards for the HA–420 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the HA–420 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The HA–420 will incorporate the following novel or unusual design feature: The installation of Li-ion batteries.

The current regulatory requirements for part 23 airplanes do not contain adequate requirements for the application of Li-ion batteries in airborne applications. This type of battery possesses certain failure, operational characteristics, and maintenance requirements that differ significantly from that of the nickel cadmium and lead acid rechargeable batteries currently approved in other normal, utility, acrobatic, and commuter category airplanes.

Discussion

The applicable parts 21 and 23 airworthiness regulations governing the installation of batteries in general aviation airplanes, including § 23.1353, were derived from Civil Air Regulations (CAR 3) as part of the recodification that established 14 CFR part 23. The battery requirements, which are identified in § 23.1353, were a rewording of the CAR requirements that did not add any substantive technical requirements. An increase in incidents involving battery fires and failures that accompanied the increased use of Nickel-Cadmium (Ni-Cad) batteries in aircraft resulted in rulemaking activities on the battery requirements for transport category airplanes. These regulations were incorporated into § 23.1353(f) and (g), which apply only to Ni-Cad battery installations.

The use of Li-ion batteries on the HA–420 airplane has prompted the FAA to review the adequacy of the existing battery regulations with respect to that chemistry. As the result of this review, the FAA has determined that the existing regulations do not adequately address several failure, operational, and maintenance characteristics of Li-ion batteries that could affect safety of the

battery installation of the HA–420 airplane electrical power supply.

The introduction of Li-ion batteries into aircraft raises some concern about associated battery/cell monitoring systems and how these may affect utilization of an otherwise ''good'' battery as an energy source to the electrical system when monitoring components fail. Associated battery/cell monitoring systems (*i.e.*, temperature, state of charge, etc.) should be evaluated/tested with respect the expected extremes in the aircraft operating environment.

Li-ion batteries typically have different electrical impedance characteristics than lead-acid or Ni-Cad batteries. Honda Aircraft Company needs to evaluate other components of the aircraft electrical system with respect to these characteristics.

At present, there is very limited experience regarding the use of Li-ion rechargeable batteries in applications involving commercial aviation. However, other users of this technology range from wireless telephone manufacturers to the electric vehicle industry and have noted significant safety issues regarding the use of these types of batteries, some of which are described in the following paragraphs:

1. *Overcharging.* In general, lithium batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.*, thermal runaway) than their nickel-cadmium or lead-acid counterparts. This is especially true for overcharging, which causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway due to overcharging increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

2. *Over-discharging.* Discharge of some types of lithium battery cells beyond a certain voltage (typically 2.4 volts) can cause corrosion of the electrodes of the cell; resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flight crews as a means of checking battery status—a problem shared with nickel-cadmium batteries.

3. *Flammability of Cell Components:* Unlike nickel-cadmium and lead-acid batteries, some types of lithium batteries use liquid electrolytes that are flammable. The electrolyte can serve as a source of fuel for an external fire if there is a breach of the battery container.

These safety issues experienced by users of lithium batteries raise concern about the use of these batteries in commercial aviation. The intent of the special condition is to establish appropriate airworthiness standards for lithium battery installations in the HA–420 and to ensure, as required by §§ 23.1309 and 23.601, that these battery installations are not hazardous or unreliable.

Additionally, RTCA, in a joint effort with the FAA and industry, has released RTCA/DO–311, Minimum Operational Performance Standards for Rechargeable Lithium Battery Systems, which gained much of its text directly from previous Li-ion special conditions. Honda Aircraft Company proposes to use DO–311 as the primary methodology for assuring the battery will perform its intended functions safely as installed in the HA–420 airplane and as the basis for test and qualification of the battery. This Special Condition incorporates applicable portions of DO–311.

Discussion

Notice of proposed special conditions No. 23–15–03–SC for the Honda Aircraft Company, Model HA–420 airplane was published in the **Federal Register** on April 14, 2015 (80 FR 19889). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the HA–420. Should Honda Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Honda Aircraft Company HA–420 is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704, 14 CFR 21.16 and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Honda Aircraft Company, HA–420 airplanes.

1. Lithium-Ion Battery Installation

a. Safe cell temperatures and pressures must be maintained during any probable charging or discharging condition, or during any failure of the charging or battery monitoring system not shown to be extremely remote. The applicant must design Li-ion battery installation to preclude explosion or fire in the event of those failures.

b. The applicant must design the Li-ion batteries to preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

c. No explosive or toxic gasses emitted by any Li-ion battery in normal operation or as the result of any failure of the battery charging or monitoring system, or battery installation not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

d. Li-ion batteries that contain flammable fluids must comply with the flammable fluid fire protection requirements of § 23.863(a) through (d).

e. No corrosive fluids or gasses that may escape from any Li-ion battery may damage surrounding airplane structure or adjacent essential equipment.

f. The applicant must provide provision for each installed Li-ion battery to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

g. Li-ion battery installations must have—

(1) A system to control the charging rate of the battery automatically so as to prevent battery overheating or overcharging; or

(2) A battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition; or

(3) A battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

h. Any Li-ion battery installation whose function is required for safe operation of the airplane, must incorporate a monitoring and warning feature that will provide an indication to the appropriate flightcrew members whenever the capacity and State of Charge (SOC) of the batteries have fallen below levels considered acceptable for dispatch of the airplane.

i. The Instructions for Continued Airworthiness (ICA) must contain recommended manufacturers maintenance and inspection requirements to ensure that batteries, including single cells, meet a safety function level essential to the aircraft's continued airworthiness.

(1) The ICA must contain operating instructions and equipment limitations in an installation maintenance manual.

(2) The ICA must contain installation procedures and limitations in a maintenance manual, sufficient to ensure that cells or batteries, when installed according to the installation procedures, still meet safety functional levels essential to the aircraft's continued airworthiness. The limitations must identify any unique aspects of the installation.

(3) The ICA must contain corrective maintenance procedures to check battery capacity at manufacturers recommended inspection intervals.

(4) The ICA must contain scheduled servicing information to replace batteries at manufacturers recommended replacement time.

(5) The ICA must contain maintenance and inspection requirements to check visually for battery and/or charger degradation.

j. Batteries in a rotating stock (spares) that have experienced degraded charge retention capability or other damage due to prolonged storage must be functionally checked at manufacturers recommended inspection intervals.

k. The System Safety Assessment (SSA) process should address the software and complex hardware levels for the sensing, monitoring, and warning systems if these systems contain complex devices. The functional hazard assessment (FHA) for the system is required based on the intended functions described. The criticality of the specific functions will be determined by the safety assessment process for compliance with § 23.1309. Advisory Circular 23–1309–1C contains acceptable means for accomplishing this requirement. For determining the failure condition, the criticality of a function will include the mitigating factors. The failure conditions must address the loss of function and improper operations.

Issued in Kansas City, Missouri, on September 14, 2015.

Mel Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24164 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2011–0489; FRL 9927–44]

RIN 2070–AJ88

Significant New Use Rule for Hexabromocyclododecane and 1,2,5,6,9,10-Hexabromocyclododecane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for two chemical substances collectively referred to as ''HBCD.'' This action requires persons who intend to manufacture (including import) or process hexabromocyclododecane or 1,2,5,6,9,10-hexabromocyclododecane (HBCD) for use in consumer textiles (other than for use in motor vehicles) to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if appropriate, to prohibit or limit that activity before it occurs. In this SNUR, the exemption for persons importing or processing a chemical substance as part of an article does not apply to importers and processors of HBCD as part of a textile article (*e.g.,* as part of a bolt of cloth or part of an upholstered chair). EPA is also making a technical amendment to the codified list of control numbers for approved information collection activities so that it includes the control number assigned by the Office of Management and Budget (OMB) to the information collection activities contained in this rule.

DATES: This final rule is effective November 23, 2015.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2011–0489, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), EPA Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Sue Slotnick, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–1973; email address: *slotnick.sue@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. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (defined by statute to include import) or process hexabromocyclododecane (Chemical Abstracts Service Registry Number (CASRN) 25637-99-4) or 1,2,5,6,9,10-hexabromocyclododecane (CASRN 3194-55-6) for use in consumer textiles other than for use in motor vehicles. Throughout this final rule preamble, the term ''HBCD'' represents both chemical substances, unless a specific CASRN is also noted. The North American Industrial Classification System (NAICS) codes that are identified in this unit are not intended to be exhaustive, but rather provide a guide to help readers determine whether this rule applies to them. Potentially affected entities may include:

- Chemical Manufacturing (NAICS code 325).
- Painting and Wall Covering Contractors (NAICS code 238320).
- Textile and Fabric Finishing (except Broadwoven Fabric) Mills (NAICS code 313312).
- Curtain and Drapery Mills (NAICS code 314121).
- Other Household Textile Product Mills (NAICS code 314129).
- All Other Miscellaneous Textile Product Mills (NAICS code 314999).
- Upholstered Household Furniture Manufacturing (NAICS code 337121).

- Household Furniture (except Wood and Metal) Manufacturing (NAICS code 337125).
- Mattress Manufacturing (NAICS code 337910).
- Blind and Shade Manufacturing (NAICS code 337920).
- Furniture Merchant Wholesalers (NAICS code 423210).
- Home Furnishing Merchant Wholesalers (NAICS code 423220).
- Reupholstery and Furniture Repair (NAICS code 811420).

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may affect importers and exporters of HBCD through pre-existing import certification and export notification rules under TSCA, regardless of the use of the HBCD.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. What action is the Agency taking?

This final rule designates use of HBCD in consumer textiles (other than for use in motor vehicles) as a significant new use. EPA has concluded that the only current use of HBCD for consumer textiles is in motor vehicles. That use and other current uses of HBCD (*e.g.,* in non-consumer textiles and in building insulation) are not covered by this rule, not because EPA has determined that these uses are not ''significant,'' but because they are ongoing and thus not ''new uses.''

This action requires persons who intend to manufacture or process HBCD as part of consumer textiles (other than for use in motor vehicles) to notify EPA at least 90 days before commencing that activity. The definition of ''consumer textile'' in this rule can include the following examples: bolts of cloth and draperies, as well as textiles that are part of household furniture and mattresses. The general provisions for SNURs include an exemption for persons who import or process chemical substances as part of an article (40 CFR 721.45(f)). However, for this SNUR, EPA is making the exemption at 40 CFR 721.45(f) inapplicable for importers or processors of HBCD as part of a textile article. Accordingly, importers and processors of HBCD as part of a textile article (whether or not it is a consumer textile) are subject to this SNUR. The term ''textile article'' is intended to be read in conjunction with the definition of ''consumer textile'' and includes bolts of cloth and draperies, as well as textiles that are part of upholstered household furniture and mattresses. EPA proposed the rule on March 26, 2012 (Ref. 1) and received seven public comments. The comments and EPA's responses to them (Ref. 2) are in the public docket for this rule (EPA–HQ–OPPT–2011–0489) and are also summarized below in Unit X.

The Agency is promulgating the SNUR as proposed with two exceptions. The first exception is the scope of the exemption for persons who import or process HBCD as part of an article. EPA had proposed to make the exemption at 40 CFR 721.45(f) completely inapplicable in the HBCD SNUR, which would have meant that importers and processors of HBCD as part of any article would be subject to the rule. As stated above in this section, the final rule makes the exemption inapplicable only to importers and processors of HBCD as part of textile articles. The second change from the proposed rule is EPA's clarification to the proposed definition of ''consumer textile.'' For further explanation of both changes, see Unit X.

D. Why is the Agency taking this action?

This SNUR is necessary to ensure that EPA receives timely advance notice of any future manufacturing and processing of HBCD for new uses that may produce changes in human and environmental exposures. The rationale and objectives for this SNUR are explained in Unit III.

E. What are the estimated incremental impacts of this action?

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers and processors of the chemical substances included in this final rule. This analysis, which is available in the docket, is discussed in Unit IX., and is briefly summarized here. In the event that a SNUN is submitted, costs are estimated to be less than $8,600 per SNUN submission for large business submitters and $6,200 per SNUN submission for small business submitters. These estimates include the cost to prepare and submit the SNUN and the payment of a user fee. Persons that must submit a SNUN under this SNUR who are first-time submitters of any TSCA section 5 notice must register their company and key users with the Central Data Exchange reporting tool, deliver a CD electronic signature to EPA, and establish and use a Pay.gov E-payment account before they may submit a SNUN, for a cost of $200 per firm. However, these activities are only required of first-time submitters of section 5 notices. The rule may also affect firms that import or process articles that may contain HBCD, because, while not required by the SNUR, these parties may take additional steps to determine whether HBCD is part of the articles that they are considering to import or process. Since EPA is unable to predict whether anyone might engage in future activities that would require reporting, potential total costs were not estimated. In addition, for persons exporting a substance that is the subject of a SNUR, a one-time notice must be provided for the first export or intended export to a particular country, which is estimated to cost less than $80 on average per notification.

II. Overview of the Chemical Substances Subject to This Rule

A. What chemicals are included in the SNUR?

This SNUR applies to two chemical substances: Hexabromocyclododecane (CASRN 25637-99-4) and 1,2,5,6,9,10-hexabromocyclododecane (CASRN 3194-55-6). Hexabromocyclododecane is manufactured by adding bromine to technical grade 1,5,9-cyclododecatriene to make a chemical substance where the positions of the six bromine atoms are not specified on the cyclododecane ring, corresponding to CASRN 25637-99-4. The specific 1,2,5,6,9,10-hexabromocyclododecane isomer (CASRN 3194-55-6) is the major component of CASRN 25637-99-4.

B. What is the production volume of HBCD?

The most recent production volume submitted to EPA for Chemical Data Reporting was in 2012 and was claimed as Confidential Business Information (CBI). Earlier Inventory Update Rule (IUR) [1] submissions to EPA reported

[1] As of August 16, 2011, the Inventory Update Rule (IUR) was renamed ''Chemical Data Reporting rule (CDR).'' See the TSCA Inventory Update Reporting Modifications; Chemical Data Reporting

annual U.S. import/production volumes of 10–50 million pounds (lbs.) in 2002 and 2006 for CASRN 3194-55-6 (Ref. 3). IUR submissions to EPA reported annual U.S. import/production volumes of 10,000 to 500,000 lbs. in 2002 for CASRN 25637-99-4; no import/production was reported in 2006 (Ref. 4).

C. What are the uses of HBCD?

The major use of HBCD is in polystyrene foam insulation boards used in construction. In the IUR data from 2006, one manufacturer/importer of HBCD (CASRN 3194-55-6) reported the use of the chemical substance under the NAICS code for textile and fabric finishing mills. This use constituted less than 1 percent of the total production volume of the chemical substance. The reporting does not distinguish between commercial and consumer use (Ref. 4). However, as explained below, and in greater detail in the Economic Analysis for this rule, EPA concluded that HBCD is not used in consumer textiles (as defined by this regulation) other than for use in motor vehicles (Ref. 5).

Information available to EPA indicates that the use of HBCD in textiles is as a coating to function as a flame retardant. EPA conducted research to determine whether HBCD was used in textile applications for end products sold to consumers. In 2010, an HBCD expert with the Consumer Product Safety Commission (CPSC) expressed to EPA his understanding that HBCD is used only in non-consumer textiles such as firefighters' suits (Ref. 6). In 2011, EPA requested information from current and former manufacturers of HBCD. The responses indicate that only one manufacturer sells HBCD for textile uses. The company does not know whether the end use of any of those textiles is a consumer article (Ref. 7). Additionally, a representative of Herman Miller, a company which manufactures commercial and consumer furniture, told EPA that HBCD is not in its products (Ref. 8).

EPA also received information from a group of textile formulators that the end uses of HBCD-containing textiles are for military, institutional, and aviation uses only (Ref. 9). EPA found that a small amount of HBCD is used in motor vehicles sold in the United States, including in floor mats, headliners, and possibly other interior fabrics. EPA received a public comment stating that although automakers are working towards ultimately phasing out the use of HBCD in consumer textiles in motor vehicles, there is concern about whether viable substitutes will be available. Thus, after considering the available information, EPA concludes that HBCD is not used in consumer textiles other than for use in motor vehicles.

D. What are the potential health and environmental effects of HBCD?

This section summarizes results of laboratory testing of 1,2,5,6,9,10-hexabromocyclododecane (CASRN 3194-55-6). The results are also valid for unspecified hexabromocyclododecane (CASRN 25637-99-4) and therefore relevant to both chemical substances in this rule.

1. *Human health effects.* Animal studies give an indication of potential human health effects of HBCD. Repeated exposure of HBCD to rats showed disturbances in thyroid hormone system and effects on the thyroid in males and females (Ref. 10). A 2-generation reproductive toxicity study in rats exposed to HBCD showed a treatment-related reproductive effect (a significant decrease in the number of primordial follicles in the F1 females) (Ref. 11). Although this decrease in ovarian follicles did not affect any reproductive parameters in this study, this effect is suggestive of potential reproductive toxicity. Developmental effects were observed, including delays in eye opening in the second (F2) generation and transient changes in learning and memory in F1 males, but exposure did not cause any changes in spontaneous behavior. In addition, there was high and dose-dependent pup mortality during lactation (Ref. 11).

2. *Environmental effects.* Laboratory studies have shown that HBCD is capable of producing adverse effects in a variety of organisms including algae, fish, invertebrates, and soil-dwelling organisms at environmentally relevant concentrations. HBCD is toxic to algae and acutely toxic to fish embryos (Ref. 12), (Ref. 13). A number of sub-lethal effects (*e.g.,* altered thyroid status, protein metabolism, oxidative stress, reproductive activity), have also been observed in fish (Ref. 14), (Ref. 15), (Ref. 16), and (Ref. 17). One study reported a reduced number and size of daphnid offspring in first and second generations (Ref. 18). Thyroid hormone-dependent developmental effects were observed in tadpoles (*Xenopus laevis*) exposed to HBCD (Ref. 19). HBCD has been reported to reduce egg production and lower biomass in soil dwelling organisms (*Lumbriculus variegatus*) (Ref. 20). HBCD administered to chicken (*Gallus domesticus*) embryonic hepatocytes *in vitro* resulted in significant alterations in expression of genes (mRNA) associated with liver and thyroid function (Ref. 21). Thinner egg shells were measured in American kestrels exposed to a combination of polybrominated diphenyl ethers and HBCD (Ref. 22).

E. What are the potential sources and routes of exposure to HBCD?

There is potential for HBCD to be released at any point in the lifecycle of consumer textiles treated with HBCD. There is potential for release when the HBCD is being formulated into the textile coating, as well as when it is applied to the textile material. In addition, because HBCD is not chemically bound to its substrate (the protected textile material), HBCD can be released during the service life of the textile material containing it, including release into water used to wash the treated textiles or into the air via dust particulates. Workers and the general population can be exposed to HBCD through direct contact as it migrates across land, in air, and in water by diffusion or environmental transport. Other opportunities for release can occur at the end of the lifecycle of HBCD-treated textiles when they are transported and incinerated or landfilled (Ref. 23). Evidence strongly suggests there is potential for exposure to the general population from HBCD in the environment and also from products and dust in the home and workplace. HBCD is found worldwide in the environment and wildlife (Note: Only the specific 1,2,5,6,9,10-hexabromocyclododecane isomer (CASRN 3194–55–6) or the alpha, beta, and gamma isomers are monitored in biota and the environment, not the unspecified hexabromocyclododecane (CASRN 25637–99–4)). Human exposure is evidenced from its presence in breast milk, adipose tissue, and blood (Ref. 24). The chemical substances bioaccumulate and biomagnify in food chains. The frequent detection of HBCD over a large geographic area, with increasing exposure in remote locations such as the Arctic, where no demonstrable local sources exist that can account for these exposures, suggest that HBCD is persistent and undergoes long-range transport (Ref. 25).

To the extent HBCD is present in household applications (*e.g.,* building foam, furniture upholstery, carpeting), children could be exposed, especially given children's increased exposure to dust and the hand-to-mouth ingestion pathway. *In vitro* experiments conducted to demonstrate leaching of HBCD from textiles showed that the presence of simulated biological fluids (sweat, saliva) and fruit juices enhances

final rule in the **Federal Register** issue of August 16, 2011 (76 FR 50816).

the leaching of HBCD from back-coated samples (Ref. 26). HBCD exposure values for children have been estimated from mouthing of textiles and from ingestion of dust (Ref. 27).

HBCD has been measured in air and sediment in Scandinavian countries, North America and Asia (Ref. 24), (Ref. 28). HBCD has also been measured in marine and Arctic mammals, freshwater and marine fish, aquatic invertebrates, birds and bird eggs, and one plant species (Ref. 24), (Ref. 28), and (Ref. 29).

For more information on HBCD concerning its physical-chemical properties, fate, releases, and human and environmental exposure, see EPA's HBCD Problem Formulation and Initial Assessment dated August 2015 (Ref. 30).

III. Rationale and Objectives

A. Rationale

Consistent with EPA's past practice for issuing SNURs under TSCA section 5(a)(2), EPA's decision to issue a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use. Rather, the Agency's action is based on EPA's determination that, if the use begins or resumes, it may present a risk that EPA should evaluate under TSCA before the manufacturing or processing for that use begins. Since the new use does not currently exist, deferring a detailed consideration of potential risks or hazards related to that use is an effective use of resources. If a person decides to begin manufacturing or processing the chemical for the use, the notice to EPA allows EPA to evaluate the use according to the specific parameters and circumstances surrounding that intended use.

As summarized in Units II.D., and II.E., EPA has concerns regarding the potential exposure to and human health and environmental effects of HBCD. EPA believes that, in the future, HBCD could be manufactured or processed for consumer textile uses (in addition to the current textiles in motor vehicles). Accordingly, EPA wants the opportunity to evaluate and control, where appropriate, activities associated with consumer textile use, if such manufacturing or processing were to commence in the future. The required notification provided by a SNUN will provide EPA with the opportunity to evaluate activities associated with the significant new use and an opportunity to protect against potential unreasonable risks, if any, from exposure to HBCD.

B. Objectives

Based on the considerations described in the proposal (Ref. 1), and in the response to public comments, EPA expects to achieve the following objectives with regard to the significant new use that is designated in this final rule:

1. EPA will receive notification of any person's intent to manufacture or process HBCD for the described significant new use before that activity begins;

2. EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing HBCD for the described significant new use; and

3. EPA will be able to regulate the prospective manufacturing or processing of HBCD before the described significant new use of the chemical substance(s) occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

IV. Significant New Use Determination

As required by section 5(a)(2) of TSCA, EPA considered the four specific factors contained in that section along with other relevant factors in making its determination of the significant new use of HBCD for this rule. The first factor is the ''projected volume of manufacturing and processing of a chemical substance'' (TSCA section 5(a)(2)(A)). The potential increase in volume of this persistent, bioaccumulative and toxic chemical from consumer textile use weighs in favor of determining that consumer textile use (other than for use in motor vehicles) is a significant new use. The second factor is ''the extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance'' (TSCA section 5(a)(2)(B)). Human exposure to consumer textile use may differ from exposure to commercial textiles and other current uses. The third factor is ''the extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance'' (TSCA section 5(a)(2)(C)). Because HBCD is a persistent, bioaccumulative, and toxic chemical that has potential for long range transport (Ref. 1), even a small increase in the amount that is manufactured and processed, and thus subsequently used, would have a larger impact on potential exposures in terms of the number of people exposed and/or the amount of exposure. The potential for exposure would last for longer periods of time over a significant area as compared to a chemical that is not persistent and bioaccumulative with the potential for long range transport. The fourth factor is ''the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance'' (TSCA section 5(a)(2)(D)). Should a significant new use be planned, EPA anticipates that the new use would raise important questions such as what the impacts would be on consumer exposure, worker exposure, user exposure, or release of the substance to the environment, and what potential controls are available to limit such exposures and releases (see Unit II. E.).

In addition to considering the four factors in section 5(a)(2) of TSCA, EPA considered relevant information about the toxicity of HBCD, and likely human exposures and environmental releases associated with possible uses (see Unit II.D. and II.E.). EPA has concluded that the factors taken together weigh in favor of determining that manufacture or processing of HBCD for any consumer textile use (other than for use in motor vehicles) would be a significant new use such that the Agency should have an opportunity to analyze the new use before such use (and potential exposures) occurs. Further explanation of EPA's consideration of those factors is contained in the Response to Comments document (Ref. 2) in the docket for this rule (EPA–HQ–OPPT–2011–0489).

V. Applicability of General Provisions

General provisions for SNURs appear under 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, and exemptions to reporting requirements.

Provisions relating to user fees appear at 40 CFR part 700, subpart C. Additional provisions governing SNUN submissions appear in 40 CFR part 720, which are the notice requirements and EPA regulatory procedures that submitters of Premanufacture Notices (PMNs) under TSCA section 5(a)(1)(A) must follow (see 40 CFR 721.1(c)). SNUR requirements also include the information submission requirements of TSCA sections 5(b) and 5(d)(1), and companies may wish to consider whether they are eligible for the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5). Once EPA receives a SNUN, EPA may take regulatory action under TSCA sections 5(e), 5(f), 6 or 7 to control the activities on which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to

explain in a **Federal Register** notice its reasons for not taking action.

Exemptions from SNUR requirements are found at 40 CFR 721.45. For this SNUR, 40 CFR 721.45(f), which exempts persons who import or process a chemical substance as part of an article, does not apply to importers and processors of HBCD as part of a textile, regardless of whether the textile is a consumer textile, as further explained in Unit X.

Persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707, subpart D. Persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, codified at 19 CFR 12.118 through 12.127 (see also 19 CFR 127.28). Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B (see 40 CFR 721.20). The TSCA section 13 import certification requirement applies to articles containing a chemical substance or mixture if so required by the Administrator by a specific rule under TSCA. At this time EPA is not requiring import certification for these chemical substances as part of articles.

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

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376) (Ref. 31), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notification requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became final, and then argue that the use was ongoing as of the effective date of the final rule. Thus, persons who began commercial manufacture or processing of HBCD for a significant new use after the publication of the proposed rule must cease any such activity before the effective date of the final rule. To resume their activities, these persons must comply with all applicable SNUR notification requirements and wait until the notification review period, including all extensions, expires. EPA has promulgated provisions (40 CFR 721.45(h)) to allow persons to comply with this SNUR before the effective date. If a person meets the conditions of advance compliance under 40 CFR 721.45(h), that person is considered to have met the requirements of the final SNUR for those activities.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. There are two exceptions: (1) Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)); and (2) development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)). In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 720.50 and 40 CFR 721.25). However, as a general matter, EPA recommends that SNUN submitters include data that would permit a reasoned evaluation of risks posed by the chemical substance during its manufacture, processing, use, distribution in commerce, or disposal. EPA encourages persons to consult with the Agency before submitting a SNUN. As part of this optional pre-notice consultation, EPA would discuss specific data it believes may be useful in evaluating a significant new use. SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA would take action under TSCA section 5(e) to prohibit or limit activities associated with this chemical. SNUN submitters should be aware that EPA will be better able to evaluate SNUNs that provide detailed information on:

1. Human exposure and environmental releases that may result from the significant new use of the chemical substance.
2. Potential benefits of the chemical substance.
3. Information on risks posed by the chemical substance compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.* For first-time submitters of a TSCA section 5 notice, see requirements at Unit I. E.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers and processors of HBCD in consumer textiles. The evaluation is in the ''Economic Analysis of the Final Significant New Use Rule for Hexabromocyclododecane (HBCD)'' (Ref. 5). It is briefly summarized here and is available in the docket for this rule (EPA–HQ–OPPT–2011–0489). EPA added additional information to the economic analysis for HBCD in response to public comments.

A. SNUN Submission

The costs of submitting a SNUN would be incurred when a company decides to pursue a significant new use of one of these chemicals. In the event that a SNUN is submitted, costs are estimated at approximately $8,600 per SNUN submission for large businesses and $6,200 per SNUN submission for small businesses, and include the cost to prepare and submit the SNUN and the payment of a user fee. Businesses that submit a SNUN are either subject to a $2,500 user fee required by 40 CFR 700.45(b)(2)(iii), or, if they are a small business with annual sales of less than $40 million when combined with those of the parent company (if any), a reduced user fee of $100 (40 CFR 700.45(b)(1)). In its evaluation of this final rule, EPA also considered the potential costs a company might incur by avoiding or delaying the significant new use in the future, but these costs have not been quantified.

B. Import or Processing HBCD as Part of a Textile

Persons who import or process HBCD, including as part of a textile article, are covered by this rule. As explained in Unit X., EPA is making the exemption at 40 CFR 721.45(f) inapplicable for importers or processors of HBCD as part of a textile article. Accordingly, importers and processors of HBCD as part of textile articles including

consumer and non-consumer textile articles, are subject to this SNUR. This provision is explained in Unit X.

Some firms have an understanding of the contents of the articles they import or process. However, EPA acknowledges that importers and processors of articles may have varying levels of knowledge about the chemical content of the articles that they import or process. These parties may take steps to become familiar with the requirements of the rule. And, while not required by the SNUR, these parties may take additional steps to determine whether HBCD is part of the articles that they are considering importing or processing. This determination may involve activities such as gathering information from suppliers along the supply chain, and/or testing samples of the article itself. Costs vary across the activities chosen. Cost ranges are presented in the ''Economic Analysis of the Final Significant New Use Rule for Hexabromocyclododecane (HBCD)'' (Ref. 5). Given existing regulatory limitations on HBCD internationally, industry-wide processes, and resources that support companies in understanding and managing their supply chains, EPA believes that article importers who choose to investigate their products would incur costs at the lower end of the ranges presented in the Economic Analysis as a result of this rule. For those companies choosing to undertake actions to assess the composition of the articles they import or process, EPA expects that importers and processors would take actions that are commensurate with the company's perceived likelihood that a chemical substance might be a part of an article, and the resources it has available. Example activities and their costs are provided in the accompanying Economic Analysis of this rule.

C. Export Notification

EPA regulations under TSCA section 12(b) (15 U.S.C. 2611(b)) at 40 CFR part 707, subpart D require that, for chemicals subject to a proposed or final SNUR, a company must notify EPA of the first export or intended export to a particular country of an affected chemical substance. EPA estimated the one-time cost of preparing and submitting an export notification to be $80. The total costs of export notification would vary per chemical, depending on the number of required notifications (*i.e.,* number of countries to which the chemical is exported).

X. Response to Public Comments

EPA received seven public comments on the proposed SNUR. The comments and EPA's complete response (Ref. 2) are available in the docket for this final rule (EPA–HQ–OPPT–2011–0489). EPA made two changes to the regulatory text as a result of issues raised in public comments; these changes are explained below in Section A of this unit. A summary of the remaining issues is in Section B of this unit, and the full discussion of these comments is in the docket.

A. Changes to Regulatory Text as a Result of Public Comments

Article exemption. Two commenters indicated that there was some concern regarding the breadth of the lifting of the exemption for persons who import or process chemical substances as part of an article. EPA had proposed to make the exemption at 40 CFR 721.45(f) inapplicable to this rule.

The proposal preamble stated that ''EPA is concerned that exempting HBCD as part of articles would render the SNUR less effective because of the possibility that consumer textile articles containing HBCD, the primary concern of EPA associated with this proposed rule, could be imported or processed for uses subject to this proposed SNUR without the submission of a SNUN. This proposed rule would not include the exemption at § 721.45(f).'' 77 FR 17386, 17391, March 26, 2012. (Ref. 1) Accordingly, the proposed regulatory text stated that ''[t]he provisions of § 721.45(f) do not apply to this section. A person who imports or processes the chemical substances identified in paragraph (a)(1) of this section as part of an article for the significant new use described in paragraph (a)(2) of this section must submit a significant new use notice (SNUN).''

Although the Agency has the authority to lift the exemption for importers and processors of HBCD as part of all articles, such a broad application is not necessary or desirable for this rule. This is because there are ongoing uses of HBCD as part of articles that are unlikely to be diverted to the significant new use.

EPA considered a narrow approach that would have made the exemption inapplicable to importers and processors of HBCD as part of consumer textiles only, not all textiles. EPA is concerned that if the inapplicability of the exemption was limited to consumer textiles, undifferentiated textiles (*e.g.,* the type of textiles that could be for a consumer use or a non-consumer use), could be imported or processed and distributed in commerce for consumer use without notification to the Agency. The category ''consumer textiles'' is fully subsumed by the broader category of textiles, so by requiring importers and processors of all textiles containing HBCD to meet the notification requirements at 40 CFR 721.5, EPA is ensuring that the regulatory mechanisms designed to prevent significant new uses without notice to the Agency will apply to import and processing of HBCD-containing articles that have the potential to be used as consumer textiles.

Thus, EPA is making the exemption at 40 CFR 721.45(f) inapplicable for importers and processors of HBCD as part of a textile article, rather than as part of all articles. Accordingly, importers and processors of HBCD as part of textile articles, regardless of whether those textiles are consumer textiles, are subject to this final SNUR. The term ''textile'' is intended to be read in conjunction with the definition of ''consumer textile'' and includes, but is not limited to, bolts of cloth and draperies, as well as textiles that are part of upholstered household furniture and mattresses. The definition of ''consumer textile'' for this rule is in the regulatory text at 40 CFR 721.10281. The Agency's decision to lift the exemption for importers and processors of HBCD as part of textile articles rather than for importers and processors of all HBCD-containing articles is specific to this SNUR and based on the particular significant new use in this SNUR.

Definition of consumer textile. One of the seven commenters stated that the definition of ''consumer textile'' in the proposed SNUR is ''rather nuanced . . . [and] contains several terms that are not self-evident on their face.'' The proposed definition at 77 FR 17386, 17394, March 26, 2012 was: ''*Consumer textile* means any cloth, fabric, or other item produced during the milling process (including spinning, weaving, knitting, felting, or finishing), consisting in whole or as part of a product that is sold to or made available to a private individual who uses the product in or around a permanent or temporary household or residence, during recreation, or for any personal use or enjoyment. Consumer textiles include but are not limited to draperies and textiles that are part of upholstered household furniture and mattresses'' (Ref. 1). The proposal defined ''consumer textile'' to distinguish consumer textiles from other textiles (*e.g.,* commercial, industrial, institutional, military). While this rule does not use the term ''consumer product'' as defined in 40 CFR 721.3, some of the terms and phrases used in the consumer textile definition, including those that the commenter claims are ''not self-evident on their

face,'' are the same as those in the consumer product definition.

However, in the course of considering the comments, EPA revisited the definition of consumer textile, and concluded it could be clarified in certain respects. In this final rule, EPA is making minor changes to clarify the definition, as explained below. The changes do not impact the scope of the SNUR, as the final definition of ''consumer textile'' covers only those textiles that the Agency intended to cover in the proposal. The final definition is: ''*Consumer textile* means any cloth, fabric, or other item produced during a milling process for textiles (including spinning, weaving, knitting, felting, or finishing), that is sold or made available either as a product or as part of a product, to a private individual who uses it in or around a permanent or temporary household or residence, during recreation, or for any personal use or enjoyment. Consumer textiles can include, but are not limited to, bolts of cloth and draperies, as well as textiles that are part of upholstered household furniture and mattresses.'' Because there are milling processes that do not relate to textiles, the final definition clarifies that only items produced during milling processes for textiles are covered. The final definition also clarifies that the textile itself can be a consumer textile and that the textile need not be part of a larger product like a mattress. This clarification is made in two places: By changing ''consisting in whole or as part of a product'' to ''as a product or as part of a product'' and by adding ''bolts of cloth'' as an example of a type of textile.

B. Summary of Response to Remaining Public Comments

Some commenters questioned whether EPA has the legal authority to regulate articles under TSCA. EPA's response is that TSCA section 5 provides EPA with authority to regulate chemical substances, including chemical substances that are part of articles. Commenters also stated that EPA should establish a policy framework by rule for the issuance of article SNURs. EPA's response is that development of a ''policy framework'' is not necessary before reaching the conclusion, with respect to HBCD, that persons who import or process this substance as part of consumer textiles (other than for use in motor vehicles) should be subject to the notification provisions of 40 CFR 721.25.

One commenter objected to the wording of the significant new use (''consumer textiles, other than for use in motor vehicles'') because it implies that a motor vehicle is a consumer product as defined by 40 CFR 721.3. EPA's response is that the HBCD SNUR does not rely on the definition of consumer product as defined by 40 CFR 721.3. Instead, the rule specifically defines ''consumer textile'' and the definition would ordinarily encompass textiles used in motor vehicles. Another commenter said the proposed exclusion for consumer textiles in motor vehicles is appropriate but that the proposed SNUR appears to be a signal that EPA would like HBCD to be phased out of use in textiles in vehicles. The commenter is concerned that the phasing out of HBCD would leave the automotive industry without a substitute. EPA's response is that the exclusion from this SNUR for manufacture and import of HBCD as part of textiles in motor vehicles is not a signal that EPA would like this use of HBCD to be phased out. Use of HBCD in textiles in motor vehicles is unaffected by this SNUR because the use is ongoing. EPA continues to evaluate ongoing uses of HBCD as part of its TSCA Work Plan chemical assessments (see *http://www.epa.gov/oppt/existingchemicals/pubs/riskassess.html*). The remaining three commenters supported the proposed SNUR.

XI. References

The following is a listing of the documents that are specifically referenced in this action. The docket includes these documents and other information considered by EPA in developing this rule, including documents that are referenced within the documents that are in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Significant New Use Rule for Hexabromocyclododecane and 1,2,5,6,9,10-Hexabromocyclododecane: Proposed Rule. **Federal Register** (77 FR 17386, March 26, 2012) (FRL–9341–6). Available at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR.*
2. EPA. Response to Public Comments on Proposed Significant New Use Rule for Hexabromocyclododecane and 1,2,5,6,9,10-Hexabromocyclododecane, April 24, 2015.
3. EPA. 2012 Chemical Data Reporting (CDR). Chemical Data Access Tool (CDAT). Available at: *http://java.epa.gov/oppt_chemical_search/.* Accessed May 21, 2013. Last updated April 4, 2013.
4. EPA. Inventory Update Reporting (IUR): Non-Confidential 2006 TSCA Inventory Update Rule (IUR) Records. Available at: *http://cfpub.epa.gov/iursearch.*
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18. Drottar, Hexabromocyclododecane (HBCD): A flow-through life-cycle toxicity test with the cladoceran (*Daphnia magna*). Final Report. 439A–108, *Wildlife International, Ltd.* Easton, Maryland, USA. 1998. pp. 78.

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30. EPA. TSCA Work Plan Chemical Problem Formulation and Initial Assessment, Cyclic Aliphatic Bromides Cluster, Flame Retardants. August 2015. Available at *http://www.epa.gov/oppt/existingchemicals/pubs/riskassess.html.*
31. EPA. Significant New Uses of Certain Chemical Substances, Final Rule. **Federal Register** (55 FR 17376, April 24, 1990) (FRL–3658–5).
32. EPA. Modification of Significant New Use Rules for Certain Substances, Final Rule. **Federal Register** (62 FR 42690, August 8, 1997) (FRL–5735–4).

XII. Statutory and Executive Order Reviews

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with existing chemical SNURs are already approved by OMB under OMB control number 2070–0038 (EPA ICR No. 1188), and the information collection activities associated with export notifications are already approved by OMB under OMB control number 2070–0030 (EPA ICR No. 0795). If an entity were to submit a SNUN to the Agency, the annual burden is estimated to be less than 100 hours per response, and the estimated burden for an export notification is less than 1.5 hours per notification. In both cases, burden is estimated to be reduced for submitters who have already registered to use the electronic submission system.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument, or form, if applicable. EPA is amending the table in 40 CFR part 9 to list this SNUR. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of the PRA and OMB's implementing regulations at 5 CFR part 1320. Since the existing OMB approval was previously subject to public notice and comment before OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend the table is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), to amend this table without further notice and comment.

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* I hereby certify that promulgation of this SNUR will not have a significant economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows.

EPA generally finds that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities (See, *e.g.,* Ref. 32). Since this SNUR will require a person who intends to engage in such activity in the future to first notify EPA by submitting a SNUN, no economic impact will occur unless someone files a SNUN to pursue a significant new use in the future or forgoes profits by avoiding or delaying the significant new use. Although some small entities may decide to engage in such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemical substances, the Agency receives only a handful of notices per year. During the six year period from 2005–2010, only three submitters self-identified as small in their SNUN submission (Ref. 5). EPA believes the cost of submitting a SNUN is relatively small compared to the cost of developing and marketing a chemical new to a firm and that the requirement to submit a SNUN generally does not have a significant economic impact.

A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' In the proposed HBCD SNUR (Ref. 1), EPA preliminarily determined, based in part on the Agency's market research, that HBCD is not manufactured or processed for the significant new use (*i.e.,* use in consumer textiles other than in textiles in motor vehicles). EPA received no public comment indicating otherwise. Therefore, EPA is finalizing its determination that use of HBCD in consumer textiles (other than in textiles in motor vehicles) is not ongoing. Thus no small entities presently manufacture or import HBCD for the significant new use. EPA believes that there will be

minimal impact to processors and importers of HBCD as part of textile articles from this SNUR. The SNUR does not require processors and importers of textile articles to conduct specific activities to ascertain if they are importing or processing a textile article containing HBCD. EPA expects importers and processors will take actions that are commensurate with their perceived likelihood of HBCD being part of a textile article, and the resources they have available. EPA has no reason to believe that a firm would voluntarily incur substantial costs to comply with the SNUR, but rather, EPA believes each firm will choose the most efficient route to identify whether it is importing HBCD in textile articles.

Therefore, EPA believes that the potential economic impact of complying with this SNUR is not expected to be significant or adversely impact a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reason to believe that any State, local, or Tribal government will be impacted by this rulemaking. As such, EPA has determined that this regulatory action will not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of UMRA (2 U.S.C. 1531–1538).

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications because it will not have any effect (*i.e.,* there will be no increase or decrease in authority or jurisdiction) on Tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 (65 FR 67249, November 9, 2000), does not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this action is not intended to address environmental health or safety risks for children.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act (NTTAA)

Since this action does not involve any technical standards, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

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

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994), because EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This action does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act (CRA)

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: September 16, 2015.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following section in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR Citation	OMB Control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.10281	2070–0038
* * * * *	

* * * * *

PART 721—[AMENDED]

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

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

■ 4. Add new § 721.10281 to subpart E to read as follows:

§ 721.10281 Hexabromocyclododecane and 1,2,5,6,9,10-hexabromocyclododecane.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified as hexabromocyclododecane (CASRN 25637–99–4) and 1,2,5,6,9,10-hexabromocyclododecane (CASRN 3194–55–6) are subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is use in consumer textiles, other than for use in motor vehicles.

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

(1) *Definitions.* The definitions in § 721.3 apply to this section. In addition, the following definitions apply:

Consumer textile means any cloth, fabric, or other item produced during a milling process for textiles (including spinning, weaving, knitting, felting, or finishing), that is sold or made available either as a product or as part of a product, to a private individual who uses it in or around a permanent or temporary household or residence, during recreation, or for any personal use or enjoyment. Consumer textiles can include, but are not limited to, bolts of cloth and draperies, as well as textiles that are part of upholstered household furniture and mattresses.

Motor vehicle has the meaning found at 40 CFR 85.1703.

(2) *Revocation of article exemption.* The provisions of § 721.45(f) do not apply to importers and processors of the chemical substances identified in paragraph (a)(1) of this section as part of a textile.

[FR Doc. 2015–24178 Filed 9–22–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0079; FRL–9932–51–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revision To Control Volatile Organic Compound Emissions From Storage Tanks and Transport Vessels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a Texas State Implementation Plan (SIP) revision for control of volatile organic compound (VOC) emissions from degassing of storage tanks, transport vessels and marine vessels. The revision reformats the existing requirement to comply with current rule writing standards, adds additional control options for owner/operators to use when complying, clarifies the monitoring and testing requirements of the rule, and makes non-substantive changes to VOC control provisions that apply in the Beaumont-Port Arthur (BPA) nonattainment area (Hardin, Jefferson and Orange Counties), four counties in the Dallas-Fort Worth (DFW) nonattainment area (Collin, Dallas, Denton and Tarrant Counties), El Paso County, and the Houston-Galveston-Brazoria (HGB) nonattainment area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties).

The EPA is also making a ministerial correction to the Code of Federal Regulations (CFR) to accurately reflect approved SIP revisions that pertain to Stage II control of VOCs from gasoline dispensing facilities in Texas.

DATES: This final rule is effective on October 23, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2011–0079. 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, *e.g.,* 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 EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Todd, (214) 665–2156, *todd.robert@epa.gov.* To inspect the hard copy materials, please contact Mr. Todd or Mr. Bill Deese (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. Background

The background for this action is discussed in detail in our May 13, 2015 direct final rule and proposal (80 FR 27251 and 80 FR 27275). In the direct final rule we approved a SIP submission revising the rules for controlling VOC emissions from degassing of storage tanks, transport vessels and marine vessels. The Texas rule revisions were adopted by the state on January 26, 2011 and submitted to us on February 18, 2011. The revisions submitted by the Texas Commission on Environmental Quality (TCEQ) apply to Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties.

Our May 13, 2015 rule and proposal stated that if any relevant adverse comments were received by the end of the public comment period on June 12, 2015, the direct final rule would be withdrawn and we would respond to the comments in a subsequent final action. Relevant adverse comments were received during the comment period, and the direct final rule was withdrawn on June 30, 2015 (80 FR 37161). Our May 13, 2015 proposal provides the basis for this final action.

Also, on March 17, 2014 we approved revisions to the Texas SIP pertaining to Stage II control of VOCs from gasoline stations (79 FR 14611). Included in the approved revisions was removal of sections 115.247 and 115.249 from the TX SIP. In that document, however, we did not update the CFR to show that 30 TAC 115.247 and 115.249 were removed from the SIP. We are using the opportunity of this final rule to correct this oversight.

We received comments on our May 13, 2015 proposal from two commenters. Our response to the comments are below.

II. Response to Comments

Comment: The first commenter stated it would be impractical, and possibly unreasonable, to require industry to comply with the state regulations unless the state took the needs of individual sources into account and helped them to comply.

Response: The commenter fails to specify how and why the submitted revisions would be impractical. In addition, these revisions merely modify and clarify existing rules which have been implemented for several years. Requirements to control degassing emissions, for example, low-leaking tank fittings on some control options, monitoring control effectiveness and reporting compliance from degassing operations were first implemented in HGB and BPA (62 FR 27964, May 22, 1997). In DFW and El Paso County, these rules were adopted as contingency measures under the 1-hour ozone standard (62 FR 27964). The Texas Commission on Environmental Quality has been successfully implementing these degassing regulations in Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties for several years and we

haven't received any information that supports the notion that compliance is overly burdensome in these counties. There is no documented evidence of owner/operators of marine vessels finding these rules impractical. The revisions also make changes to provide additional flexibility for affected owners and operators allowing for the use of alternative control options such as the use of a recirculation system, with appropriate monitoring to assure the effectiveness of the system or an option that allows the operator to demonstrate compliance by limiting the VOC concentration at the outlet of a control device to less than 500 parts per million (by volume).

Sources in Collin, Dallas, Denton, El Paso and Tarrant Counties have been aware of the possibility these regulations might affect them for some years and the state has been implementing them in Collin, Dallas, Denton and Tarrant counties since February 18, 2011. We have not received any indication that sources in these areas are not able to comply with the degassing requirements. TCEQ also submitted these revisions for public comment and notice so the public had ample opportunity to comment on these revisions during the state's rulemaking process.

Comment: The second commenter stated we could not approve the degassing rules as reasonably achievable control technology (RACT) for Marine Vessel Loading Operations subject to the 40 CFR part 63, subpart Y, Marine Vessel Loading Maximum Available Control Technology (MACT) standard because that federal rule defines RACT for this source category more stringently than the Texas regulations. RACT in part 63, subpart Y is defined as 95% control of volatile organic compound (VOC) emissions when using a recovery device and 98% control when using a combustion device. The RACT levels we previously approved in Texas's affected counties is 90% control of VOC emissions.

Response: The federal regulation the commenter cites, 40 CFR part 63, subpart Y, is not applicable to degassing operations. The Marine Vessel Loading Operations MACT standard does contain a RACT requirement defining the VOC control efficiencies that affected sources must achieve while performing marine loading operations. 40 CFR 63.561 defines marine loading operations as any operation under which a commodity is bulk loaded onto a marine tank vessel from a terminal, which may include the loading of multiple marine tank vessels during one loading operation. However, the submitted revisions do not address any operations which can be described as operations in which a commodity is bulk loaded onto a marine tank vessel from a terminal, or may include the loading of multiple marine tank vessels during one loading operation. The submitted revision only addresses operations that occur during the degassing, cleaning or vessel maintenance activities covered by the Texas regulation.[1] The proposed revision, 30 TAC Sec. 115.540, defines degassing as the process of removing volatile organic vapor from a storage tank, transport vessel, or marine vessel. Degassing operations do not involve loading of a bulk commodity and do not include marine loading operations as defined by 40 CFR 63.561. Therefore, subpart Y is not applicable to the operations or activity covered by the submitted revisions. Therefore, the commenters concern that RACT as defined in the 40 CFR part 63, subpart Y won't be met in the Texas SIP action is unfounded. Inclusion of the Texas degassing rule in the Texas SIP is appropriate under these circumstances and effectively reduces VOC emissions from these sources.

III. Final Action

We are approving a Texas SIP revision for control of VOC emissions from storage tank, transport vessel and marine vessel degassing operations adopted on January 26, 2011, and submitted on February 18, 2011. Specifically, we are approving revisions to 30 TAC 115 at sections 115.540–115.547 and 115.549. The revisions (1) reformat the existing rule to simplify and clarify rule requirements; (2) modify VOC control requirements in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties; (3) make changes to provide additional flexibility for affected owners and operators allowing for the use of alternative control options; and (4) make non-substantive changes to VOC control provisions that apply in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties.

We are also making a ministerial correction to the table in 40 CFR 52.2270(c) to accurately reflect the revisions to Stage II control of VOCs approved into the Texas SIP on March 17, 2014 (79 FR 14611).

IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

[1] 40 CFR 63.562(c) sates the RACT level of control applies to vapor tight marine vessel with a vapor collection system designed to collect VOC vapors displaced from marine tank vessels during loading operations. 40 CFR 63.531 defines marine tank vessel loading operation as any operation under which a commodity if bulk loaded onto a marine tank vessel from a terminal.

• 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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. The 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 November 23, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 9, 2015.

Ron Curry,

Regional Administrator, Region 6.

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 SS—Texas

■ 2. In § 52.2270(c), the table titled ''EPA APPROVED REGULATIONS IN THE TEXAS SIP'' is amended by removing the entries for Sections 115.247 and 115.249, adding an entry for Section 115.540, and revising the entries for sections 115.541 through 115.547 and 115.549 to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/Subject	State approval/ Submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 115 (Reg 5)—Control of Air Pollution From Volatile Organic Compounds				
*	*	*	*	*
Subchapter F—Miscellaneous Industrial Sources				
*	*	*	*	*
Division 3: Degassing or Cleaning of Stationary, Marine, and Transport Vessels				
Section 115.540	Applicability and Definitions	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.541	Emission Specifications	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.542	Control Requirements	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.543	Alternate control Requirements	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.544	Inspection, Monitoring, and Testing Requirements	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.545	Approved Test Methods	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.546	Recordkeeping and Notification Requirements	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
Section 115.547	Exemptions	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/Subject	State approval/ Submittal date	EPA approval date	Explanation
Section 115.549	Compliance Schedules	1/26/2011	9/23/2015 [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2015–23379 Filed 9–22–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 15–09]

RIN 3072—AC62

Amendments to Rules of Practice and Procedure Governing Time and Service in Adjudicatory Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Direct final rule; request for comments.

SUMMARY: The Federal Maritime Commission proposes to amend its rules of practice and procedure concerning time and service in adjudicative proceedings. These revisions improve consistency across various processes and increase efficiency for parties to proceedings.

DATES: This rule is effective November 30, 2015, without further action, unless significant adverse comments are filed prior to October 30, 2015. If significant adverse comment is received the Federal Maritime Commission will publish a timely withdrawal in the **Federal Register**.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Email: secretary@fmc.gov.* Include in the subject line: ''Docket No. 15–09, Comments on Amendments to Rules of Practice and Procedure Governing Time and Service.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Comments containing confidential information should not be submitted by email.
- *Mail:* Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001.
- *Docket:* To read background documents or comments received in response to this docket, go to: *http://www.fmc.gov/electronic_reading_room/proceeding_or_inquiry_log_search.aspx;* and select Docket No. 15–09 from the list of docket logs provided.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. Phone: (202) 523–5725. Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission (FMC or Commission) is amending its rules of practice and procedure concerning time and service in adjudicatory proceedings.

Computation of Time

Currently the rules set out a variety of different formulas and conventions for computing time. Section 502.101 of Subpart G specifies that in computing periods of time under the rules, Saturdays, Sundays, and holidays should be counted, but that ''[w]hen the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, or national holidays shall be excluded from the computation.'' Throughout part 502 various sections reference a five (5) day deadline but do not cross-reference § 502.101, which may create confusion. For consistency and to streamline and simplify the rules, the provision excluding weekends and holidays when a deadline is less than seven (7) days is removed, and all 5-day periods set out in part 502 are extended to seven (7) days. Consequently, all time periods will be calculated in the same manner by counting calendar days inclusive of weekends and holidays. In addition, language in § 502.101 is simplified to provide that ''[i]f the last day is a Saturday, Sunday or federal holiday, the period continues to the next day that is not a Saturday, Sunday or federal holiday.''

Subpart G is also revised to simplify the structure of the rules. For example, the rules for enlargement and reduction of time to file documents currently found in §§ 502.102 and 502.103 are consolidated into § 502.102. Section 502.102 is also amended to reflect current Commission practice and standards for granting motions to enlarge time. As amended, § 502.102 would require that a party must have ''reasonable grounds'' for failing to file a motion for enlargement of time at least seven (7) days before the filing due date. Section 502.104 is similarly amended.

Rules on enlargement of time to file briefs and exceptions found at §§ 502.222 and 502.228 are amended because new § 502.102 covers the relevant requirements. Section 502.319 is revised to duplicate the requirements of § 502.102 to apply to formal procedures for adjudication of small claims.

Service of Documents

The service rules in Subpart H are revised to add references to service by email, and to encourage parties consistently to use of the same manner of service between parties, as that used to file documents with the Commission. The service rules are also rewritten and reorganized for clarity and ease of use.

Regulatory Analysis and Notices

Regulatory Flexibility Act

This direct final rule is not a ''major rule'' under 5 U.S.C. 804(2). No notice of proposed rulemaking is required; therefore, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521, requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before making most requests for information if the agency is requesting information from more than ten persons. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the proposed rulemaking. 5 CFR 1320.11. The Commission is not proposing any collections of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), as part of this rule.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified

Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at: *http://www.reginfo.gov/public/do/eAgendaMain*

Direct Final Rule Justification

The Commission expects the amendments to be noncontroversial. Therefore, pursuant to 5 U.S.C. 553, notice and comment are not required and this rule may become effective after publication in the **Federal Register**, unless the Commission receives significant adverse comments within the specified period. The Commission recognizes that parties may have information that could impact the Commission's views and intentions with respect to the revised regulations, and the Commission intends to consider any comments filed. The Commission will withdraw the rule if it receives significant adverse comments. Filed comments that are not adverse may be considered for modifications to Part 502 at a future date. If no significant adverse comment is received, the rule will become effective without additional action.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Federal Maritime Commission proposes to amend 46 CFR part 502 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–584; 18 U.S.C. 207; 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; 5 CFR part 2635.

■ 2. Revise Subpart G to read as follows:

Subpart G—Time

Sec.

§ 502.101 Computation.

In computing any time period prescribed or allowed under the rules in this part, the period begins on the day following the act, event, or default that triggers the period and includes the last day of the time period. If the last day is a Saturday, Sunday, or Federal holiday, the time period continues to the next day that is not a Saturday, Sunday, or federal holiday. If the presiding officer prescribes or allows an act, event, or default by reference to a specific date, that date shall govern. If the Commission's offices are inaccessible on the last day for a filing, the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or Federal holiday. [Rule101]

§ 502.102 Enlargement or reduction of time to file documents.

(a) Motions for enlargement or reduction of time for the filing of any pleading or other document, or in connection with the procedures of subpart L of this part, may be granted upon a showing of good cause. Motions must set forth the reasons for the request and be received at least seven (7) days before the scheduled filing date. Motions filed less than seven (7) days before the scheduled filing date may be considered where reasonable grounds are found for the failure to meet this requirement.

(b) Motions submitted after the scheduled filing date will be considered a request to accept late filing and must be accompanied by the document. These motions will only be considered when exceptional circumstances are shown or as justice may require.

(c) Motions and responses to motions filed under this section are subject to the requirements of §§ 502.69 and 502.71, except that responses to motions must be served and filed within five (5) days after the date of service of the motion. [Rule 102.]

§ 502.103 [Reserved]

§ 502.104 Postponement of hearing.

(a) Motions for postponement of any hearing date may be granted upon a showing of good cause. Motions must set forth the reasons for the request and be received at least seven (7) days before the scheduled hearing date. Motions filed less than seven (7) days before the scheduled hearing date may be considered where reasonable grounds are found for the failure to meet this requirement.

(b) Motions and responses filed under this section are subject to the requirements of §§ 502.69 and 502.71, except that responses to motions must be served and filed within five (5) days after the date or service of the motion. [Rule 104.]

§ 502.105 Waiver of rules governing enlargement of time and postponement of hearings.

Except as otherwise provided by law the presiding officer, for good cause, may reduce or enlarge any time limit prescribed in the rules of this Part, may waive the requirements of §§ 502.102 and 502.104 for replies, and may rule ex parte on requests submitted under those rules. [Rule 105.]

Subpart H—Service of Documents

■ 3. Revise § 502.114 to read as follows:

§ 502.114 Serving documents in Commission proceedings.

(a) Except where a different method of service is specifically required by the rules in this Part, all pleadings, documents and papers of every kind (except requests for subpoenas under § 502.145, documents served by the Commission under § 502.113, and documents submitted at a hearing or prehearing conference) in proceedings before the Commission, when delivered to the Commission or the presiding officer for filing, must show that service has been made upon all parties to the proceeding and upon any other persons required to be served by the rules in this Part. Such service must be made by delivering one copy to each party; by email; in-person hand delivery; or United States mail service, and be properly addressed with postage prepaid; by courier; or by facsimile. Service should be made in the same manner in which any pleading or document is filed with the Commission. For example, if a pleading is filed by email pursuant to § 502.2(f)(3), service should also be made by email.

(b) When a party has appeared by attorney or other representative, service upon each attorney or other representative of record will be deemed service upon the party, except that, if two or more attorneys of record are partners or associates of the same firm, only one of them need be served.

■ 4. Revise § 502.115 to read as follows:

§ 502.115 Service in rulemaking and petition proceedings.

Service on all prior participants in a rulemaking or a petition proceeding must be shown when submitting comments or replies beyond the initial round, including those involving

disposition of petitions for rulemaking (Rule 51), petitions for declaratory order (Rule 75), petitions general (Rule 76), notices of proposed rulemaking (Rule 52), proceedings under section 19 of the Merchant Marine Act, 1920, (46 U.S.C. 42101) (Part 550), and proceedings under section 13(b)(6) of the Shipping Act of 1984 (46 U. S.C. 41108(d)) (Part 560). A list of all participants may be obtained from the Secretary of the Commission.

■ 5. Revise § 502.116 to read as follows:

§ 502.116 Date of service.

The date of service of documents served by the Commission will be the date shown in the service stamp placed on the first page of the document. The date of service of documents served by parties will be the date when the document served is transmitted by email, deposited in the United States mail, delivered to a courier, or delivered in person. If service is made by more than one method, for example email and also U.S. mail service, the date of service will be the earlier of the two dates. In computing the time from such dates, the provisions of § 502.101 shall apply. [Rule 116.]

Subpart M—Briefs; Requests for Findings; Decisions; Exceptions

■ 6. Revise § 502.222 to read as follows:

§ 502.222 Requests for enlargement of time for filing briefs.

Requests for enlargement of time to file briefs shall conform to the requirements of § 502.102.

■ 7. Revise § 502.228 to read as follows:

§ 502.228 Request for enlargement of time to file exceptions and replies to exceptions.

Requests for enlargement of time to file exceptions, and briefs in support of such exceptions, or replies to exceptions, must conform to the applicable provisions of § 502.102. Any enlargement of time granted will automatically extend by the same period, the date for the filing of notice or review by the Commission. [Rule 228.]

Subpart T—Formal Procedure and Adjudication of Small Claims

■ 8. Revise § 502.319 to read as follows:

§ 502.319 Date of service and computation of time.

(a) The date of service of documents served by the Commission will be the date shown in the service stamp placed on the first page of the document. The date of service of documents served by parties will be the date when the document served is transmitted by email, deposited in the United States mail, delivered to a courier, or delivered in person. If service is made by more than one method, for example email and also U.S. mail service, the date of service will be the earlier of the two actions. In computing the time from such dates, the provisions of § 502.101 shall apply. [Rule 319.]

(b) In computing any time period prescribed or allowed under the rules in this Part, the period begins on the day following the act, event, or default that triggers the period and includes the last day of the time period. If the last day is a Saturday, Sunday, or federal holiday, the time period continues to the next day that is not a Saturday, Sunday, or federal holiday. If the presiding officer prescribes or allows an act, event, or default by reference to a specific date, that date will govern. If the Commission's offices are inaccessible on the last day for a filing, the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or federal holiday.

§§ 502.113, 502.132, 502.135, 502.201, 502.221, 502.227, 502.228, and 502.408 [Amended]

■ 9. In addition to the amendments set forth above, in 46 CFR part 502 remove the words ''five (5) days'' or ''five days'' or ''5 days'' and add, in their place, the words ''seven (7) days'' in the following places:

■ a. Section 502.132(c);
■ b. Section 502.135(a);
■ c. Section 502.201(c);
■ d. Section 502.221(f);
■ e. Section 502.222;
■ f. Section 502.227(e);
■ i. Section 502.228; and
■ j. Section 502.408(a)

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–24087 Filed 9–22–15; 8:45 am]

BILLING CODE 6731–AA–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

[Docket No. NTSB–GC–2012–0002]

RIN 3147–AA03

Organization and Functions of the Board and Delegations of Authority

AGENCY: National Transportation Safety Board (NTSB or Board).

ACTION: Final rule.

SUMMARY: By this Final Rule, the NTSB adds a new subpart to a part which contains internal rules specific to the NTSB. In publishing a Notice of Proposed Rulemaking (NPRM) in June 2015, the NTSB proposed a new subpart to outline the NTSB's rulemaking procedures.

DATES: The revisions and additions published in this Final Rule will become effective October 23, 2015.

ADDRESSES: A copy of the Final Rule, published in the **Federal Register** (FR), is available for inspection and copying in the NTSB's public reading room, located at 490 L'Enfant Plaza SW., Washington, DC 20594–2003. Alternatively, a copy of the NPRM is available on the government-wide Web site on regulations at *http://www.regulations.gov* (Docket ID Number NTSB–GC–2012–0002).

FOR FURTHER INFORMATION CONTACT: David Tochen, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION:

I. Notice of Proposed Rulemaking

The NTSB issued this NPRM in accordance with its June 25, 2012 document indicating the agency's intent to undertake a review of all NTSB regulations to ensure they are updated. 77 FR 37865. The NTSB initiated this review in accordance with Executive Order 13579, ''Regulation and Independent Regulatory Agencies'' (76 FR 41587, July 14, 2011). The purpose of Executive Order 13579 is to ensure all agencies adhere to the key principles found in Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821, January 21, 2011), which include promoting public participation in rulemaking, improving integration and innovation, promoting flexibility and freedom of choice, and ensuring scientific integrity during the rulemaking process in order to create a regulatory system that protects public health, welfare, safety, and the environment while promoting economic growth, innovation, competitiveness, and job creation. The NTSB explained in its June 25, 2012 document that it is committed to ensuring its regulations remain updated and comply with these principles. The NTSB published an additional document in the **Federal Register** on January 8, 2013, describing the NTSB's plan for updating all regulations. 78 FR 1193. Consistent with Executive Order 13563 and in accordance with these two documents published in the **Federal Register,** the NTSB seeks to ensure the public is aware of its rulemaking procedures.

On June 18, 2015, the NTSB published an NPRM inviting public comments concerning the NTSB's

addition of a new subpart within 49 CFR part 800, to outline procedures for the adoption of rules, as well as the rulemaking process in general. 80 FR 34874. As the NTSB stated in its NPRM, many of the new sections we proposed are self-explanatory.

The NTSB divided its discussion of the proposed additions into five segments, the first of which described general rulemaking provisions (§§ 800.30–800.34), which included proposed rules describing the applicability of proposed new subpart C (Procedures for Adoption of Rules), the NTSB's public reading room (§ 800.31), the act of initiating the rulemaking process (§ 800.32), as well as notices of proposed rulemaking and the contents thereof (§§ 800.33 and 800.34).

The NTSB also categorized three proposed rules into a segment it described as ''public participation'' (§§ 800.35–800.38). These proposed rules addressed participation of interested persons in the NTSB rulemaking process, which include submitting comments; petitions for extension of time to comment; the contents of written comments; and the NTSB's process for considering the comments it receives in response to a publication requesting comments.

The NTSB described proposed §§ 800.39–800.41 within a segment titled ''proceedings and documents.'' These proposed sections described procedures for additional rulemaking proceedings, hearings, and the agency's process for adopting final rules.

Finally, the NTSB organized its preamble description of the remaining sections into segments titled ''petitions for rulemaking'' (§§ 800.42–800.43), which described the procedure for submitting a petition for rulemaking, as well as the agency's processing of such petitions; and ''Direct and Interim Final Rules'' (§§ 800.44–800.45), which proposed to implement procedures for promulgating rules that are immediately effective in certain circumstances.

As the NTSB stated in its NPRM, the agency reviewed other agencies' rules describing rulemaking procedures, and utilized such rules as a model for the proposed new subpart.

II. Comment Received and Response Thereto

The NTSB received one comment in response to the June 18, 2015 NPRM, from the Air Line Pilots Association, International (ALPA). The comment contained two suggestions, which the NTSB has considered carefully. First, ALPA recommends the NTSB utilize the direct final rulemaking (DFR) procedure for all its rulemaking projects. Second, ALPA suggests the NTSB alter its proposed language in § 800.37 (''Contents of written comments''), in which we proposed, among other requirements, that comments be limited to 15 pages in length. ALPA recommends we amend the page limit to be 15 pages unless the NPRM itself exceeds 15 pages, in which case we should increase the page limit to equal the number of pages of the NPRM.

A. Section 800.33, ''Notice of Proposed Rulemaking.''

The NTSB appreciates ALPA's feedback concerning the option of utilizing the DFR procedure for NTSB rulemakings. The comment was succinct, in that it did not provide examples of situations in which the organization believes the NTSB might use the DFR procedure in lieu of publishing an NPRM and inviting comments from the public. The comment states, ''While ALPA understands that the Administrative Procedures Act does allow for this procedure, ALPA believes that it would be in the NTSB, stakeholders, and public interest to issue such rulemaking in accordance with the direct final rulemaking procedures.'' The NTSB assumes that ALPA desires the agency engage in more expeditious rulemaking procedures, thereby saving time and agency resources.

However, the NTSB declines to remove § 800.33, because DFR procedures are only available under the Administrative Procedure Act in limited circumstances. In particular, agencies only use DFR procedures when they do not anticipate a proposed rule or change will be controversial or will generate public interest.

While the NTSB does not promulgate rules that are considered ''major'' under Executive Order 12866, ''Regulatory Planning and Review,'' the agency nevertheless issues regulations about which transportation entities and members of the public maintain an interest and intend to offer comments. For example, in response to the NTSB's recent NPRM proposing the reorganization of and several changes to its rules on investigation procedures (49 CFR part 831), the agency received over three dozen substantive comments from a variety of stakeholders. *See* 79 FR 47064 (Aug. 12, 2014); *www.regulations.gov* Docket NTSB–GC–2012–0002. These proposed changes did not meet the criteria to be considered a ''major rule'' or a rule that would have a significant economic impact on a substantial number of small entities; nevertheless, the NPRM generated interest from a wide array of interested persons, organizations, and agencies. The NTSB could not consider promulgating such rulemaking changes in any manner other than publishing an NPRM and carefully considering all comments the agency received in response to it. Overall, while the NTSB appreciates ALPA's idea concerning exclusive utilization of the DFR process, the agency nevertheless finalizes its proposed new subpart, including § 800.33 (''Notice of proposed rulemaking''), in this Final Rule.

B. Section 800.37, ''Contents of Written Comments.''

The NTSB also appreciates ALPA's suggestion concerning the increase of the page limit applicable to comments from the public. While the NTSB believes a limit of 15 pages is sufficient for almost all rulemaking responses, the agency also acknowledges the public may find the page limit to be insufficient. Nevertheless, the NTSB finalizes the text of § 800.37, because the text includes language indicating the NTSB may choose to waive the page limit in certain circumstances. The agency will seriously consider such a waiver when it proposes regulatory changes in an NPRM that is particularly lengthy or complex.

III. Regulatory Analyses

In the NPRM, the NTSB included a regulatory analyses section concerning various Executive Orders and statutory provisions. The NTSB did not receive any comments concerning the results of these analyses. The NTSB again notes the following concerning such Executive Orders and statutory provisions.

This Final Rule is not a significant regulatory action under Executive Order 12866. Therefore, Executive Order 12866 does not require a Regulatory Assessment. As such, the Office of Management and Budget (OMB) has not reviewed this proposed rule under Executive Order 12866. In addition, section 2(a) of Executive Order 13579 states:

> Independent regulatory agencies ''should consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.

76 FR at 41587. Consistent with Executive Order 13579, the NTSB's amendments to 49 CFR part 800 reflect its judgment that this part should be updated and streamlined.

This rule does not require an analysis under the Unfunded Mandates Reform Act, 2 United States Code (U.S.C.) 1501–

1571, or the National Environmental Policy Act, 42 U.S.C. 4321–4347.

The NTSB has also analyzed these amendments in accordance with the principles and criteria contained in Executive Order 13132, ''Federalism.'' Any rulemaking proposal resulting from this notice would not propose any regulations that would: (1) Have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; (2) impose substantial direct compliance costs on state and local governments; or (3) preempt state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The NTSB is also aware that the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to review its rulemaking to assess the potential impact on small entities, unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The NTSB certifies this final rule will not have a significant economic impact on a substantial number of small entities.

Regarding other Executive Orders and statutory provisions, this final rule also complies with all 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. In addition, the NTSB has evaluated this rule under: Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights''; Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks''; Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments''; Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''; and the National Technology Transfer and Advancement Act, 15 U.S.C. 272 note. The NTSB has concluded this rule does not contravene any of the requirements set forth in these Executive Orders or statutes, nor does this rule prompt further consideration with regard to such requirements.

List of Subjects in 49 CFR Part 800

Administrative practice and procedure, Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies).

For the reasons discussed in the preamble, the NTSB amends 49 CFR part 800 as follows:

PART 800—ADMINISTRATIVE RULES

■ 1. Revise the authority citation for 49 CFR part 800 to read as follows:

Authority: 49 U.S.C. 1113(f), unless otherwise noted.

■ 2. Revise the heading for part 800 to read as set forth above.

■ 3. Add subpart C to 49 CFR part 800 to read as follows:

Subpart C—Procedures for Adoption of Rules

Sec.

Subpart C—Procedures for Adoption of Rules

§ 800.30 Applicability.

This subpart prescribes rulemaking procedures that apply to the issuance, amendment, and revocation of rules pursuant to 49 U.S.C. 1101–1155.

§ 800.31 Public reading room.

Information and data deemed relevant by the NTSB relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking; and final rules are maintained in the NTSB's public reading room, located at 490 L'Enfant Plaza SW., Washington, DC 20594–2003.

§ 800.32 Initiation of rulemaking.

The NTSB may initiate rulemaking either on its own motion or on petition by any interested person after a determination that grant of the petition is advisable. The NTSB may also consider the recommendations of other agencies of the United States.

§ 800.33 Notice of proposed rulemaking.

Unless the NTSB, for good cause, finds notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings under applicable provisions of 5 U.S.C. 551.

§ 800.34 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the **Federal Register**.

(b) Each notice includes:

(1) A statement of the time, place, and nature of the proposed rulemaking proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceedings.

§ 800.35 Participation of interested persons.

(a) Any interested person may participate in rulemaking proceeding by submitting comments in writing containing information, views or arguments.

(b) In its discretion, the agency may invite any interested person to participate in the rulemaking procedures described in this subpart.

§ 800.36 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before the end of the comment period stated in the notice. The petition must be submitted to: General Counsel, National Transportation Safety Board, 490 L'Enfant Plaza SW., Washington, DC 20594–2003. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and the NTSB will publish a notice of the extension of the comment period in the **Federal Register**.

§ 800.37 Contents of written comments.

All written comments shall be in English. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended

to the submission without regard to the 15-page limit. Any commenter shall submit as a part of his or her written comments all material he or she considers relevant to any statement of fact made in the comment. Commenters should avoid incorporation by reference. However, if incorporation by reference is necessary, the incorporated material shall be identified with respect to document and page. The NTSB may reject comments if they are frivolous, abusive, or repetitious. The NTSB may also reject comments filed electronically if the commenter does not adhere to the electronic filing instructions at the Federal Docket Management System Web site.

§ 800.38 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered to the extent practicable.

§ 800.39 Additional rulemaking proceedings.

The NTSB may initiate any further rulemaking proceedings it finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Board or a representative of the Board and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Board, at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 800.40 Hearings.

(a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, fact-finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The NTSB designates a representative to conduct any hearing held under this part. The General Counsel or a designated member of his or her staff may serve as legal officer at the hearing.

§ 800.41 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the General Counsel. The rule is then submitted to the Board for its consideration. If the Board adopts the rule, it is published in the **Federal Register** unless all persons subject to it are named and are personally served with a copy of it.

§ 800.42 Petitions for rulemaking.

(a) Any interested person may petition the Chairman to establish, amend, or repeal a rule.

(b) Each petition filed under this section must:

(1) Be submitted in duplicate to the Chairman, National Transportation Safety Board, 490 L'Enfant Plaza SW., Washington, DC 20594–0003;

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested; and

(4) Contain any information and arguments available to the petitioner to support the action sought.

§ 800.43 Processing of petition.

(a) Unless the NTSB otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the agency determines the petition contains adequate justification, it initiates rule making action this subpart.

(c) *Denials.* If the agency determines the petition does not justify rulemaking, it denies the petition.

(d) *Notification.* Whenever the agency determines a petition should be granted or denied, the Office of the General Counsel prepares a notice of the grant or denial for issuance to the petitioner, and the agency issues it to the petitioner.

§ 800.44 Direct final rulemaking procedures.

A direct final rule makes regulatory changes and states those changes will take effect on a specified date unless the NTSB receives an adverse comment or notice of intent to file an adverse comment by the date specified in the direct final rule published in the **Federal Register**.

(a) *Types of actions appropriate for direct final rulemaking.* Rules the Board determines to be non-controversial and unlikely to result in adverse public comments may be published in the final rule section of the **Federal Register** as direct final rules. These include non-controversial rules that:

(1) Make non-substantive clarifications or corrections to existing rules;

(2) Incorporate by reference the latest or otherwise updated versions of technical or industry standards;

(3) Affect internal NTSB procedures;

(4) Update existing forms; and

(5) Make minor changes to rules regarding statistics and reporting requirements, such as a change in reporting period (for example, from quarterly to annually) or eliminating a type of data collection no longer necessary.

(b) *Adverse comment.* An adverse comment is a comment the NTSB judges to be critical of the rule, to suggest the rule should not be adopted, or to suggest a change should be made to the rule. Under the direct final rule process, the NTSB does not consider the following types of comments to be adverse:

(1) Comments recommending another rule change, unless the commenter states the direct final rule will be ineffective without the change;

(2) Comments outside the scope of the rule and comments suggesting the rule's policy or requirements should or should not be extended to other topics outside the scope of the rule;

(3) Comments in support of the rule; or

(4) Comments requesting clarification.

(c) *Confirmation of effective date.* The NTSB will publish a confirmation rule document in the **Federal Register** if it has not received an adverse comment or notice of intent to file an adverse comment by the date specified in the direct final rule. The confirmation rule document informs the public of the effective date of the rule.

(d) *Withdrawal of a direct final rule.* (1) If the NTSB receives an adverse comment or a notice of intent to file an adverse comment within the comment period, it will publish a rule document in the **Federal Register**, before the effective date of the direct final rule, advising the public and withdrawing the direct final rule.

(2) If the NTSB withdraws a direct final rule because of an adverse comment, the NTSB may issue a notice of proposed rulemaking if it decides to pursue the rulemaking.

§ 800.45 Interim rulemaking procedures.

(a) An interim rule may be issued when it is in the public interest to promulgate an effective rule while keeping the rulemaking open for further refinement. For example, an interim rule may be issued in instances when normal procedures for notice and comment prior to issuing an effective rule are not required, minor changes to the final rule may be necessary after the interim rule has been in place for some time, or the interim rule only implements portions of a proposed rule, while other portions of the proposed rule are still under development.

(b) An interim rule will be published in the **Federal Register** with an effective date on or after the date of publication. After the effective date, an interim rule is enforceable and is codified in the next annual revision of the Code of Federal Regulations.

Christopher A. Hart,

Chairman.

[FR Doc. 2015–23608 Filed 9–22–15; 8:45 am]

BILLING CODE 7533–01–P

Proposed Rules

Federal Register
Vol. 80, No. 184
Wednesday, September 23, 2015

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No.FAA–2015–3880; Notice No. 23–15–05–SC]

Special Conditions: Honda Aircraft Company (Honda) Model HA–420, HondaJet; Cruise Speed Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Honda Aircraft Company HA–420 airplane. This airplane will have a novel or unusual design feature(s) associated with the use of a cruise speed control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before October 23, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3880 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–3239; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On October 11, 2006, Honda Aircraft Company applied for a type certificate for their new Model HA–420. On October 10, 2013, Honda Aircraft Company requested an extension with an effective application date of October 1, 2013. This extension changed the type certification basis to amendment 23–62.

The HA–420 is a four to five passenger (depending on configuration), two crew, lightweight business jet with a 43,000-foot service ceiling and a maximum takeoff weight of 9963 pounds. The airplane is powered by two GE-Honda Aero Engines (GHAE) HF–120 turbofan engines.

The HA–420 airplane will use a cruise speed control system (CSC), which is part of the automatic flight control system (AFCS), to reduce pilot workload during cruise flight only. The intended function is automatic airplane speed control during altitude hold AFCS mode by adjustment of the engine thrust within a narrow authority band utilizing the existing engine synchronization control. The CSC system does not back drive the throttles. The command authority is limited to values used for engine synchronization and can only be engaged when the throttle is positioned in a pre-determined range typically used for cruise power. This significantly reduces the CSC authority such that failure modes of the system should be minor. The proposed CSC system functions in a manner similar to an auto-throttle system, but has significantly less authority when compared to a traditional auto-throttle system.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Honda Aircraft Company must show that the HA–420 meets the applicable provisions of part 23, as amended by amendments 23–1 through 23–62, thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the HA–420 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special

conditions, the HA–420 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The HA–420 will incorporate the following novel or unusual design features: Cruise Speed Control system.

Discussion

As defined in the summary section, this airplane makes use of a CSC system, which is a novel design for this type of airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. Mandating additional requirements, developed in part by adapting relevant portions of 14 CFR 25.1329, Automatic pilot systems, applicable to auto-throttle systems along with FAA experience with similar autothrust systems, mitigates the concerns associated with installation of the proposed CSC system.

Applicability

As discussed above, these special conditions are applicable to the HA–420. Should Honda Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model HA–420 airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Honda Aircraft Company HA–420 airplanes.

1. Cruise Speed Control

In addition to the requirements of §§ 23.143, Controllability and Maneuverability—General; 23.1309, Equipment, systems, and installations; and 23.1329, Automatic pilot system; auto throttle systems of limited authority that do not back drive the throttles and for which all failure modes are shown to be no greater than minor, the following requirements apply:

(a) Quick disengagement controls for the autothrust functions must be provided for each pilot. Quick disengagement controls must be readily accessible to each pilot while operating the thrust control levers.

(b) The effects of a failure of the system to disengage the autothrust functions when manually commanded by the pilot must be assessed in accordance with the requirements of § 23.1309.

(c) Engagement or switching of the flight guidance system, a mode, or a sensor may not cause the autothrust system to effect a transient response that alters the airplane's flight path any greater than a minor transient, as defined in paragraph (l)(1) of this section.

(d) Under normal conditions, the disengagement of any automatic control function of a flight guidance system may not cause a transient response of the airplane's flight path any greater than a minor transient.

(e) Under rare normal and non-normal conditions, disengagement of any automatic control function of a flight guidance system may not result in a transient any greater than a significant transient, as defined in paragraph (l)(2) of this section.

(f) The function and direction of motion of each command reference control (such as CSC) must be plainly indicated on, or adjacent to, each control, if necessary to prevent inappropriate use or confusion.

(g) Under any condition of flight appropriate to its use, the flight guidance system may not produce hazardous loads on the airplane, nor create hazardous deviations in the flight path. This applies to both fault-free operation and in the event of a malfunction, and assumes that the pilot begins corrective action within a reasonable period of time.

(h) When the flight guidance system is in use, a means must be provided to avoid excursions beyond an acceptable margin from the speed range of the normal flight envelope. If the airplane experiences an excursion outside this range, a means must be provided to prevent the flight guidance system from providing guidance or control to an unsafe speed.

(i) The flight guidance system functions, controls, indications, and alerts must be designed to minimize flightcrew errors and confusion concerning the behavior and operation of the flight guidance system. Means must be provided to indicate the current mode of operation, including any armed modes, transitions, and reversions. Selector switch position is not an acceptable means of indication. The controls and indications must be grouped and presented in a logical and consistent manner. The indications must be visible to each pilot under all expected lighting conditions.

(j) Following disengagement of the autothrust function, a caution (visual and, unless there are no misleading or hazardous consequences associated with its absence, auditory) must be provided to each pilot.

(k) During autothrust operation, it must be possible for the flightcrew to move the thrust levers without requiring excessive force. The autothrust may not create a potential hazard when the flightcrew applies an override force to the thrust levers.

(l) For purposes of this section, a transient is a disturbance in the control or flight path of the airplane that is not consistent with response to flightcrew inputs or environmental conditions.

(1) A minor transient would not significantly reduce safety margins and would involve flightcrew actions that are well within their capabilities. A minor transient may involve a slight increase in flightcrew workload or some physical discomfort to passengers or cabin crew.

(2) A significant transient may lead to a significant reduction in safety margins, an increase in flightcrew workload, discomfort to the flightcrew, or physical distress to the passengers or cabin crew, possibly including non-fatal injuries. Significant transients do not require, in order to remain within or recover to the normal flight envelope, any of the following:

(i) Exceptional piloting skill, alertness, or strength.

(ii) Forces applied by the pilot which are greater than those specified in § 23.143(c).

(iii) Accelerations or attitudes in the airplane that might result in further hazard to secured or non-secured occupants.

Issued in Kansas City, Missouri, on September 14, 2015.

Mel Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24161 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 150527481–5834–01]

RIN 0648–XD971

Endangered and Threatened Wildlife and Plants: Proposed Threatened Status for Island Grouper (Mycteroperca fusca) and Endangered Status for Gulf Grouper (Mycteroperca jordani) Under the Endangered Species Act (ESA)

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

ACTION: Proposed rule; 12-month findings; request for comments.

SUMMARY: We, NMFS, announce 12-month findings and listing determinations on a petition to list the gulf grouper (*Mycteroperca jordani*) and the island grouper (*Mycteroperca fusca*) as threatened or endangered under the Endangered Species Act (ESA). We have completed comprehensive status reviews for these two marine fish species in response to a petition submitted by WildEarth Guardians. After reviewing the best scientific and commercial data available, we have determined that the gulf grouper is currently in danger of extinction throughout its range and, therefore, meets the definition of an endangered species. After reviewing the best scientific and commercial data available, we have also determined that the island grouper is not currently in danger of extinction throughout all or a significant portion of its range, but is likely to become so within the foreseeable future. Therefore, we conclude that the island grouper meets the definition of a threatened species. We are soliciting information that may be relevant to inform the final determinations for these two species.

DATES: Comments on this proposed rule must be received by November 23, 2015. Public hearing requests must be made by November 9, 2015.

ADDRESSES: You may submit comments on this document, identified by the code NOAA–NMFS–2015–0071, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0071*. Click the ''Comment Now'' icon, complete the required fields. Enter or attach your comments.
- *Mail:* Submit written comments to, Ron Salz, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910, USA.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

You can obtain the petition, status review reports, proposed rule, and list of references electronically on our NMFS Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

FOR FURTHER INFORMATION CONTACT: Ronald Salz, NMFS, Office of Protected Resources (OPR), (301) 427–8171 or Marta Nammack, NMFS, OPR, (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species or subpopulations as threatened or endangered under the Endangered Species Act (ESA). This petition included species from many different taxonomic groups, and we prepared our 90-day findings in batches by taxonomic group. We found that the petitioned actions may be warranted for 24 of the species and 3 of the subpopulations and announced the initiation of status reviews for each of the 24 species and 3 subpopulations (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). This document addresses the 12-month findings for two of these species: Gulf grouper (*Mycteroperca jordani*) and island grouper (*Mycteroperca fusca*). The status of the findings and relevant **Federal Register** notices for the other 21 species and 3 subpopulations can be found on our Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we consider first whether a group of organisms constitutes a ''species'' under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS; together, the Services) adopted a policy describing what constitutes a distinct population segment (DPS) of a taxonomic species (the DPS Policy; 61 FR 4722). The DPS Policy identified two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. As stated in the DPS Policy, Congress expressed its expectation that the Services would exercise authority with regard to DPSs sparingly and only when the biological evidence indicates such action is warranted. Based on the scientific information available, we determined that the gulf grouper (*Mycteroperca jordani*) and the island grouper (*Mycteroperca fusca*) are both ''species'' under the ESA. There is nothing in the scientific literature indicating that either of these species should be further divided into subspecies or DPSs.

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on

the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

When we consider whether a species might qualify as threatened under the ESA, we must consider the meaning of the term ''foreseeable future.'' It is appropriate to interpret ''foreseeable future'' as the horizon over which predictions about the conservation status of the species can be reasonably relied upon. The foreseeable future considers the life history of the species, habitat characteristics, availability of data, particular threats, ability to predict threats, and the reliability to forecast the effects of these threats and future events on the status of the species under consideration. Because a species may be susceptible to a variety of threats for which different data are available, or which operate across different time scales, the foreseeable future is not necessarily reducible to a particular number of years.

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into account efforts being made by any state or foreign nation to protect the species.

In assessing extinction risk of these two species, we considered the demographic viability factors developed by McElhany *et al.* (2000) and the risk matrix approach developed by Wainwright and Kope (1999) to organize and summarize extinction risk considerations. The approach of considering demographic risk factors to help frame the consideration of extinction risk has been used in many of our status reviews (see *http://www.nmfs.noaa.gov/pr/species* for links to these reviews). In this approach, the collective condition of individual populations is considered at the species level according to four demographic viability factors: Abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viability factors reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk.

Scientific conclusions about the overall risk of extinction faced by the gulf grouper and the island grouper under present conditions and in the foreseeable future are based on our evaluation of the species' demographic risks and section 4(a)(1) threat factors. Our assessment of overall extinction risk considered the likelihood and contribution of each particular factor, synergies among contributing factors, and the cumulative impact of all demographic risks and threats on the species.

We then assess efforts being made to protect the species, to determine if these conservation efforts are adequate to mitigate the existing threats. Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into consideration those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect the species.

Status reviews for the gulf grouper and the island grouper were conducted by NMFS OPR staff and an in-house contractor. In order to complete the status reviews, we compiled the best available information on the species' biology, ecology, life history, threats, and conservation status from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. We also considered information submitted by the public in response to our petition findings. Draft status review reports were also submitted to independent peer reviewers; comments and information received from peer reviewers were addressed and incorporated as appropriate before finalizing the draft reports. The gulf grouper and island grouper status review reports are available on our Web site (see **ADDRESSES** section). Below we summarize information from these reports and the status of each species.

Status Reviews

Gulf Grouper

The following section describes our analysis of the status of the gulf grouper, *Mycteroperca jordani.*

Species Description

The gulf grouper (Jenkins and Evermann 1889) is a large, heavy-bodied grouper with rounded preopercle and moderate sized scales (Smith 1971). They have a comparatively elongated and compressed body shape with body depth much less than their head length (Jenkins and Evermann 1889, Heemstra and Randall 1993). The dorsal fin has 11 spines and 16 to 17 rays, with the posterior margin rounded (Heemstra and Randall 1993). The anal fin has 3 spines and 10 to 11 rays; and the gill rakers range from 21 to 26, not counting rudiments (Heemstra and Randall 1993). Juvenile gulf grouper are greyish-brown with large, dark grey oblong blotches on the dorsal part of the body and fins (Heemstra and Randall 1993). Female adults are generally dark brown to grey, but they can assume a juvenile pattern when disturbed or excited. Larger adult males develop a white margin along the pectoral fin, with the medial fin developing a narrow white edge (Heemstra and Randall 1993). In spawning aggregations, breeding individuals exhibit conspicuous dark lines radiating from the eye (Sala *et al.* 2003). Gulf grouper can grow up to 150 cm (in total length), 91 kg (in weight), and 48 years (Heemstra and Randall 1993, Aburto-Oropeza *et al.* 2008). Gulf grouper are considered voracious, solitary predators, though little is known about their diet or feeding behavior.

Reproductive Biology and Spawning Behavior

Gulf grouper are a protogynous hermaphroditic fish, meaning they mature as females and, later in life, transition into males. Gulf grouper mature as females at an estimated six to seven years of age (Aburto-Oropeza *et al.* 2008). Gulf grouper are believed to transition from female to male based upon their size (size-advantage model) (Bhandari *et al.* 2006, Zhou and Gui 2010). The size-advantage model theorizes that if it is advantageous for one sex to reproduce at a small size and the other sex to reproduce at a larger size, then the individual should change sex at some point in life (Ghiselin 1969, Bhandari *et al.* 2006). Larger female grouper produce substantially more and higher quality eggs than smaller females. Although not studied directly in gulf grouper, an eight-year-old female *Mycteroperca* produces approximately 60 times the number of eggs that a five-year-old female produces (Aburto-Oropeza *et al.* 2008). For males, larger size is advantageous when competing with other males for reproduction opportunities with females at spawning aggregation sites (Domeier and Colin 1997).

Gulf grouper are transient aggregate spawners. Domeier and Colin (1997) defined spawning aggregations as ''a group of conspecific fish gathered for the purpose of spawning, with fish densities or numbers significantly higher than those found in the area of aggregation during the non-reproductive periods.'' Spawning aggregations are further categorized as either ''resident'' or ''transient'' depending upon aggregation criteria. Transient spawning aggregations typically (1) draw individuals from a relatively large area (individuals travel days to weeks to gather), (2) occur during a very specific time of year (one or two months), (3) persist for only a few-day period, and (4) do not occur year-round (Domeier and Colin 1997). Transient aggregate species are often large sized predators that are not known to spawn outside of aggregations (Domeier and Colin 1997).

The location and timing of gulf grouper spawning aggregations may depend upon tidal influences on egg or larvae distribution (Domeier and Colin 1997, Cherubin *et al.* 2011). All known spawning aggregation sites for gulf grouper, current and historical, are found in the Gulf of California (GOC) (Sala *et al.* 2004, Sáenz-Arroyo *et al.* 2005a, Moreno-Baez 2010). The GOC, with its length and combinations of basins, islands, and sills, has large tides (up to 4 m) and fast tidal currents (up to 1.5 m/sec) which peak during the full moon (Filonov and Lavín 2003). Gulf grouper are found on predictable spawning aggregation locations before and during the full moon in May (Sala *et al.* 2004). Their spawning aggregation sites consist of rocky reef (gorgonians and black coral) seamounts with abrupt relief habitat at 20 to 35 m depths. Adult gulf grouper form spawning aggregations of 40 or more individuals in areas larger than 1,000 m^2 (Aburto-Oropeza *et al.* 2008). Based upon three observed spawning aggregations, gulf grouper spawning aggregation density was estimated at 220 fish/ha with fish sizes ranging from 100 to 150 cm total length (Sala *et al.* 2003). Along the Pacific coast, spawning aggregation sites for gulf groupers are an unknown, though the size of the historical gulf grouper fisheries suggests that spawning aggregation sites may have been present.

Population Structure, Distribution, Abundance and Habitat

The gulf grouper resides in the subtropical eastern Pacific Ocean and Gulf of California from 32.84° N. (La Jolla, California, United States) to 23.22° N. (Mazatlán, Sinaloa, Mexico) (Heemstra and Randall 1993). The overall range distribution for gulf grouper is considered restricted, defined as less than 800,000 km^2 (Morris *et al.* 2000). Gulf grouper habitat requirements vary throughout life. Groupers in general pass through a pelagic larvae phase (20–50 days) during which they settle into rocky, coastal reefs (Aburto-Oropeza *et al.* 2008). After this phase, they acquire juvenile characteristics while they settle into shallow, coastal habitats (*e.g. Sargassum* beds, seagrass areas, mangroves, and estuaries); this nursery stage can last up to two years. Adult gulf grouper predominately use rocky reefs and kelp beds of depths from five to 30 meters (Heemstra and Randall 1993) and deeper (30 to 45 m) during the summer (Moreno-Baéz 2010). During the spawning season, gulf grouper will aggregate in rocky reefs in depths from 20 to 35 m (Sala *et al.* 2003).

Historical and current gulf grouper population abundance is unknown. Estimated trends in gulf grouper abundance are based primarily on limited fisheries catch data and anecdotal reports. The available information indicates that gulf grouper were once a dominant species in rocky-reef fish communities in terms of biomass, before stocks collapsed in the early 1970s (Sáenz-Arroyo *et al.* 2005a). In the 1930s, California fishermen reported gulf grouper as being abundant in Mexican waters between Bahía Tortugas and Bahía Magdalena, and this species represented an important component of the commercial fishery south of the U.S.-Mexico border (Croaker 1937, Fitch 1949). Combined landings of gulf grouper and broomtail grouper for the California commercial fishery peaked in the early 1950s at 376 metric tons (mt), declined to around 100–150 mt between the late 1950s until the late 1960s, after which the grouper fishery completely crashed to near zero landings by 1970 (California Department of Fish and Wildlife—*http://libraries.ucsd.edu/apps/ceo/fishbull/*). In 1976, the California Department of Fish and Game adopted no-take prohibitions for broomtail grouper and gulf grouper that are still in effect today.

In the GOC, gulf grouper accounted for a significant proportion of the commercial landings weight in the mid-20th century. In 1960, gulf grouper represented approximately 45 percent of the artisanal fishery in the GOC (Aburto-Oropeza *et al.* 2008). Based on anecdotal accounts, boats from El Club de Vuelos sport fishing resort in Loreto (Mexico) landed an estimated 63 mt of gulf grouper during a 2-month period in 1962 (Sáenz-Arroyo *et al.* 2005a). By comparison, only an estimated 58 mt of gulf grouper were harvested from 2006 through 2012 throughout the species' entire range. The El Club de Vuelos boats fished at the Punta Lobos and San Bruno seamounts, both probable spawning aggregation sites at that time. There are also anecdotal reports from the 1940s and 1950s of fishermen using dynamite to capture large numbers of gulf grouper at the San Bruno seamount (Sáenz-Arroyo *et al.* 2005a). Sáenz-Arroyo *et al.* (2005a) conducted over 30 dives from 2001 through 2004 during the gulf grouper spawning season at sites that were recommended by the original fishermen from El Club de Vuelos. During these dives, only three gulf grouper were observed, all at the Punta Lobos seamount. In 2002 and 2003, a biologist fished the San Bruno seamount during the spawning aggregation season and was only able to capture one gulf grouper (Sáenz-Arroyo *et al.* 2005a). Since official Mexican fishery landings data at the species level are only available since 2007, these data fail to encapsulate the major decline in GOC gulf grouper abundance, which likely started in the mid-20th century.

Summary of Factors Affecting the Gulf Grouper

Available information regarding current, historical, and potential future threats to the gulf grouper was thoroughly reviewed (Dennis 2015). We summarize information regarding threats below according to three (out of five) factors specified in section 4(a)(1) of the ESA: ''Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range''; ''Overutilization for Commercial, Recreational, Scientific, or Educational Purposes''; and ''Inadequacy of Existing Regulatory Mechanisms.'' We found very little information regarding potential threats that fall into the section 4(a)(1) categories of either ''Disease and Predation'' or ''Other Natural or Manmade Factors.'' These subjects are data poor, but there are no serious or known concerns raised under these threat categories with respect to gulf grouper extinction risk; therefore, we do not discuss these categories further here. See Dennis (2015) for additional discussion of all ESA section 4(a)(1) threat categories.

Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Since the beginning of the 20th century, human population growth and development has resulted in the loss and degradation of coastal habitats throughout the gulf grouper's range. Continued loss or degradation of these habitats represents a potential threat to

the species. The terrestrial habitat surrounding the GOC is mostly arid to semi-arid with rivers feeding the estuaries and marine waters with sediments and fresh water. Originating in these dry environments, the rivers and estuaries are of limited supply and great importance. There are ten major rivers that provide freshwater, sediment, and nutrient inputs to the GOC. These rivers have been extensively dammed, exploited for agricultural uses, and polluted from agricultural and urban runoff. As a result, the coastal habitats bordering the GOC have been reduced and degraded, while nearshore salinities, which ecosystems have evolved for, have changed. The Río Colorado is the largest watershed flowing into the GOC, representing over two-thirds of the GOC's watershed acreage. Historically, 16.4 million acre-feet of water flowed annually into the GOC from the Río Colorado (Goodfriend and Flessa 1997, Bureau of Reclamation 2012). Today the river rarely flows to the GOC due to the cumulative effects of two large dam projects (Hoover Dam and Glen Canyon Dam) and major water diversions. Increased anthropogenic nitrogen from sewage, agricultural, and shrimp farming sources are directly utilized by macroalgae, creating more frequent blooms and corresponding anoxia throughout coastal habitats in the GOC (Piñón-Gimate *et al.* 2009). Juvenile gulf grouper reside in these coastal habitats (such as *Sargassum* and seagrass beds, mangroves, and other kinds of estuary habitats) during the first few years of life, and are susceptible to these environmental changes (Aburto-Oropeza *et al.* 2008).

Shrimp aquaculture began in the GOC in the early 1980s. The production of cultivated shrimp in the GOC has increased tremendously over the past 30 years: 35 mt in 1985; 15,867 mt in 1995; 33,480 mt in 2000; and 125,609 mt in 2009 (Gillett 2008, SEPESCA–BC Web page *http://www.sepescabc.gob.mx/x/estadisticas/*). Shrimp farms can negatively impact gulf grouper through direct loss of habitat and through habitat degradation. The conversion of natural saltmarshes and mangrove forests into shrimp farms can result in the direct loss of nursery areas for juvenile gulf grouper (Páez-Osuna 2001). In the northern GOC, an estimated 95 percent of mangrove forests are impacted by shrimp farms (Glenn *et al.* 2006). GOC shrimp ponds stock between 60,000 to 200,000 shrimp per hectare, and require a daily water exchange of three to six percent (Páez-Osuna *et al.* 1998, Páez-Osuna *et al.* 2003). During water exchanges, organic matter from unconsumed shrimp food, detritus, phytoplankton, zooplankton, and bacteria is flushed into the GOC through discharge channels (Barraza-Guardado *et al.* 2013). Shrimp farm effluents contribute 10.2 percent of the nitrogen and 3.3 percent of the phosphorus inputs into the GOC (Miranda *et al.* 2009). Adding these organic materials into the marine habitat, which is already receiving effluents from other anthropogenic sources, deteriorates water quality through oxygen depletion, light reduction, increased salinity, increased chlorophyll and bacteria levels, and changes in benthic macrofauna, resulting in possible eutrophication (Páez-Osuna 2001, Barraza-Guardado *et al.* 2013). For example, the Altata-Ensenada del Pabellón lagoon receives effluent from shrimp farms, intensive agriculture (*i.e.,* sugar cane), and sewage from local cities, leading to phytoplankton blooms, anoxia, and fish kill events (Páez-Osuna 1999). The combined effects of shrimp farm effluents (and other sources of anthropogenic nutrient loading) with climate change may result in an increased incidence of hypoxia due to enhanced ocean stratification, decreased oxygen solubility, increased metabolism, and increased production of organic matter (Rabalais *et al.* 2009). Shrimp farm effluents also typically contain antibiotics which are used in large quantities to preemptively treat bacterial diseases (Kautsky *et al.* 2000).

Effluents from agricultural areas and aquaculture facilities also contribute to harmful algal blooms in the GOC. Red tides, which are produced by a planktonic dinoflagellate (*Prorocentrum minimum*), were first reported in the GOC in 1990. Between 1990 and 2003, 13 red tide events occurred, with six occurring in shrimp ponds and seven occurring near aquaculture and agricultural areas (Sierra-Beltrán *et al.* 2005). Most recently, a red tide occurred in January 2015 near San Felipe, Baja California that resulted in fish, bird, and marine mammal mortalities.

GOC reefs are predominantly rocky, with a coral component in the south, which shifts to kelp (brown algae) in the north (Squires 1959). Reef habitats support a wide diversity and high density of marine life, including gulf grouper, and are particularly sensitive to anthropogenic threats. Both direct (*e.g.,* fishing with dynamite, dredging) and indirect (*e.g.,* anthropogenic nutrients, climate change) activities have had a detrimental impact on the reefs within the gulf grouper's range. In the past, dynamite was often used for fishing on reefs, which has resulted in permanent damage to gulf grouper spawning habitat (Lozano-Montes *et al.* 2008). Development of the GOC region has resulted in more dredging activities (Zamora-Arroyo *et al.* 2005) and increased nutrient loading into the marine ecosystem, resulting in algal growth and hypoxic waters that can degrade and kill coral (Kline *et al.* 2006). The effects of climate change can lead to coral loss and degradation through bleaching and mortality events from elevated ocean temperatures, loss of structural integrity, and ocean acidification. During the 1997–1998 El Niño event, sea surface temperature anomalies of greater than 1.5 °C occurred from July 1997 through January 1998. Coral bleaching was extensive throughout the southern GOC: Over 30 percent of live coral cover was bleached, of which, nearly 70 percent died within a few months (Bonilla 2001). Though the 1997–1998 coral bleaching event was related to El Niño, similar impacts may be expected in the future due to increasing ocean temperatures associated with climate change.

The impact of anthropogenic activities on GOC marine habitats will likely increase in the future based on projected human population growth and development in this region. Population growth in the GOC region is expected to continue at a high rate with approximately 150,000 new residents per year (Source: *http://www.conapo.gob.mx/es/CONAPO/Proyecciones_Datos*). The Mexican federal government has placed a major emphasis on tourism and trade development throughout the GOC. Beginning in 2008, the first paved highway along the Sonoran GOC coast was constructed from Puerto Peñasco to Mexicali (population 689,775) (Wilder *et al.* 2012b). In Puerto Peñasco, the construction of a new marina with associated breakwaters and facilities for cruise liners has started and is expected to be completed in 2015. With improved accessibility by land and sea, Puerto Peñasco is currently undergoing a construction boom, with two major resorts adding over 100,000 rooms via hotels and condominiums along with golf courses and 22 small-scale desalination plants (Wilder *et al.* 2012b). Two hundred kilometers south in Puerto Libertad, the Liberty Cove resort has been approved for 60,000 dwellings, golf courses, a race track, and a marina. Another project, the Escalera Náutica del Mar de Cortés y Riviera Maya, will construct 29 new marinas throughout the GOC with facilities to accommodate cruise ships and 60,000 boats annually (Wilder *et al.* 2012b).

Another purpose of the improved ports is to increase trade. For example, after dredging its harbor in 2013, the Port of Guaymas became the second largest Mexican port and is capable of handling vessels up to 130,000 tons, while increasing its port capacity from 8 to 30 million tons of cargo.

Increased development and infrastructure will result in increased energy and water needs. To meet these needs there are plans to greatly expand tidal power and desalination plant capacity in the region. The GOC is considered one of the best tidal power locations in the world due to its large tides and proximity to urban areas. Two GOC tidal power site locations have been identified and are in the early stages of planning: Bahía de Adair and Canal del Infiernillo. Environmental impacts from tidal power include habitat loss, increased turbidity, mobilization of contaminants, and changes in the morphodynamics of the seabed (Gill 2005, Neill *et al.* 2009). Plans for expanding tourism in the GOC often include construction of desalination plants (Wilder *et al.* 2012b). Desalination plants impact the environment by both their very substantial power requirements and the wastewater discharges, which include brine plumes (at twice the salinity of marine waters), antiscalents, coagulants, heavy metals, and membrane preservatives that get released into the marine environment (Roberts *et al.* 2010). Marine organisms can also get trapped in desalination intake systems (Wilder *et al.* 2012a). All of this increased development in and around the GOC is anticipated to have negative effects on the GOC environment as a whole, and thus, on gulf grouper habitat within that environment.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Gulf grouper are a highly prized commercial and recreational fish species due to their large size and palatability. Gulf grouper also exhibit the following life history traits and behavioral characteristics that increase the species' vulnerability to fishery overutilization: Slow growth, late maturation, large size, protogynous hermaphroditism, long life-span, and the formation of transient spawning aggregations (Sadovy 1994). In protogynous hermaphrodites, the largest individuals are, in order, terminal males, individuals undergoing sexual transition, and the largest, most fecund females who are next in line for sexual transition. Since fishers selectively harvest the largest individuals, these groups are removed at a high rate, leading to decreased productivity of a population. In one study of the artisanal fishery of Bahía de Los Angeles, nearly 99 percent of gulf grouper landed from 2002–2003 were immature fish (Aburto-Oropeza *et al.* 2008). These data suggest that large, mature gulf grouper have been mostly removed from the population.

Spawning aggregations sites are particularly vulnerable to overfishing because they occur at predictable places and times and they contain fish at a much higher than normal density (Domeier and Colin 1997). Many fishermen base their fishing activities upon the movement patterns of target species, and knowledge of spawning aggregation sites is highly advantageous (Sadovy *et al.* 1994, Moreno-Báez *et al.* 2012). Gulf grouper spawning aggregation sites within the GOC (*e.g.* Punta Lobos and San Bruno seamounts) have disappeared after periods of heavy exploitation (Sáenz-Arroyo *et al.* 2005a). The reduction or complete loss of additional spawning aggregations due to overfishing represents a continued threat to the gulf grouper.

Commercial landings of gulf grouper from the Pacific Ocean (U.S. vessels fishing in Mexican waters) peaked in the early 1950s, followed by a population decline to near commercial extinction by 1970. In 1976, California declared the gulf grouper a prohibited species. Based on recent fishery independent surveys and fisheries data, the gulf grouper is still considered a very rare occurrence in the Pacific Ocean.

Time series fisheries catch and effort data available for gulf grouper in the GOC are sparse. Official Mexican fisheries statistics did not include artisanal landings until 1988 (only commercial were included prior to that date), and species level information specific to gulf grouper are only available since 2007. Currently, gulf grouper represent less than one percent of the artisanal fishery in the GOC. However, recent gulf grouper landings can be misinterpreted, leading one to incorrectly conclude that the gulf grouper is a naturally rare species. Anecdotal information based on Local Fishermen Knowledge (LFK) indicates that gulf grouper were once abundant in the GOC and represented approximately 45 percent of the artisanal fishery landings weight in 1960 (Sáenz-Arroyo *et al.* 2005a). Studies of LFK in the GOC indicate sharp declines in gulf grouper abundance over the past 50 years (Sala *et al.* 2004, Sáenz-Arroyo *et al.* 2005a and 2005b, Lozano-Montes *et al.* 2008, and Moreno-Báez *et al.* 2010 and 2012). Sáenz-Arroyo *et al.* (2005a and 2005b) interviewed 108 fishermen from 11 fishing communities in the central GOC. Fishermen were asked to recall their best day's catch of gulf grouper, heaviest fish caught, and years of these catches. For best day's catch, catches decreased significantly over time: 25 fish daily in the 1940s and 1950s; 10–12 fish daily in the 1960s; and 1–2 fish daily in the 1990s. For heaviest gulf grouper caught, weight per fish decreased significantly from ≥ 80 kg from the 1940s through the 1960s to 60 kg by 2000. Among age groups, 96 percent of the oldest (≥ 55 years old) and 90 percent of the middle-aged (31–54 years old) fishermen had captured gulf grouper, while only 45 percent of the young fishermen (15–30 years old) had. When asked whether or not they considered the gulf grouper depleted, 85 percent of the oldest considered them depleted, compared to 56 percent of the middle-aged, and 10 percent of the young fishermen (Sáenz-Arroyo *et al.* 2005a and 2005b). Sala *et al.* (2004) interviewed 63 fishermen (ages 25 to 67) from four fishing villages along the southern GOC. They found that the relative importance of gulf grouper as a target species and the maximum size of gulf grouper caught both declined markedly from the 1970s to 2000.

Gulf grouper are highly prized by recreational anglers, although data from this fishery sector are sparse and the impact of recreational fishing on this species is largely unknown. Based on anecdotal information, recreational anglers caught large numbers of gulf grouper in the 1950s and 1960s and likely targeted known spawning aggregation sites in the GOC (Sáenz-Arroyo *et al.* 2005a). During a two-month period in 1962, anglers from El Club de Vuelos sport fishing resort harvested an estimated 63 mt of gulf grouper (Sáenz-Arroyo *et al.* 2005a). More recently, Cudney-Bueno *et al.* (2009) reported finding a large sport fishing derby targeting gulf grouper in 2004 within the no-take zone of the Reserva de la Biosfera Isla San Pedro Martír.

In addition to overutilization by direct harvest, gulf grouper are indirectly harvested as bycatch in commercial shrimp trawls (Ramírez *et al.* 2012) and illegal totoaba (*Totoaba macdonaldi*) fisheries (Moreno-Báez *et al.* 2012). In 2012, commercial shrimp trawlers harvested 42,310 mt of shrimp in the GOC. Mexican shrimp fisheries are not required to use bycatch reduction devices (BRDs), and recent studies estimated the bycatch ratio (bycatch: shrimp) at 6.1:1 (85.9 percent bycatch rate; 2003–2009) in the central GOC

(Meltzer 2012) and 10.2:1 (91.1 percent bycatch rate; 1992–2004) in the southern GOC (Madrid-Vera *et al.* 2007). The totoaba, currently ESA-listed as endangered, are currently harvested via gill nets in the northern GOC for their swim bladders, which garner $8,500 per kg (CIRVA 2014). Although it is unknown whether or not this totoaba fishery is also harvesting gulf grouper, this fishery is currently using the same fishing ports (*i.e.,* San Felipe, Golfo de Santa Clara, and Puerto Peñasco) and harvest methods (*i.e.,* gill nets) being used to capture gulf grouper (Moreno-Báez *et al.* 2012). Estimates of bycatch specific to gulf grouper in the GOC shrimp trawl fishery and the illegal totoaba fishery are not available.

Inadequacy of Existing Regulatory Mechanisms

In Mexico, the Comisión Nacional de Acuacultura y Pesca (CONAPESCA) has the authority to implement fishing regulations (*http://www.conapescasandiego.org/contenido.cfm?cont=regulations*), which are enforced by the Mexican Navy. Traditional fisheries regulations aimed at controlling catch and effort of gulf grouper in Mexican waters are scarce. Commercial fishing permits are only available to Mexican nationals and require a concession (either a cooperative or private business). Commercial permits are awarded per vessel for two to five year durations and specify species (or species group) targeted, fishing area, and fishing method or gears. Recreational fishing is allowed by national or foreign individuals through a single, non-renewable, non-transferrable permit. In ocean waters and estuaries, a retention limit of ten fish is allowed per angler per day, of which only two can be gulf grouper. Rubber-band, spring, or pneumatic harpoons are allowed during recreational skin diving.

Several marine protected areas (MPAs) have been established in Mexico within the gulf grouper's range. MPAs cover nearly one fifth of the GOC's surface area, including 101,838 hectares designated as ''no-take'' areas (Aburto-Oropeza *et al.* 2011). Despite the establishment of multiple MPAs throughout the GOC over the past few decades, overall protection of fisheries resources is still inadequate for the recovery of overexploited stocks. The lack of management plans, effective regulations, and necessary resources to operationalize and enforce MPAs in the GOC significantly undermines their conservation benefits (Cudney-Bueno *et al.* 2009, Rife *et al.* 2013, Cinti *et al.* 2014). The large majority of the areas covered by GOC MPAs are still actively fished year-round with little or no regulations limiting harvest (Rodríguez-Quiroz *et al.* 2010, Moreno-Báez *et al.* 2012). The lack of adequate enforcement is a chronic and pervasive problem for several MPAs within the GOC. For example, one study of the Reserva de la Biosfera Isla San Pedro Martír, conducted from 2003 through 2008, found that 39 percent of the time sport and commercial fishermen were fishing in the 900 hectare core no-take zone, including a large sport fishing derby targeting gulf grouper in 2004 (Cudney-Bueno *et al.* 2009).

With the exception of the Parque Nacional Cabo Pulmo, fish species diversity and biomass have not increased within designated GOC MPAs (Aburto-Oropeza *et al.* 2011). The Parque Nacional Cabo Pulmo, located on the southern tip of the Baja California peninsula, was established in 1995 to protect the large coral communities found there (Aburto-Oropeza *et al.* 2011). The park includes a 2,501 hectare no-take reserve (35 percent of the total park area). In a ten-year study, fish species richness and biomass significantly increased from 1999 to 2009, and previous studies have found gulf grouper inhabit park waters (Aburto-Oropeza *et al.* 2011). The conservation benefits of Cabo Pulmo are threatened by development from the tourist industry, as several large-scale resorts have recently been proposed for this area.

In the U.S., the California Fish and Game Commission adopted a regulation prohibiting the take or possession of gulf grouper in 1976 (Title 14, Section 28.12). This regulation went into effect on March 1, 1977, and remains in effect today.

Extinction Risk Assessment

Gulf grouper are particularly susceptible to overfishing due to a combination of life history traits and behavioral characteristics (Sadovy de Mitcheson *et al.* 2012). Biological factors that likely increase the gulf grouper's intrinsic vulnerability to overfishing include large size, late onset of reproductive maturity, slow growth rate, and long life-span. As a protogynous hermaphrodite, the gulf grouper may be even more susceptible to fishing which, through selective removal of males, could reduce reproductive capacity. As a transient aggregate spawner, gulf grouper are highly susceptible to fishing overutilization due to the predictability of their locations in time and space. Once a year, adult gulf grouper aggregate for reproduction at a known time (full moon in May), at known locations (particular reefs and seamounts), at higher than normal densities. Some historical gulf grouper spawning aggregation sites have completely disappeared following heavy harvest (*e.g.* Punta Lobos and San Bruno seamounts) (Sáenz-Arroyo *et al.* 2005a). An analysis of 2002 and 2003 harvest data from Bahía de Los Angeles showed that 99 percent of the gulf grouper harvested were immature-sized fish, demonstrating the lack of reproductive age fish (Aburto-Oropeza *et al.* 2008). Overall, the combination of high harvest rates at known spawning aggregation sites and the trait of protogynous hermaphroditism significantly impacts gulf grouper productivity. Finally, gulf grouper have a small geographic range, which may restrict their ability to move and adapt to environmental changes (Morris *et al.* 2000).

Based upon the best available cumulative information from fisheries statistics, LFK, anecdotal reports, and grey literature, we conclude that gulf grouper abundance has severely declined since the mid-20th century due primarily to direct harvest by commercial and artisanal fisheries (Sala *et al.* 2004, Sáenz-Arroyo *et al.* 2005a, Aburto-Oropeza *et al.* 2008). The primary signs of population decline are: (1) Sharp reductions in harvest volumes, (2) significant decrease in average size and weight of harvested fish, (3) reduced spatial distribution and likely range contraction, and (4) extirpations or reductions of spawning aggregations (Sáenz-Arroyo *et al.* 2005a, Aburto-Oropeza *et al.* 2008). In the GOC, gulf grouper were once abundant and represented approximately 45 percent of the artisanal fishery in 1960, but declined to 10 percent by the 1970s, and are now less than 1 percent of the fishery (Sáenz-Arroyo *et al.* 2005a). The sharp decrease in harvest levels since the 1970s was not due to decreased fishing effort (fishing effort has generally increased) or new protective regulations (which are of limited benefit), but rather was due to a decline in gulf grouper abundance. Commercial landings of gulf grouper from the Pacific Ocean (U.S. vessels fishing in Mexican waters) peaked in the early 1950s, before the population declined to near commercial extinction by 1970. Based on recent fishery independent surveys and fisheries data, the gulf grouper has not recovered and is still considered a very rare occurrence in the Pacific Ocean portion of its range. Outside of a known population in Bahía Magdalena (Octavio Aburto-Oropeza, Scripps Institution of Oceanography, pers.

comm., 2014), there is no published evidence of gulf grouper still persisting along the Pacific coast of the Baja California peninsula. Current gulf grouper distribution appears to be much more limited than their historical range (Sáenz-Arroyo *et al.* 2005a). In the 1930s, some irruptions of gulf groupers occurred along the San Diego coastline (Hubbs 1948); but there are no records of any occurring in this area since that time.

In addition to direct harvest, other potential threats to gulf grouper abundance include bycatch in the commercial shrimp and illegal totoaba fisheries, habitat degradation and loss from a variety of sources, and climate change. However, there are no studies directly linking these factors to the decline in gulf grouper abundance. Although the cumulative impact of these threats may be significant, the information available does not allow for an accurate assessment of the relative magnitude or contribution of these threats to gulf grouper extinction risk.

Due to the inadequacy of existing regulatory mechanisms, there is no reason to expect the primary threat to gulf grouper from fisheries direct harvest will diminish. Traditional fisheries regulations aimed at controlling gulf grouper catch and directed fishing effort in Mexican waters are very limited. While several MPAs have been established in the GOC in recent years, the lack of management plans, effective regulations, and necessary resources to operationalize and enforce these MPAs significantly undermines their conservation benefit (Cudney-Bueno *et al.* 2009, Rife *et al.* 2013, Cinti *et al.* 2014). With the exception of the Parque Nacional Cabo Pulmo, fish species diversity and biomass have not increased since the establishment of GOC MPAs (Aburto-Oropeza *et al.* 2011). The conservation benefits of Cabo Pulmo are currently threatened by large-scale development projects. Since 1976, the state of California has prohibited the take or possession of gulf grouper. However, this restriction only applies within California waters, which represent a very small portion of the species' historical range and may no longer be part of the gulf grouper's current range. Gulf grouper can still be harvested and landed in Mexico by U.S. fishing vessels.

The gulf grouper was once considered abundant, but is now considered rare (Jenkins and Evermann 1889, Croker 1937, and Sáenz-Arroyo *et al.* 2005a). Direct harvest is the major reason for gulf grouper decline (Sala *et al.* 2004, Sáenz-Arroyo *et al.* 2005a, Aburto-Oropeza *et al.* 2008) and, due to the lack of protective regulations in Mexico (no meaningful quotas nor protective regulations for gulf grouper), there is no reason to expect fishing to be a diminishing threat. Moreover, gulf grouper are intrinsically vulnerable to overfishing due to life history traits, including large size, late onset of reproductive maturity, protogynous hermaphrodite life history, transient aggregate spawning, slow growth rate, long life-span, and restricted geographic range (Sadovy de Mitcheson *et al.* 2012). Sharp decreases in harvest levels observed since the 1970s are not due to decreased fishing effort (fishing effort has generally increased) or new protective regulations (which are of limited benefit), but rather are due to a decline in gulf grouper abundance. Though a series of MPAs have been set up in the GOC, only one, Cabo Pulmo, has an enforced no-take marine zone, and it is the only protected marine zone in the GOC that has seen improved marine fish life diversity and density over the past decade (Aburto-Oropeza *et al.* 2011); therefore, the MPAs are not anticipated to lead to a significant increase in gulf grouper abundance.

Protective Efforts

In 2005, Mexico established the Área de Refugio Vaquita Marina located in the northern GOC to protect and conserve the critically endangered vaquita (*Phocoena sinus*) by prohibiting gill net and trammel net use (SEMARNAT 2008). This prohibition is not directly designed to protect gulf grouper, but gill nets and trammel nets are two of the more common gulf grouper harvest methods, so the prohibition could have the potential to benefit gulf grouper as well. However, bycatch of vaquita in the illegal gill net fishery for the endangered totoaba has continued within this MPA after implementation. In 2015, the Mexican federal government increased its efforts to protect vaquita by expanding the Área de Refugio Vaquita Marina six-fold to approximately 8,000 square kilometers. For the next two years, gill nets and long lines will be prohibited within the MPA; and fishermen from the nearby towns of San Felipe (Baja California, Mexico) and Golfo de Santa Clara (Sonora, Mexico) will be financially compensated for changing their harvest methods. Enforcement by the Mexican Navy will be increased with the additional use of enforcement boats, light aircraft, and drones. These new conservation measures could result in decreased fishing pressure on gulf grouper. However, these new measures are temporary, and there is no long-term commitment of funds for enforcement or financial compensation of displaced fishermen. There are also large uncertainties associated with the effectiveness of the proposed enhanced enforcement measures given pervasive non-compliance with Mexican fisheries regulations and the economic incentives created by the extremely high valued illegal totoaba fishery.

We did not identify any other conservation efforts to protect and recover gulf grouper that are either underway but not yet fully implemented, or are only planned. Our evaluation of the conservation efforts identified lead us to conclude that current conservation efforts cannot be considered effective measures for significantly reducing the current gulf grouper extinction risk.

Proposed Determination

Based on the best available scientific and commercial information, as summarized here and in Dennis (2015), and consideration of efforts being made to protect the species, we conclude that the gulf grouper, *Mycteroperca jordani,* is currently at high risk of extinction throughout its range. We therefore propose to list this species as endangered under the ESA.

Island Grouper

The following section describes our analysis of the status of the island grouper, *Mycteroperca fusca.*

Species Description

The island grouper was first described under the name *Serranus fuscus* by Lowe (1836) based on specimens from Madeira, Portugal. Diagnostic features of the island grouper include an oblong and compressed body with depth less than head length, lower jaw extending well in front of upper jaw, dorsal fin with 11 spines and 14–16 rays, anal fin with 3 spines and 10–12 rays with rounded margin, and caudal-fin rear margin truncate (juveniles) to concave (adults) (Heemstra and Randall 1993). Adults are brownish or dark grey, with irregular pale blotches and spots and a prominent maxillary streak. Under stress this pattern may be reversed so that the head and body are pale with irregular dark markings. Juveniles are mottled greenish-brown with prominent white spots on head and body, white streaks on median fins, with hyaline golden pectoral fins (Craig *et al.* 2011). The color pattern of mature females from the Canary Islands suggests sexual dichromatism (*i.e.,* males and females differ in color) (Bustos 2008). A large proportion of sexually active females have yellow pigmentation (dorsal fins

and/or chest, ventral or uniformly throughout), while males are uniformly brown (Bustos 2008). This species is also known to display a yellow (xanthic) color phase (Wirtz 2007), and a few uniformly golden island grouper have been reported from Madeira (Heemstra and Randall 1993).

For many years island grouper were confused with another closely related species, *Mycteroperca rubra.* Based primarily on differences in gill raker counts, Heemstra (1991) established that the species found in the Atlantic Macaronesian region (from the Azores to Cape Verde) was *M. fusca* (with 20–24 lower limb gill rakers), with the distribution of *M. rubra* (with 28–31 lower limb gill rakers) being limited to the west coast of Africa and the Mediterranean Sea (Heemstra and Randall 1993).

The island grouper is a slow-growing, long-lived species which can attain maximum sizes of at least 86 cm total length (TL) and 7.8 kg (Bustos 2008, Bustos *et al.* 2010). Longevity of island grouper is estimated to be between 30 and 40 years (Bustos (2008, Bustos *et al.* 2009). The instantaneous rate of natural mortality estimated for island grouper is between 0.146 and 0.158 per year (Bustos 2008). Island grouper length at age was described by Bustos (2008) from commercial catches off Gran Canaria and Fuerteventura (Canary Islands) between January 2004 and December 2005. Von Bertalanffy growth model parameters were as follows: $L\infty = 898$ mm; $k = 0.062$ per year; and $t_0 = -3.83$ years. Only 22 percent of the island grouper sampled were older than ten years, and the oldest fish in this study was around 20 years old, 50 percent less than the maximum age estimated by Bustos (2008). Significant differences were found between males (n = 35) and females (n = 153) for mean age (males 10.3 years versus females 7.1 years), $L\infty$ (males 952 mm versus females 888 mm), and growth rate k (males 0.053 per year versus females 0.063 per year) (Bustos 2008).

While slow growth after the first few years is typical for *Mycteroperca,* the island grouper is particularly slow-growing when compared to closely related species. On average, over 28 percent of island grouper growth was achieved by the second year; by the fourth year this species attains lengths of approximately half of the maximum length observed. In general, growth within the genus *Mycteroperca* tends to be faster in the early stages of life, slowing down considerably in later stages (Bullock and Murphy 1994, Manickchand-Heileman and Phillip 2000, Strelcheck *et al.* 2003). Consequently, the von Bertalanffy model typically does not describe the growth of *Mycteroperca spp.* properly for the first few years of life, as evidenced by relatively large negative t_0 values.

The island grouper is a nectobenthic (*i.e.,* free-swimming, bottom oriented) macrocarnivore that preys on fish, crustaceans, and cephalopods (Harmelin-Vivien *et al.* 2001, Bustos 2008). Island grouper are considered mobile hunters and have been observed actively exploring their territories for prey (Bustos 2008).

Reproductive Biology and Spawning Behavior

Bustos *et al.* (2010) studied the pattern of sexual development and reproductive characteristics of island grouper in the Canary Islands based on samples of commercially harvested fish. Island grouper are a protogynous hermaphroditic fish. Results of histological analyses and demographic structure suggest a monandric protogynous sexual pattern, where males develop only through sex change (Bustos 2010). The length at which 50 percent of the population reaches sexual maturity was estimated at 335 mm total length (TL), or about 4 years old. Of the females over 398 mm TL (5–6 years old), 95 percent were considered to be mature. Island grouper sexual transition occurs between 428–725 mm TL, with 50 percent of females transformed into males at around 678 mm TL (Bustos 2010). The presence of females in the larger size categories (up to 725 mm TL) implies that the conversion (female to male) is not essential in all individuals. The overall sex ratio of males to females (1:4.9) and the sex ratio of males to mature females (1:3.4) were both significantly different from 1:1 (Bustos 2010).

In the Canary Islands, reproduction is initiated in February, when water temperatures are around 18° C, and continues through August or September when temperatures peak around 24–26 °C (Bustos *et al.* 2010). The central period of spawning, as defined by months when 50 percent or more of females are in vitellogenesis (*i.e.,* yolk deposition), is from April to July (Bustos *et al.* 2010). The formation of spawning aggregations is a common trait among groupers (Sadovy de Mitcheson *et al.* 2008). Although there are no published studies on island grouper reproductive behavior, spawning aggregations have been reported through personal communication (J.P. Barreiros, UAC/IMAR in Rocha *et al.* 2008) from two locations in the Azores.

Population Structure, Distribution, Abundance and Habitat

The island grouper is a subtropical species (40° N–10° N) that is endemic to volcanic archipelagos of Macaronesia: Canary Islands (Spain), Madeira and Azores (Portugal), and Cape Verde (Heemstra and Randall 1993). The Canary Islands are located between 27° and 29° N latitude and 13° and 18° W longitude at a minimum distance of 100 km and maximum distance of 450 km off the coast of Morocco. The Canary Islands archipelago is formed by seven main islands, with 1,379 km of coastline, a total land area of 7,447 km^2, and a human population size of approximately 2.1 million (Popescu and Ortega-Gras 2013). The Madeira archipelago is located from 32° 37′ to 32° 52′ N latitude and 16° 39′ to 17° 15′ W longitude, 754 km from the coast of Africa and 964 km southwest of Lisbon. The archipelago consists of the two main inhabited islands (Madeira and Porto Santo), with an estimated combined human population of 268,000, and five uninhabited islands (Desertas and Selvagens Islands). The Madeira archipelago has 153 km of mostly rocky and steep coastline, and a total land area of 801 km^2. The Azores archipelago is located between 37° and 40° N latitude and 24° and 32° W longitude, about 1,500 km west of Lisbon and 1,900 km southeast of Newfoundland. It is composed of nine islands and some small islets (Harmelin-Vivien *et al.* 2001), with 667 km of coastline, a total land area of 2,333 km^2, and a human population size of approximately 246,000. The Cape Verde archipelago is located between 14° and 17° N latitude and 22° and 25° W longitude, due west of Senegal, off the west coast of Africa. It is composed of ten islands (of which nine are inhabited) and eight islets, with 1,020 km of coastline, a total land area of 4,033 km^2, and a human population size of approximately 531,000. There are no confirmed reports of island grouper off the coast of West Africa, although ichthyofauna studies are lacking in this region. One specimen was caught by a spearfisherman off Israel's coast (Heemstra et al. 2010), but there are no data confirming the existence of an island grouper population in the Mediterranean.

The island grouper is a demersal species that is found predominantly near rocky or sandy-rocky sea-beds (Heemstra and Randall 1993). Studies have shown a positive correlation between island grouper abundance and structural complexity, algal cover (Bustos 2008), and upright seaweed

cover (Sangil *et al.* 2013b). The habitat requirements of larval and juvenile island grouper are not well-studied. All groupers pass through a pelagic larval phase, lasting between 20–50 days, during which they can actively swim (Aburto-Oropeza *et al.* 2008). After the larval phase, groupers acquire juvenile characteristics during which they settle into shallow, coastal nursery habitats (*e.g., Sargassum* beds, seagrass areas, mangroves, and estuaries); this nursery stage can last up to two years.

The overall range distribution for island grouper is considered restricted, defined as less than 800,000 km^2 (Morris *et al.* 2000). The seafloor bathymetry around the Macaronesian Islands is typically abrupt with a narrow contiguous shelf and a steep slope plunging to depths of more than 1,000 meters. As a result, viable habitat for demersal species such as the island grouper is considerably smaller than on continental shores, limiting the abundance of these populations (Diogo and Pereira 2013a, Popescu and Ortega-Gras 2013). Based on a wide range of sources, Morris *et al.* (2000) classified the island grouper as having a ''narrow depth range'' defined as occurrence at depths typically less than 20–30 m. Although island grouper have occasionally been reported at greater depths (*e.g.,* 50 m by Heemstra and Randall 1993; 150 m by Bustos 2008; and 200 m by Craig *et al.* 2011), based on the majority of observations, it is assumed that their normal distribution in the water column is at depths less than 30 m.

Historical and current island grouper population abundance is unknown. Available information on island grouper distribution and abundance is primarily from Underwater Visual Census (UVC) studies conducted at various locations throughout the species' range. There is a considerable amount of variation in island grouper mean densities reported in the literature. Island grouper were reported as being very rare (0.03–0.10 fish/100 m^2) in two UVC studies of benthic fish communities in the Azores (Harmelin-Vivien *et al.* 2001, Bertoncini *et al.* 2010). Compared to the Azores, a relatively higher mean density of island grouper (0.825 fish/100 m^2) was reported from a single study in Cape Verde (Freitas 2012). However, since sampling was conducted within the only operationalized MPA in Cape Verde, on the uninhabited island of Santa Luzia (UNDP 2010), island grouper mean density from this study may not be representative of more heavily fished areas throughout the archipelago. Based on limited information, island grouper appear to be rare around Madeira Island, with the possible exception of within the Garajau Marine Reserve (Ribeiro *et al.* 2005, Ribeiro 2008). Island grouper mean densities were highly variable in studies conducted around the Canary Islands. The highest mean densities were reported around the lightly fished, remote island of El Hierro and within the designated marine reserves of La Graciosa (Chinijo Islands) and La Palma. Island grouper were generally reported as being very rare on the more populous and heavily fished Canary Islands of Gran Canaria and Tenerife.

Summary of Factors Affecting the Island Grouper

Available information regarding current, historical, and potential future threats to the island grouper was thoroughly reviewed (Salz 2015). We summarize information regarding threats below according to three (out of five) factors specified in section 4(a)(1) of the ESA: ''Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range''; ''Overutilization for Commercial, Recreational, Scientific, or Educational Purposes''; and ''Inadequacy of Existing Regulatory Mechanisms.'' We found very little information regarding potential threats under the section 4(a)(1) factors ''Disease and Predation'' or ''Other Natural or Manmade Factors.'' These areas are data poor, but there are no serious or known concerns raised under these threat categories with respect to island grouper extinction risk; therefore, we do not discuss these categories further here. See Salz (2015) for a more detailed discussion of all ESA section 4(a)(1) threat categories.

Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Demersal fish populations around volcanic islands may be particularly vulnerable to habitat related threats, as they are typically confined to a narrow band within a few kilometers from shore due to the surrounding bathymetry. Various human activities throughout the Macaronesian region can negatively impact near-shore, rocky marine habitats occupied by island grouper. Increased anthropogenic pressure on the more densely populated Macaronesian Islands (Madeira Island, and Tenerife and Gran Canaria in the Canary Islands) has resulted in continuous modification and degradation of inshore habitats, placing new and unprecedented demands on coastal marine resources (Hajagos and Van Tassell 2001, Ribeiro 2008). Potential threats to island grouper habitat include ecosystem changes driven by overfishing, dynamite fishing, physical alteration of the coast, pollution, the effects of global climate change, and the introduction of invasive species.

The island grouper is primarily found near the ocean bottom in areas with high structural complexity (or ''roughness'') and benthic cover (Bustos 2008, Monteiro *et al.* 2008, Sangil *et al.* 2013b). Canopy-forming macroalgae are a principal engineer organism on shallow rocky bottoms, providing the necessary habitat complexity and benthic cover to support and maintain equilibrium of natural assemblages (Hernández *et al.* 2008, Clemente *et al.* 2010, Sangil *et al.* 2013b). Canopy-forming macroalgae may also ameliorate the effects of a range of disturbances on understory assemblages, thus enhancing the resistance of associated systems (Bertocci et al. 2014). The loss of canopy-forming macroalgae, and consequent increased environmental stress on associated organisms, could result in drastic reduction or local extinction of understory species unable to survive harsh environmental conditions without the protective canopy (Bertocci et al. 2014). In the Canary Islands, the natural balance between seaweeds, herbivores, and predators has been disturbed due to the fishing depletion of predators (*e.g.,* sparids and labrids) of the sea urchin (*Diadema africanum*), the most important herbivore of sublittoral rocky bottoms (Hernández *et al.* 2008, Clemente *et al.* 2011). This has resulted in an ecosystem imbalance whereby sea urchin populations have increased, while cover of upright seaweeds and canopy-forming macroalgae have decreased (Tuya *et al.* 2004, Hernandez *et al.* 2008, Clemente *et al.* 2011, Riera *et al.* 2014). Seaweed beds have declined throughout much of the Canary Islands archipelago and are now found in abundance only in restricted fishing areas, remote islands, or areas where prevailing winds and currents limit fishing pressure (Sangil *et al.* 2013b). Steady declines in benthic cover of the canopy-forming brown macroalgae (*Fucus spiralis* and *Cystoseira spp.*) in the Canary Islands have been linked to growing sea urchin populations in combination with rising sea surface temperatures (Hernández *et al.* 2008). Population declines and increased fragmentation of the endemic red alga (*Gelidium canariense*) have also been observed in Tenerife and Gran Canaria during the last 20 years (Bouza *et al.* 2006). These studies suggest that, in addition to the direct impact of fishery removals of island grouper, fishing can

initiate trophic cascades that may modify and degrade island grouper habitats or preferred microhabitats.

Large-scale coastal development began in the Canary Islands in the early 1970s to meet the needs of a growing tourist industry (Hajagos and Van Tassell 2001). Similarly, the Madeira Island coast has been extensively armored and developed in the past two decades (Ribeiro 2008). Artificial harbors, marinas, beaches, ripraps, rubble mounds, and hotels were constructed on these islands, with few environmental precautions, resulting in massive alterations to the shoreline and siltation of nearshore benthic communities (Hajagos and Van Tassell 2001). Baseline (pre-development) studies of the near-shore marine communities in these heavily developed areas are lacking and, therefore, the impacts of these habitat changes on marine fish populations in general, and the island grouper in particular, are largely unknown.

Pollution from a variety of sources also threatens marine ecosystems in the Macaronesian region. In the Canary Islands, land-based sources of pollution include organic and inorganic pollutants from developed areas and farms (mainly banana and tomato), brine releases from desalination plants, and thermal pollution from power plants (Riera *et al.* 2014). Other sources include nitrogenous waste from aquaculture, pollution derived from ship traffic, and extraction of construction materials from the seabed (Riera *et al.* 2014). In the Canary Islands, sharp declines in red alga (*Gracilaria cervicornis*) coverage over the last 10 years have been linked to coastal pollution from desalination plants and sewage from pipelines (Riera *et al.* 2014). On the island of Madeira, pollution from raw sewage discharges, sand mining, and sediment run-off severely decreases water clarity, which affects algae production (Ribeiro 2008). The direct impacts of different pollution sources on demersal fish populations in the Macaronesian region are not well-studied. The presence of continuous coastal currents around islands in this region likely facilitates the dispersion of pollutants (Riera *et al.* 2014). Thus, while localized impacts may be acute near highly concentrated point sources, broader and long lasting impacts of coastal pollution in this region have not been identified.

Certain changes are likely to occur in the world's oceans due to long-term changes in global mean temperature and possible anthropogenic impacts that could pose potential future threats to island grouper habitats. Warmer oceanographic conditions associated with climate change (combined with overfishing) have likely contributed to the sea urchin population increase discussed above (Hernández *et al.* 2010). In addition, Brito *et al.* (2005) found 24 out of the 30 new records of littoral bony fishes reported between 1991 and 2005 from two Canary Island marine reserves (La Graciosa in Chinijo Islands and La Restinga in El Hierro) were species with tropical origins. The emergence of tropical species in subtropical latitudes has also been reported in Madeira and the Azores (Brito *et al.* 2005). However, the impact of progressive tropicalization of Macaronesian marine ecosystems on island grouper survival is widely unknown.

The introduction of invasive species through aquaculture poses a potential threat to island grouper. Total production of marine finfish in open-net cages increased in the Canary Islands from 1,685 mt in 2001 to 7,900 mt in 2009 (APROMAR 2012). A massive escape event occurred at an aquaculture operation on La Palma between December 2009 and January 2010 resulting in the accidental release of 1.5 million fish (90 percent European sea bass and 10 percent sea bream) into the wild (Toledo-Guedes *et al.* 2014). As an opportunistic, high trophic level, piscivorous species, non-native European sea bass could be competing with native species such as the island grouper (Toledo-Guedes *et al.* 2009). Toledo-Guedes *et al.* (2012) found evidence of gonadal maturation occurring in the wild in escaped male and female European sea bass in the Canary Islands. The combination of suitable biotic and non-biotic conditions, high frequency of escape events (Toledo-Guedes *et al.* 2009), and overutilization of native fish assemblages (Tuya *et al.* 2006a) could facilitate establishment of self-reproducing non-native European sea bass populations within the island grouper's range. However, studies indicating that aquaculture escape events have resulted in a decline in island grouper abundance are lacking.

The introduction of invasive species through ship ballast water is also a potential threat to the island grouper. Approximately 30,000 commercial vessels enter Canarian harbors each year, mostly in Gran Canaria and Tenerife (ISTAC 2013 *in* Riera *et al.* 2014). The African hind (*Cephalopholis taeniops*) is an invasive species from Guinea (West Africa) that is thought to have arrived in the Canary Islands in ballast water (Riera *et al.* 2014). Stable populations of this predatory fish may have already established in the port cities of Las Palmas and Santa Cruz (Riera *et al.* 2014). However, as with the European sea bass, there are no studies indicating that the invasive African hind has negatively impacted native fish populations.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Island grouper are highly susceptible to overfishing due to their limited range and a combination of life history characteristics including very slow growth, late maturation, large size, and long life span (Bustos 2008, Bustos *et al.* 2009, Saavedra 2011, Diogo and Pereira 2013a). Saavedra (2011) used a scale developed by the Food and Agriculture Organization (FAO) to characterize fishing vulnerability of target species in the Canary Islands. Input parameters used for this scale included age at maturity, longevity, ratio of natural to total mortality, growth rate, sexual strategy, and sex ratio. Island grouper vulnerability was rated as either ''high'' or ''very high'' for all six parameters individually, and ''very high'' overall. Certain behavioral traits, which are common in groupers, may also add to this species' vulnerability to fishing. Territoriality, site specificity, and the formation of spawning aggregations often result in groupers being an easy target for fishermen (Randall and Heemstra 1991, Domeier and Colin 1997), although these traits have not been studied or well documented in the island grouper. Spawning aggregations, in particular, are highly vulnerable to fishing due to their spatial and temporal predictability and to the large increase in catchability that often occurs when fish aggregate (Sadovy and Domeier 2005). Although information on island grouper spawning aggregations is lacking, there are documented examples of sharp population declines resulting from fisheries specifically targeting aggregations of other grouper species (Colin 1992, Sala *et al.* 2001, Hamilton and Matawai 2006, Sadovy de Mitcheson *et al.* 2012). The economic value of island grouper is also a factor that likely contributes to overutilization of this species. The island grouper is highly prized by commercial and artisanal fishermen for the quality of their flesh and typically fetch high market prices (Heemstra and Randall 1993, Ribeiro 2008).

In protogynous hermaphrodites, such as the island grouper, the largest individuals are, in order, terminal males, individuals undergoing sexual transition, and the largest females next in line for sexual transition. Selective

removal of these groups at high rates can lead to decreased productivity of a population. Island grouper may be particularly vulnerable to over-fishing due to the reduction in the species' potential reproductive capacity caused by the decrease in the number of males in the population (Huntsman and Schaaf 1994, Bustos *et al.* 2010). As the relative numbers of terminal males fall, females may have difficulty finding a terminal male to spawn with even if some remain (Hawkins and Roberts 2003). In addition, sexual transition takes time and energy, including energy expended on social interactions and competition among females vying for dominance. Since removal of terminal males by fishing will result in more sexual transitions, overall population fitness may be negatively impacted.

Historical commercial and artisanal fisheries data are not available to evaluate long-term trends in island grouper landings, directed effort, or catch rates over time. The limited landings data available for more recent years indicate that island grouper are currently a very minor component of commercial and artisanal fisheries throughout its range. The nearshore demersal fishery in the Canary Islands is artisanal, consisting primarily of small boats (Saavedra 2011). Fishing methods used to catch demersal species include hook and line, fish traps, trammel nets, and gill nets (Bustos *et al.* 2009). Significant declines in populations of tunas and other pelagics since the 1970s have contributed to the increased pressure on coastal demersal species (Moreno-Herrero 2011). In addition, in the 1980s the Moroccan government restricted European Union vessel access to the Canary-Saharan Bank fishing grounds, resulting in a shift in fishing effort by the Canary artisanal fleet to coastal species (Pascual-Fernandez and Diaz 1991 *in* Moreno-Herrero 2011). While landings volume of demersal species in the Canary Islands are relatively small compared to landings of pelagic species, these resources often have high economic value (*i.e.,* price per pound) as well as cultural value. In 2011, demersal fish species accounted for 16.7 percent of the total fishery landings weight but 33.2 percent of the landing value in the Canary Islands (Popescu and Ortega-Gras 2013). Canary Islands landings data prior to 2006 are only available from one port (Puerto de Mogan on Gran Canaria), and effort data are not available at all. Solari *et al.* (2003) reported landings of island grouper in the multi-species trap fishery from Puerto de Mogan for the period 1989–1999. Average monthly landings (for months with data available) of island grouper were 46 fish. Detailed monthly data were not available to assess trends in island grouper landings over time. Island grouper accounted for about 2.3 percent of the total catch in numbers of fish over this time period. Given their relatively large size and market price, it is likely that the proportional contribution of island grouper to the landings weight and value in the Gran Canaria trap fishery is considerably greater. Bustos *et al.* (2009) found very few island grouper greater than ten years old in commercial catches from Gran Canaria and Fuerteventura between January 2004 and December 2005. For a species with a life-span between 30–40 years, these results suggest that the island grouper is experiencing a high rate of fishing mortality in the more populated areas within the Canary Islands archipelago.

Island grouper are considered an important component of the small artisanal fishery on El Hierro, where fish traps are banned and demersal species are mainly caught with hook-and-line gears (Falcón *et al.* 2007a). Falcón *et al.* (2007c) compared demersal species landings on El Hierro Island in the period before and after implementation of the La Restinga Marine Reserve. From 1990–1995 (before implementation) a total of 700 island grouper were landed (116.7 fish per year). From 1997–2005 (after implementation) a total of 1,239 island grouper were landed (137.7 fish per year). Over the entire period (1990–2005), island grouper were the 9th most abundant species landed in numbers of fish.

In the Azores archipelago, the bottom longline and handline artisanal fishery for demersal species accounts for a significant portion of the total fishery landings, and is by far the highest valued fishery (Morato 2012). Annual landings by this fishery sector are consistently around 4,000 mt from 2000 through 2010 (Morato 2012). By comparison, reported landings of island grouper for the Azores archipelago were less than 1 mt for every year from 2001–2013 (INE 2015). Official data from the Portugal National Institute of Statistics (INE) indicates a sharp and steady decline in combined ''grouper'' landings in the Azores from a high of 99 mt in 2003 to a low of 26 mt in 2013. The combined grouper category includes species of *Epinephelus* and *Mycteroperca.* Although island grouper landings account for a very minor component of combined grouper landings, this declining trend suggests that groupers, in general, are being overfished, which would likely have negative implications for the island grouper. Without effort data, it is not possible to say definitively that the decrease in landings is due to a decline in population abundance. However, total demersal species landings in the Azores are consistently around 4,000 mt during the period when combined grouper landings declined precipitously, which suggests that directed fishing effort for demersal species did not decline.

The Cape Verde artisanal fishery typically lands between 4,000 mt and 5,000 mt of fish annually, of which about 1,000 mt are demersal species (PRAO—CV 2012). Since 1992, the Cape Verde National Institute for Fisheries Development (INDP) has compiled data on fishing catch and effort for the more important artisanal fishery target species (Medina *et al.* 2007). However, as a small component of the total catch, island grouper are not one of the species monitored or reported in INDP official statistics (Albertino Martins, personal communication). A recent assessment of mackerel scad (*Decapterus macarellus*), bigeye scad (*Selar crumenophthalmus*), and black spot picarel (*Spicara melanurus*) indicates that stocks of commercially important small pelagics are either fully exploited or overexploited in Cape Verde (DeAlteris 2012). Continued overfishing of these stocks could result in added fishing pressure on demersal species in Cape Verde. In Madeira, demersal species account for less than one percent of total fisheries landings (Morato 2012). Reported landings of island grouper in Madeira are less than 1 mt per year for all years from 2000–2013 (INE 2015).

Island grouper are also targeted in recreational and subsistence fisheries, and there are indications that these sectors are expanding rapidly in some parts of the species' range. Recreational fishing pressure has increased in the past few decades as a direct result of human population growth and a growing tourism sector (Sangil *et al.* 2013b). For example, the number of recreational spearfishing licenses sold in São Miguel Island (Azores) increased from 138 in 1995 to 717 in 2011; and the number of recreational fishing licenses sold in the Canary Islands more than doubled from 48,000 in 2005 to 116,000 in 2011 (Diogo and Pereira 2013a, Castro 2014). There are also indications that Spain's economic crisis and growing unemployment have resulted in increased levels of subsistence fishing and poaching in the Canary Islands (Moreno-Herrero 2011). In Cape Verde, subsistence catches have shown an increasing trend in recent years, suggesting increased dependence on

fish as a source of food, and possibly related to declines in agricultural production due to climate change induced droughts (Trindade-Santos *et al.* 2013).

Recreational and subsistence fishery landings data are lacking, as there are no monitoring programs for these fishery sectors throughout the Macaronesian Islands. Jimenez-Alvarado (2010, *in* Saavedra 2011) estimated total recreational fishery landings in the Canary Islands based on license sales by fishing mode, number of recreational fishing vessels, and limited recreational catch and effort survey data. Results suggest that recreational fisheries have a significant impact on fish populations, and on three islands (Gran Canaria, Gomera, and Fuerteventura) recreational landings of benthic-demersal species likely exceed artisanal fishery landings. Although species level recreational landings data are not available, this study indicates that the Canary Islands recreational fishery likely has an impact on island grouper abundance.

Diogo and Pereira (2013a) conducted a characterization study of spearfishing activity in Ponta Delgada, the capital of São Miguel Island, the most populated island in the Azores archipelago. From August 2001 through May 2002, they recorded data from 220 spearfishing trips (out of an estimated 281 total spearfishing trips taken). A total of nine island grouper were captured throughout the study period. By weight, island grouper accounted for less than one percent of the total biomass of finfish captured with spear guns in the survey. The mean length of island groupers captured (38 cm TL) was only slightly larger than the size at first maturity. Results from this survey, in general, suggest that abundances of species vulnerable to fishing (including island grouper) within the study site have been significantly reduced due to heavy fishing pressure (Diogo and Pereira 2013a).

Diogo and Pereira (2013b) also studied impacts of recreational boat fishing on demersal fish species off the Azores islands of Faial and Pico from 2004–2005. No island grouper catch were reported in a creel survey of 87 angler trips, and only 3 dusky grouper (*E. marginatus*) were reported. Diogo and Pereira (2013b) estimated the annual landings of all species by the recreational boat fishery on these two islands to be around 163 mt, which represents about 40 percent of the artisanal fishery landing weight in these areas. These results suggest that the impact of the recreational boat fishery on demersal fish communities in the Azores may be substantial. The absence of island grouper in the recreational fishing survey is consistent with UVC studies indicating the rareness of this species in the Azores (Harmelin-Vivien *et al.* 2001, Bertoncini *et al.* 2010).

Without basic fisheries time series data (*e.g.,* catch, effort, sizes, and gears), it is difficult to quantitatively assess the impact of artisanal and recreational fishing on island grouper abundance. A few studies have demonstrated the negative impact of fishing by correlating relative fishing pressure with measures of island grouper abundance based on UVC sampling at different locations. Tuya *et al.* (2006a) found that, in the Canary Islands, island grouper mean density and mean biomass were significantly higher on islands with the lowest fishing pressure and lowest population density (El Hierro and Chinijo Islands) compared to other islands within the archipelago. Similar results were found for the dusky grouper, suggesting that human intervention in the Canary Islands has negatively impacted abundance of these large, slow growing species, with low population turnover rates.

Tuya *et al.* (2006b) compared island grouper mean densities on El Hierro and the Chinijo Islands across sites with varying levels of protection from fishing: RI = no-take zone; ZA = reserve buffer zone, with only recreational fishing allowed for grouper species; and AV = outside reserve, with recreational and commercial fishing permitted, except fish traps, which are banned throughout these islands. A ''reserve effect'' (*i.e.,* higher abundance within than outside the reserve boundary) was not evident for island grouper within the El Hierro Restinga Reserve: *i.e.,* no statistically significant differences were found in mean density between the no-take zone, the buffer zone, and the fishing area outside the reserve. A ''reserve effect'' was found within the Chinijo Islands La Graciosa Reserve: *i.e.,* island grouper mean densities were statistically larger within the reserve (both RI and ZA zones) than in neighboring sites outside the reserve (AV zone). Bustos (2008) also found evidence for a ''reserve effect'' within La Graciosa, and she observed no island grouper in the two areas sampled outside the La Graciosa Reserve boundary.

Sangil *et al.* (2013a) studied the relationship between fishing pressure and conservation status at sites around La Palma Island (Canary Islands). Fishing effort data were collected from boat-based and shore-based surveys conducted twice per month for one full year at fishing access sites around the island. Effort data included number and location of deployed fish traps, active fishing boats (commercial and recreational), shore based fishermen, and spearfishermen. The following biological parameters were used as indicators of conservation status: Percentage of seaweed cover; mean density of the sea urchin; mean biomass of sea urchin predators; mean biomass of combined grouper species (*E. marginatus, M. fusca, Serranus atricauda*); and mean biomass of the Mediterranean parrotfish (*Sparisoma cretense*), a highly prized fishing resource and indicator of fish stock status. Data were collected in 2009 using a UVC point-count method at 51 sites (nine transects per site) around the island. The correlation between fishing pressure and each biological parameter, including combined grouper biomass, was high and negative. Sampled locations with the highest combined grouper mean biomass corresponded with areas of lowest fishing pressure—*i.e.,* inside the La Palma MPA, particularly within the no-take portion, where all fishing activity is prohibited. The overall mean grouper biomass across all sites was 303.1 g/100 m^2, compared to 569.9 g/100 m^2 within the limited fishing MPA area, and 2,401.5 g/100 m^2 within the no-take area. Grouper were virtually absent from the heavily fished areas just to the north of the MPA and on the eastern side of the island. Although this study did not provide mean biomass data for groupers at the species level, island grouper accounted for approximately one-third of the total biomass of the three grouper species combined (Sangil *et al.* 2013b).

Ribeiro (2008) found higher density and larger mean size of island grouper within the protected Garajau Marine Reserve (GMR) on Madeira Island compared to nearby unprotected areas with similar habitat types. She attributed these differences to the regulations prohibiting all fishing in the GMR. Before it was designated a marine reserve, the GMR area was subjected to heavy fishing pressure from amateur fishermen using explosives, gill nets, and spears (Ribeiro 2008).

Inadequacy of Existing Regulatory Mechanisms

The nearshore demersal fisheries throughout the Macaronesian Islands region are lightly regulated. Although these fisheries are primarily small-scale and artisanal, the cumulative impact on fish populations can be substantial, particularly for a species such as the island grouper, with a restricted range and high vulnerability to overexploitation. There are no commercial catch quotas, daily bag

limits, or seasonal closures in place for island grouper in any part of their range. The Canary Islands is the only archipelago with a minimum size limit for this species, and enforcement does not appear adequate to address non-compliance with this regulation. Gear restrictions (*e.g.,* bans on fish traps, gill nets, bottom longlines, and SCUBA) are in place for demersal fisheries in some areas and the use of explosives is widely prohibited. However, the effectiveness of gear restrictions is substantially reduced by inadequate enforcement, as well as a shift in fishing effort to other (legal) methods of capturing demersal species. There is some indication that banning fish traps has had a positive impact on island grouper abundance in the Canary Islands, although this ban only applies to two sparsely populated regions within the archipelago. Overall, it appears that current fishing regulations are inadequate for addressing the direct threat to island grouper from fisheries overutilization. Current regulations are also likely inadequate to control overfishing of the main sea urchin predators, which, based on recent studies from the Canary Islands, has resulted in a trophic cascade that has modified and degraded island grouper habitat.

In recent decades, no-take MPAs have received increased attention as a conservation tool aimed at protecting vulnerable fish populations (Halpern and Warner 2002). For some grouper species, increased fish density and size within no-take reserves may increase reproductive potential by promoting the occurrence of spawning aggregations (Sanchez-Lizaso *et al.* 2000). The ''reserve effect'' on island grouper abundance (*i.e.,* higher abundance within than outside the reserve boundary) was reported for one reserve on Madeira Island and two reserves in the Canary Islands archipelago. However, overall, the system of MPAs throughout the Macaronesian Islands is likely inadequate to protect island grouper from the threat of fishing overutilization. No-take zones account for only a small fraction of the total area covered by MPAs within the island grouper's range, as most areas still allow some types of fishing. In the Azores, Madeira, and Canary Islands archipelagos, there are only five no-take marine reserves, which occupy a total area of 28 km^2 (Fenberg *et al.* 2012). Given their small size and physical isolation from one another, no-take zones may lack the connectivity to allow the flow of larval and juvenile fish across islands and archipelagos within the region (Martín-García *et al.* 2015). There are also no MPAs or time-area closures designed specifically to protect island grouper during spawning periods, and little is known about the timing, location, or frequency of spawning aggregations for this species.

Extinction Risk Assessment

In determining an appropriate foreseeable future timeframe for the island grouper extinction risk assessment, we considered both the life history of the species and whether we could project the impact of threats or demographic risk factors through time. We chose 40 years as the foreseeable future timeframe for island grouper. Threats to island grouper can potentially have long-lasting impacts, given the species' very slow growth rate, late maturation, and long maximum life span. However, considering the limited information available to predict the impacts from threats in the future, we felt 40 years was the most appropriate foreseeable future timeframe for island grouper.

Data from UVC sampling and fisheries landings indicate that the island grouper is rare throughout much of its limited range and very rare in some areas subjected to heavy fishing pressure. Of the 85 grouper species assessed by Morris *et al.* (2000), the island grouper was one out of only four species characterized as having both a ''restricted'' overall range and a ''narrow'' depth range. Although there are no population abundance estimates available for island grouper, low and decreased density combined with a highly restricted range indicate that small population size is likely a risk factor for this species, which could be disproportionally affected by coastal development or a stochastic catastrophic event. Demographic viability factors related to growth rate and productivity are also likely to contribute to the extinction risk based on the following island grouper life history characteristics: Slow growth, late maturation, low population turnover rate, large size, and long life span (Bustos 2008). While slow growth after the first few years is typical for species of *Mycteroperca,* the island grouper is one of the slowest growing species within this genus (Bustos *et al.* 2009).

Although information on spatial structure, connectivity, and dispersal characteristics specific to island grouper is sparse, it is somewhat likely that these factors represent a demographic viability risk to this species. Island grouper are rare in many areas studied, and the few documented areas with relatively higher abundance are small and patchily distributed throughout the species' range. Typical of archipelago ecosystems, the Macaronesian Islands are highly fragmented, as geographic distances, bathymetry, and other physical factors result in various degrees of isolation between islands and local populations of demersal fish species (Medina *et al.* 2007). Given their geographic distribution and narrow depth ranges, it is likely that island grouper are inherently susceptible to fragmentation, and this risk factor could be exacerbated by further population declines. Because there is insufficient information on genetic diversity, this demographic viability criterion presents an unknown likelihood of contributing to the island grouper's extinction risk.

The island grouper's intrinsic vulnerability to fishing is very high (Saavedra 2011, Diogo and Pereira 2013a). Demographic viability risk factors related to the island grouper's growth rate, productivity, spatial structure, and range size all contribute to this species' vulnerability to fishing overexploitation (Bustos 2008, Bustos *et al.* 2009, Saavedra 2011, Diogo and Pereira 2013a). As a protogynous hermaphrodite, the island grouper may be even more susceptible to fishing, which, through selective removal of males, could reduce reproductive capacity (Huntsman and Schaaf 1994, Bustos *et al.* 2010). Certain behavioral traits (*i.e.,* territoriality, site specificity, and spawning aggregations), which are common among groupers, often result in grouper species being an easy target for fishermen (Randall and Heemstra 1991, Domeier and Colin 1997). Although not well-studied in the island grouper, these traits may add to the fishing vulnerability of this species. The economic value of the island grouper is also a factor that likely contributes to overutilization of this species. Groupers are highly prized by commercial and artisanal fishermen for the quality of their flesh, and most species (including island grouper) fetch high market prices (Heemstra and Randall 1993, Ribeiro 2008).

Historical fisheries data are not available to evaluate long-term trends in island grouper landings, directed effort, or catch rates over time. The limited commercial and artisanal catch data available indicate that, in recent years, island grouper landings have been relatively small, and this species is currently a very minor component of commercial and artisanal fisheries throughout its range. The small contribution to recent fisheries landings is consistent with abundance information suggesting the island grouper is generally a rare species.

Although fishing intensity is highly variable between islands, there are indications that artisanal fishing pressure for demersal species, in general, is relatively high in many areas throughout the island groupers' range. The depleted status of commercially important stocks of tunas and small pelagics in the Macaronesian region has also likely contributed to the increased fishing pressure on coastal demersal species in recent years (Moreno-Herrero 2011, DeAlteris 2012).

Several studies have demonstrated a strong negative correlation between island grouper abundance and level of fishing pressure (Tuya *et al.* 2006a, Bustos 2008, Ribeiro 2008, Sangil *et al.* 2013a, Sangil *et al.* 2013b). These results suggest that fisheries overexploitation has negatively impacted island grouper abundance, and some heavily fished areas have likely experienced a sharp decline. This is particularly concerning for a rare species with a limited range and high intrinsic vulnerability to the effects of overfishing due to certain life history and behavioral traits. The lack of baseline abundance information and a time series of fishery dependent data, combined with limitations of the available studies, make it difficult to quantitatively assess the impact of this threat on island grouper abundance or species' survival. However, based on the cumulative information available, we conclude that there is a reasonable likelihood that artisanal fishing overutilization contributes to the island grouper's risk of extinction in a significant way. There are also indications that rapidly expanding recreational fisheries contribute significantly to the overutilization of island grouper in some parts of the species' range.

Current fishing regulations designed to limit catch and effort are inadequate for addressing the direct threat to island grouper from fishing overutilization. In general, there are few restrictions placed on demersal fisheries throughout the island grouper's range. In areas where regulations (*e.g.,* size limits and gear restrictions) do exist, their effectiveness is likely reduced by lack of enforcement and relatively high levels of non-compliance. A well-designed system of no-take MPAs may be better suited than traditional fishing regulations for addressing the threat of fishing to highly vulnerable, nearshore demersal species. The ''reserve effect'' on island grouper abundance (*i.e.,* higher abundance within than outside the reserve boundary) was reported for one reserve on Madeira Island and two reserves in the Canary Islands archipelago. However, no-take zones account for only a small fraction of the total area covered by MPAs within the island grouper's range, as most MPAs still allow some types of fishing. Given their small size, physical isolation from one another, and insufficient enforcement, the currently established marine reserves are likely inadequate to protect island grouper from the current and future threat of fishing overutilization. Overall, we conclude that there is a reasonable likelihood that the lack of adequate regulatory mechanisms and enforcement represent threats to the island grouper that contribute significantly to this species' extinction risk.

Due to the species' preferred depth range and the surrounding volcanic island bathymetry, island grouper habitat is typically confined to a narrow band within a few kilometers from shore. Close proximity to the shore increases the risk of habitat modification from human activities within the coastal zone, particularly on the more densely populated Macaronesian Islands. Potential threats to island grouper habitat include: Declines in benthic cover (*i.e.,* seaweeds and macroalgae) due to overfishing of key sea urchin predators; physical alteration and armoring of the coast; destructive fishing practices; pollution; and the effects of global climate change (see section ''Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range'' for more details). While these ecosystem disturbances are well documented, studies linking habitat related threats to declines in island grouper abundance are lacking. Although the cumulative impact of anthropogenic threats has likely modified some portion of the island grouper's habitat, there is not enough scientific information available to support a conclusion that habitat associated changes contribute to the extinction risk of this species in a significant way. The introduction of invasive species from aquaculture escape events and ship ballast water also poses a potential threat to island grouper through increased competition for limited resources (*e.g.,* food, shelter) and the possible spread of diseases and parasites. However, as with habitat related threats, there is not enough scientific information available to support a conclusion that threats related to invasive species contribute to the island grouper's extinction risk in a significant way.

In summary, the island grouper exhibits demographic risk factors related to abundance, growth rate and productivity, and spatial structure and connectivity. In addition, there is a reasonable likelihood that the operative threats of fishing overutilization and the lack of adequate regulatory mechanisms contribute significantly to the island grouper's risk of extinction.

Protective Efforts

We evaluated conservation efforts to protect and recover island grouper that are either underway but not yet fully implemented, or are only planned. As part of the European Union (EU), the Azores, Madeira, and Canary Islands archipelagos are influenced by EU conservation initiatives and directives. In 2008, the EU adopted the Marine Strategy Framework Directive (MSFD) in order to achieve Good Environmental Status (GES) through ecosystem-based management in EU waters by 2020. To comply with the MSFD, member states must ensure that their biological and physical marine features adhere to the specific qualitative descriptors of GES for the maintenance of biological diversity, habitat quality, and sustainable harvest levels of fish and shellfish stocks (Fenberg *et al.* 2012). The establishment of a coherent network of MPAs is the only mandated measure of the MSFD. The emphasis on MPAs and biodiversity in the MSFD reinforces previously established commitments in the European Biodiversity Strategy and obligations under the international Convention on Biological Diversity (Bellas 2014). The adoption of the EU's MSFD policy demonstrates a general willingness to achieve long-term protection of Europe's marine ecosystems, but whether the political will is strong enough in the Macaronesian Islands to achieve its objectives remains to be seen (Santos *et al.* 2014).

The Portuguese government approved two MSFD strategies in 2012, one for the continental EEZ and one for the extended continental shelf; but no MSFD strategy has yet been approved by the autonomous governments of the Azores and Madeira archipelagos (Santos *et al.* 2014). In Spain, the MSFD has resulted in passage of the 2010 Law on the Protection of the Marine Environment (LPME). The LPME provides a general legal framework for the conservation and sustainable use of marine resources, as well as specific language regarding the creation and management of a Spanish network of MPAs, including some within the Canary Islands (Bellas 2014). Four proposed Canary Islands MPAs are currently waiting to be approved by the Spanish government: One on the north coast of La Gomera, two in Tenerife, and one on the east coast of Gran Canaria

(Riera *et al.* 2014). However, previous attempts to establish new MPAs in the Canary Islands have often been stalled or abandoned due to stakeholder opposition, political infeasibility, and lack of funding (Chuenpagdee *et al.* 2013). For example, the regional island government of Tenerife has been promoting the creation of MPAs on the island since 2004. Two proposed MPAs were finally approved in 2010—six years after initial planning started—but to date neither one has been implemented.

A joint United Nations Development Program (UNDP) and Global Environment Facility (GEF) project titled ''Consolidation of Cape Verde's Protected Areas System'' was initiated in 2010 in an effort to strengthen and expand Cape Verde's national system of terrestrial and marine protected areas (UNDP 2013). Project objectives include: (1) Consolidation, expansion, and operationalization of existing MPAs on the islands of Sal and Boavista for the protection of fisheries resources, (2) building the national capacity for MPA management through new management sectors and authorities, and (3) promotion of participatory approaches in the management and conservation of the endemic biodiversity of Cape Verde. The project is expected to add 41,214 ha of terrestrial and marine protected areas (*i.e.,* a 38 percent expansion over the existing baseline).

Other regional, local and grassroots efforts are underway to conserve and protect marine resources in the Macaronesian Islands. Local nongovernmental organizations (NGOs) and regional governments in the Canary Islands are promoting the creation of Micro Areas Ecoturísticas Litorales (MAELs). Due to their small scale, MAELs are less demanding on public funding, typically less contentious, and follow a different legal model compared to larger scale MPAs (Riera *et al.* 2014). A well-designed and enforced network of MAELs could provide additional conservation benefit to demersal fish populations in the Canary Islands. The Canarias por una Costa Viva program is a partnership among NGOs, universities, and local and regional governments. Costa Viva program objectives include studying the impacts of human population pressures on the coastal environment, increasing marine environmental education and awareness, promoting and facilitating stakeholder involvement in marine resource management, and collaborating with government agencies in the sustainable use of Canary Islands marine resources. The Azores University SMARTPARKS program (Planning and Management System for Small Islands Protected Areas) is aimed at facilitating the development of sustainable protected areas in the Azores through active involvement of stakeholders, promotion of economic and cultural activities compatible with nature conservation, and innovative planning and management of protected areas at the island scale (Fonseca *et al.* 2014).

In summary, there are several conservation initiatives that are either underway but not yet fully implemented or are still in the planning phase that could potentially provide conservation benefits to the marine ecosystems within the island grouper range. However, there are still major uncertainties regarding whether or not these initiatives will be fully implemented, operationalized, and adequately enforced. There are also uncertainties associated with the effectiveness of these efforts in reducing the island grouper extinction risk. Large-scale programs, such as the EU's MSFD, often have broad, general objectives for improving marine stewardship which may or may not include specific measures needed for protecting a particular species at risk. Regional, local and grassroots efforts may face fewer legal, political, and social hurdles in terms of implementation as compared to larger scale national programs. However, smaller scale programs, such as MAELs, may be limited in their effectiveness for species protection due to their small geographic size and inadequate resources for long-term management and enforcement of conservation measures. We conclude that given large uncertainties associated with implementation, enforcement, and effectiveness, the conservation efforts identified cannot be considered reasonably likely to significantly reduce the current island grouper extinction risk.

Proposed Determination

Based on the best available scientific and commercial information, as summarized here and in Salz (2015), and consideration of protective efforts being made to protect the species, we find that the island grouper (*Mycteroperca fusca*) is at a moderate risk of extinction. The nature of the threats and demographic risks identified, taking into account the uncertainty associated with the threats and risks, does not demonstrate the species is presently in danger of extinction; and therefore, it does not meet the definition of an endangered species. However, the current threats to island grouper from fishing overutilization and inadequate regulatory mechanisms are likely to continue in the future, further exacerbating the demographic risk factors associated with abundance, growth rate and productivity, and spatial structure and connectivity. We conclude that both the species' current risk of extinction and the best available information on the extent of, and trends in, the major threats affecting this species make it likely this species will become an endangered species within the foreseeable future (defined as 40 years) throughout its range. We therefore propose to list it as threatened under the ESA.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery actions (16 U.S.C. 1533(f)); concurrent designation of critical habitat, if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); Federal agency requirements to consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of critical habitat should it be designated (16 U.S.C. 1536); and prohibitions on taking (16 U.S.C. 1538). Recognition of the species' plight through listing promotes conservation actions by Federal and state agencies, foreign entities, private groups, and individuals. The main effects of this rule if finalized as proposed for gulf grouper are prohibitions on take, including export, import, and use in foreign commerce.

Identifying Section 7 Conference and Consultation Requirements

Section 7(a)(2) (16 U.S.C. 1536(a)(2)) of the ESA and NMFS/USFWS regulations require Federal agencies to consult with us to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. Section 7(a)(4) (16 U.S.C. 1536(a)(4)) of the ESA and NMFS/USFWS regulations also require Federal agencies to confer with us on actions likely to jeopardize the continued existence of species proposed for listing, or that result in the destruction or adverse modification of proposed critical habitat of those species. It is unlikely that listing the gulf grouper under the ESA will increase the number of section 7 consultations, because at present this species is only known to occur outside of the United States and is unlikely to be affected by Federal actions. Although

the gulf grouper's historical range includes parts of Southern California, there are no recent records indicating that this species still exists in U.S. waters.

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(5)) as: (1) Specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary. Section 4(a)(3)(A) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. However, critical habitat shall not be designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12(h)). We can designate critical habitat in areas in the United States currently unoccupied by the species, if the area(s) are determined by the Secretary to be essential for the conservation of the species. Regulations at 50 CFR 424.12(e) specify that we shall designate as critical habitat areas outside the geographical range presently occupied by the species only when the designation limited to its present range would be inadequate to ensure the conservation of the species.

The best available scientific and commercial information does not indicate that U.S. waters provide any specific essential biological or physical function for the gulf grouper. U.S. waters account for a very small portion on the northern limit of the gulf grouper's historical range, and may no longer be part of the species' current range. Based on the best available information, we have not identified unoccupied areas in U.S. waters that are currently essential to the conservation of gulf grouper. Therefore, based on the available information, we do not intend to designate critical habitat for gulf grouper.

The island grouper occurs entirely outside of the United States. Therefore, we cannot designate critical habitat for island grouper.

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

On July 1, 1994, NMFS and FWS published a policy (59 FR 34272) that requires us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. Because we are proposing to list the gulf grouper as endangered, all of the prohibitions of section 9(a)(1) of the ESA will apply to this species. These include prohibitions against the import, export, use in foreign commerce, or ''take'' of the species. These prohibitions apply to all persons subject to the jurisdiction of the United States, including in the United States, its territorial sea, or on the high seas. Take is defined as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' The intent of this policy is to increase public awareness of the effects of this listing on proposed and ongoing activities within the species' range. Activities that we believe could result in a violation of section 9 prohibitions for this species include, but are not limited to, the following:

(1) Possessing, delivering, transporting, or shipping any individual or part (dead or alive) taken in violation of section 9(a)(1);

(2) Delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce any individual or part, in the course of a commercial activity;

(3) Selling or offering for sale in interstate commerce any part, except antique articles at least 100 years old;

(4) Importing or exporting any individual or part; and

(5) Harming captive animals by, among other things, injuring or killing a captive animal, through experimental or potentially injurious care or conducting research or sexual breeding activities on captive animals, outside the bounds of normal animal husbandry practices. Experimental or potentially injurious care or procedures and research or sexual breeding activities of gulf grouper may, depending on the circumstances, be authorized under an ESA 10(a)(1)(A) permit for scientific research or the enhancement of the propagation or survival of the species.

Identification of Those Activities That Would Not Constitute a Violation of Section 9 of the ESA

We will identify, to the extent known at the time of the final rule, specific activities involving gulf grouper that will not be considered likely to result in a violation of section 9 of the ESA. Although not binding, we are considering the following actions, depending on the circumstances, as not being prohibited by ESA section 9:

(1) Take authorized by, and carried out in accordance with the terms and conditions of, an ESA section 10(a)(1)(A) permit issued by NMFS for purposes of scientific research or the enhancement of the propagation or survival of the species; and

(2) Continued possession of parts that were in possession at the time of listing. Such parts may be non-commercially exported or imported; however the importer or exporter must be able to provide evidence to show that the parts meet the criteria of ESA section 9(b)(1) (*i.e.,* held in a controlled environment at the time of listing, in a non-commercial activity).

Section 11(f) of the ESA gives NMFS authority to promulgate regulations that may be appropriate to enforce the ESA. NMFS may promulgate future regulations to regulate trade or holding of gulf grouper, if necessary. NMFS will provide the public with the opportunity to comment on future proposed regulations.

Protective Regulations Under Section 4(d) of the ESA

We are proposing to list the island grouper as a threatened species. In the case of threatened species, ESA section 4(d) leaves it to the Secretary's discretion whether, and to what extent, to extend the section 9(a) ''take'' prohibitions to the species, and authorizes us to issue regulations necessary and advisable for the conservation of the species. Thus, we have flexibility under section 4(d) to tailor protective regulations, taking into account the effectiveness of available conservation measures. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These 9(a) prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Since the island grouper occurs entirely outside of the United States, and is not commercially traded with the United States, extending the section 9(a) ''take'' prohibitions to this species will not result in added conservation benefits or species protection. Therefore, we do not intend to issue section 4(d) regulations for the island grouper.

Public Comments Solicited

To ensure that any final action resulting from this proposed rule to list two species will be as accurate and effective as possible, we are soliciting comments and information from the public, other concerned governmental agencies, the scientific community, industry, and any other interested parties on information in the status review and proposed rule. Comments are encouraged on these proposals (See **DATES** and **ADDRESSES**). We must base our final determination on the best available scientific and commercial information when making listing determinations. We cannot, for example, consider the economic effects of a listing determination. Final promulgation of any regulation(s) on these species' listing proposals will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from this proposal or result in a withdrawal of this listing proposal. We particularly seek:

(1) Information concerning the threats to either of the two species proposed for listing;

(2) Taxonomic information on either of these species;

(3) Biological information (life history, genetics, population connectivity, etc.) on either of these species;

(4) Efforts being made to protect either of these species throughout their current ranges;

(5) Information on the commercial trade of either of these species; and

(6) Historical and current distribution and abundance and trends for either of these species.

We request that all information be accompanied by: (1) Supporting documentation, such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

Role of Peer Review

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing a minimum peer review standard. Similarly, a joint NMFS/FWS policy (59 FR 34270; July 1, 1994) requires us to solicit independent expert review from qualified specialists, concurrent with the public comment period. The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. We solicited and received peer review comments on each of the status review reports, including from: three marine scientists with expertise on the gulf grouper, and three marine scientists with expertise on the island grouper. Peer reviewer comments for each species are incorporated into the draft status review reports and this 12-month finding.

References

A complete list of the references used in this proposed rule is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 675 F. 2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA) (See NOAA Administrative Order 216–6).

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this proposed rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

In accordance with E.O. 13132, we determined that this proposed rule does not have significant Federalism effects and that a Federalism assessment is not required. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, this proposed rule will be given to the relevant governmental agencies in the countries in which these two species occur, and they will be invited to comment. We will confer with the U.S. Department of State to ensure appropriate notice is given to foreign nations within the range of both species. As the process continues, we intend to continue engaging in informal and formal contacts through the U.S. State Department, giving careful consideration to all written and oral comments received.

List of Subjects

50 CFR Part 223

Endangered and threatened species, Exports, Transportation.

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: September 14, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

2. In § 223.102, in paragraph (e), the table is amended by adding an entry for ''Grouper, island'' under Fishes in alphabetical order by common name to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*	*
Fishes						
*	*	*	*	*	*	*
Grouper, island	*Mycteroperca fusca*	Entire species.	[*Insert* ***Federal Register*** *citation],* 9/23/2015.	NA	NA
*	*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

4. In § 224.101, in paragraph (h), the table is amended by adding an entry for ''Grouper, gulf'' under Fishes in alphabetical order by common name to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*	*
Fishes						
*	*	*	*	*	*	*
Grouper, gulf	*Mycteroperca jordani*	Entire species	[*Insert* ***Federal Register*** *citation],* 9/23/2015.	NA	NA
*	*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

[FR Doc. 2015–23502 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 184
Wednesday, September 23, 2015

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

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Availability of the Record of Decision; and Approved Land Management Plan Amendments for the Rocky Mountain Region Greater Sage-Grouse Sub-Regions Northwest Colorado, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of the Record of Decision.

SUMMARY: The Forest Service announces the availability of the Record of Decision (ROD) and Approved Land Management Plan (LMP) Amendments for the Rocky Mountain Region Greater Sage-Grouse (GRSG) sub-regions of Northwest Colorado and Wyoming. The Intermountain and Rocky Mountain Regional Foresters signed the ROD on September 16, 2015, which constitutes the final decision of the Forest Service.

ADDRESSES: Copies of the ROD and LMP Amendments are available upon request and are also available for public inspection at the addresses listed in the **SUPPLEMENTARY INFORMATION** section. Interested persons may also review the ROD and Approved LMP amendments and on the World Wide Web at: *http://www.fs.usda.gov/r4/*.

FOR FURTHER INFORMATION CONTACT: For the Northwest Colorado GRSG LMP Amendment contact Dennis Jaeger, Routt National Forest Supervisor, telephone 307–745–2400; address Routt National Forest 2468 Jackson Street, Laramie, WY 82070; email: *djaeger01@fs.fed.us.*

For the Wyoming GRSG LMP amendment contact Pam Bode, Wyoming State Liaison, telephone 307–352–0259; address Bridger-Teton National Forest, 340 North Cache, Jackson, Wyoming 83001; email: *pbode@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This Record of Decision (ROD) and Approved Land Management Plan (LMP) Amendments for the Rocky Mountain Region Greater Sage-Grouse (GRSG) sub-regions of Northwest Colorado and Wyoming were developed through a collaborative planning process and incorporate land-use plan level conservation measures into existing Forest Service LMPs to conserve, enhance, and restore GRSG and its habitat by reducing, eliminating, or minimizing threats to GRSG and its habitat. The ROD and Approved LMP Amendments include management direction that limits or eliminates new surface disturbance in GRSG Priority Habitat Management Areas, while minimizing disturbance in GRSG General Habitat Management Areas. In addition to establishing protective management direction, the Approved LMP Amendments establish a suite of management provisions, such as the establishment of disturbance limits, GRSG habitat objectives, mitigation requirements, monitoring protocols, and adaptive management triggers and responses, as well as other conservation measures throughout the range. The cumulative effect of these conservation measures is to protect, improve, and restore GRSG habitat across the remaining range of the species in the Rocky Mountain Region and provide greater certainty that Forest Service activities and authorizations in GRSG habitat will lead to conservation of GRSG and its habitat as well as other sagebrush-steppe associated species in the Region.

The ROD and Approved LMP Amendments amend the following Forest Service LMPs:

Sub-region	National Forest System unit	Date of current LMP
NW Colorado	Routt National Forest	1998
Wyoming	Thunder Basin National Grassland	2002
	Bridger-Teton National Forest	1990
	Medicine Bow National Forest	2003

The Northwest Colorado and Wyoming Draft Land Use Plan Amendments (LUPAs)/Draft Environmental Impact Statements (EISs) and Proposed LUPAs/Final EISs also included proposed GRSG management direction on Bureau of Land Management (BLM) public lands. However, the BLM completed a separate ROD and Resource Management Plan Amendments/Revisions under BLM planning authorities. Management decisions within the Forest Service ROD and Approved LMP Amendments apply only to National Forest System lands. Notice of Availability for the Rocky Mountain Region GRSG Proposed LUPs/Final EISs were published in the **Federal Register** on May 29, 2015, which initiated a 30-day protest period.

The BLM and Forest Service received 55 timely and valid protest submissions for all Rocky Mountain region Proposed LUPAs/Final EISs. After careful consideration of the all issues raised in these protests, the Deputy Chief for the National Forest System concluded that the responsible planning team followed all applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the Proposed LUPs/Final EISs. For a full description of the issues raised during the protest period and how they were addressed, please refer to the Protest Resolution Reports for the Northwest Colorado and Wyoming Proposed LUPAs/Final EISs. These Reports, which include two Forest Service Proposed LMP amendments for Northwest Colorado and Wyoming, are available at the following Web site: *http://www.blm.gov/wo/st/en/prog/*

planning/planning_overview/protest_resolution/protestreports.html.

The preferred alternatives, as presented in the Draft LUP Amendments/EISs and further developed in the Proposed LUP Amendments/Final EISs as the Proposed Plan Amendments, were selected in the ROD as the Approved LMP Amendments with some minor clarifications.

Copies of the Northwest Colorado GRSG ROD and Approved LMP Amendment are available upon request and are available for public inspection at:

- Routt National Forest Headquarters, 2468 Jackson Street, Laramie, WY, 82070

Copies of the Wyoming GRSG ROD and Approved LMP Amendment are available upon request and are available for public inspection at:

- Medicine Bow National Forest-Thunder Basin National Grassland Headquarters
- Bridger-Teton National Forest Headquarters, 340 North Cache, Jackson, WY 83001

Dated: September 17, 2015.

Glenn P. Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2015–24168 Filed 9–22–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Availability of the Record of Decision and Approved Land Management Plan Amendments for the Great Basin Region Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana; Nevada and Utah

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of the Record of Decision.

SUMMARY: The Forest Service announces the availability of the Record of Decision (ROD) and Approved Land Management Plan (LMP) Amendments for the Great Basin Region Greater Sage-Grouse (GRSG) sub-regions of Idaho and Southwestern Montana, Nevada, and Northeast California, and Utah. Management decisions within the ROD and Approved LMP amendments apply only to National Forest System lands. There were no National Forest System lands involved in this effort in Northeast California. The Regional Foresters signed the ROD on September 16, 2015, which constitutes the final decision of the Forest Service.

ADDRESSES: Copies of the ROD and Approved LMP Amendments are available upon request and are also available for public inspection at the addresses listed in the **SUPPLEMENTARY INFORMATION** section. Interested persons may also review the ROD and Approved LMP Amendments on the World Wide Web at *http://www.fs.usda.gov/r4/.*

FOR FURTHER INFORMATION CONTACT: For the Idaho and Southwestern Montana GRSG LMP Amendment contact Robert Mickelsen, Caribou-Targhee National Forest GRSG, Idaho State Liaison, telephone 208–557–5764; address: 1405 Hollipark Drive, Idaho Falls, ID 83401; email: *rmickelsen@fs.fed.us.*

For the Nevada GRSG LMP Amendment contact Bill Dunkelberger, Forest Supervisor, Humboldt-Toiyabe, telephone: 775–355–5310; address: 1200 Franklin Way, Sparks, NV 89431; email: *wadunkelberger@fs.fed.us.*

For the Utah GRSG LMP Amendment contact: Ron Rodriguez, Utah State Liaison, telephone: 435–865–3732; address: 1789 North Wedgewood Lane, Cedar City, UT 84721; email: *rrodriguez01@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This Record of Decision (ROD) and Approved Land Management Plan (LMP) Amendments for the Great Basin Region Greater Sage-Grouse (GRSG) sub-regions of Idaho and Southwestern Montana, Nevada, and Northeast California, and Utah were developed through a collaborative planning process and incorporate land-use plan level conservation measures into existing Forest Service LMPs to conserve, enhance, and restore GRSG and its habitat by reducing, eliminating, or minimizing threats to GRSG and its habitat. The ROD and Approved LMP Amendments include management direction that limits or eliminates new surface disturbance in GRSG Priority Habitat Management Areas, while minimizing disturbance in GRSG General Habitat Management Areas. In addition to establishing protective land use allocations, the Approved LMP Amendments establish a suite of management provisions, such as the establishment of disturbance limits, GRSG habitat objectives, mitigation requirements, monitoring protocols, and adaptive management triggers and responses, as well as other conservation measures throughout the range. The cumulative effect of these conservation measures is to protect, improve, and restore GRSG habitat across the remaining range of the species in the Great Basin Region and provide greater certainty that Forest Service activities and authorizations in GRSG habitat in the Great Basin Region will lead to conservation of the GRSG and its habitat as well as other sagebrush-steppe associated species in the Region.

The ROD and LMP amendments amend the following Forest Service LMPs:

Sub-region	National Forest System unit	Date of current LMP
Idaho	Boise National Forest	2003
	Caribou National Forest	2003
	Curlew National Grassland	2002
	Challis National Forest	1987
	Salmon National Forest	1988
	Sawtooth National Forest	2003
	Targhee National Forest RMP	1997
Montana	Beaverhead-Deerlodge National Forest	2009
Nevada	Humboldt National Forest	1986
	Toiyabe National Forest	1986
Utah	Ashley National Forest	1986
	Dixie National Forest	1986
	Fishlake National Forest	1986
	Manti-LaSal National Forest	1086
	Uinta National Forest	2003

Sub-region	National Forest System unit	Date of current LMP
	Wasatch-Cache National Forest	2003

The Idaho and Southwestern Montana, Nevada, and Northeast California, and Utah Draft Land Use Plan Amendments (LUPAs)/Draft Environmental Impact Statements (EISs) and Proposed LUPAs/Final EISs included proposed GRSG management direction on Bureau of Land Management (BLM) public lands. However, the BLM completed a separate ROD and Resource Management Plan Amendments under BLM planning authorities. Management decisions within this ROD and Approved LMP Amendments apply only to National Forest System lands. There were no National Forest System lands involved in this effort in Northeast California.

A Notice of Availability for the Great Basin Region GRSG Proposed LMP Amendments/Final EISs for the Idaho and Southwest Montana, Nevada, and Northeast California, Oregon, and Utah sub-regions was published in the **Federal Register** on May 29, 2015, which initiated a 30-day protest period.

The BLM and Forest Service received 102 timely and valid protest submissions for all the Great Basin Region Proposed LUPAs/Final EISs. After careful consideration of all the issues raised in these protests, the Deputy Chief for the National Forest System concluded the responsible planning team followed all applicable laws, regulations, and policies and considered all relevant resource information and public input in developing the Proposed LMPs/Final EISs. For a full description of the issues raised during the protest period and how they were addressed, please refer to the Protest Resolution Reports for the Idaho and Southwest Montana, Nevada and Northeast California, and Utah Proposed LUPAs/Final EISs. These Reports, which include three Forest Service Proposed LMPs for Idaho and Southwest Montana, Nevada, and Utah, are available at the following Web site: *http://www.blm.gov/wo/st/en/prog/planning/planning_overview/protest_resolution/protestreports.html.*

The preferred alternatives, as presented in the Draft LUPA/Draft EISs and and further developed in the Proposed LUPAs/Final EISs as the Proposed Plan Amendment, were selected in the ROD as the Approved LMP Amendments with some minor clarifications.

Copies of the Idaho and Southwest Montana GRSG ROD and Approved LMP Amendment are available upon request and are available for public inspection at:

- Boise National Forest Headquarters. Vinnell Way, Boise ID 83709
- Caribou-Targhee National Forest Headquarters, 1405 Hollipark Drive., Idaho Falls, ID 83401
- Salmon-Challis National Forest Headquarters, 1206 South Challis Street, Salmon, ID 83467
- Sawtooth National Forest Headquarters, 2647 Kimberly Road East, Twin Falls, ID 83301–7976

Copies of the Nevada GRSG ROD and Approved LMP amendment are available upon request and are available for public inspection at:

- Humboldt-Toiyabe National Forest Headquarters, 1200 Franklin Way, Sparks, NV 89431

Copies of the Utah GRSG ROD and Approved LMP amendment are available upon request and are available for public inspection at:

- Ashley National Forest Headquarters, 355 North Vernal Ave. Vernal, UT 84078
- Dixie National Forest Headquarters, 1789 North Wedgewood Lane, Cedar City, UT 84721
- Fishlake National Forest Headquarters, 115 East 900 North, Richfield, UT 84701
- Manti-LaSal National Forest Headquarters, 599 West Price River Drive, Price, UT 84501
- Uinta-Wasatch-Cache National Forest Headquarters, 857 West South Jordan Parkway, South Jordan, UT 84099

Dated: September 17, 2015.

Glenn P. Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2015–24169 Filed 9–22–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood and Willamette Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hood and Willamette Resource Advisory Committee (RAC) will meet in Corvallis Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/detail/willamette/workingtogether/advisorycommittees/?cid=STELPRDB504843.*

DATES: The meeting will be held on Tuesday, October 13, 2015, beginning at 9 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Siuslaw National Forest Supervisor's Office, 3200 Southwest Jefferson Way, Corvallis, Oregon. The meeting will be held in the main conference room near the primary Visitor's entrance.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Siuslaw National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Kent Wellner, RAC Designated Federal Officer, by phone at 541–225–6301 or via email at *kwellner@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Make decisions on proposals submitted for FY2015 Title II funds; and
2. Establish additional meeting dates, if necessary.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes

or less. Individuals wishing to make an oral statement should request in writing by October 6, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Kent Wellner, Designated Federal Officer, 3106 Pierce Parkway, Suite D, Springfield, Oregon 97477; by email to *kwellner@fs.fed.us*, or via facsimile to 541–225–6228.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 17, 2015.

Tracy Beck,

Forest Supervisor.

[FR Doc. 2015–24141 Filed 9–22–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for the Delta Health Care Services Grant Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Business-Cooperative Service published a Notice in the **Federal Register** on Tuesday, September 8, 2015 (80 FR 53765), inviting applications for the Delta Health Care Services Grant Program. The document contained the incorrect maximum grant amount.

FOR FURTHER INFORMATION CONTACT: Grants Division, Cooperative Programs, Rural Business-Cooperative Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., MS 3253, Room 4008–South, Washington, DC 20250–3253, or call 202–690–1374.

Correction

In the Notice [FR Doc 2015–22546], published September 8, 2015 (80 FR 53767), column 1, under ''B. Federal Award Information,'' the third line ''Maximum DHCS Award: $500,000'' should read ''Maximum DHCS Award: $1,000,000.00.''

Dated: September 16, 2015.

Samuel H. Rikkers,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2015–24113 Filed 9–22–15; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Quarterly Survey of Public Pensions.

OMB Control Number: 0607–0143.

Form Number(s): F–10.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 100.

Average Hours per Response: 45 minutes.

Burden Hours: 300.

Needs and Uses: A small number of large retirement systems control over 3.3 trillion dollars in public pension assets in the financial markets. In the process of preparing the frame for the 2012 Census of Governments, 3,992 public retirement systems administered by state and local governments were identified. The 100 largest systems, as measured by the system assets, account for about 87.2 percent of the total assets of all systems, based on the 2012 Census of Governments. The Quarterly Survey of Public Pensions is used to collect data on the assets, revenues, and expenditures of these 100 systems enabling policy makers and economists to follow the changing characteristics of these funds. 100 units are selected in an attempt to balance timeliness, respondent burden, workload, and data quality. The survey provides a more timely subset of the data presented in the Annual Survey of Public-Employee Pension Systems. Both Surveys are part of the Census Bureau's Government Finance program.

The U.S. Census Bureau initiated this survey in 1968 at the request of both the Council of Economic Advisers and the Federal Reserve Board. The most important information this survey provides is the quarterly change in composition of the securities holdings of the defined benefit public employee retirement systems component of the economy. The Federal Reserve Board uses these data to track the public sector portion of the Flow of Funds Accounts. The Bureau of Economic Analysis (BEA) uses these data to estimate dividends received by state and local government retirement systems that, in turn, are used in preparing the National Income and Product Accounts. Additionally, the data are used by a variety of government officials, academics, students, and non-profit organizations to analyze trends in public employee retirement and the impact of retirement obligations on the fiscal well-being of state and local governments. Media that serve investment and public policy audiences routinely report on the quarterly data release, further disseminating the data.

Affected Public: State, local or tribal government.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: 13 U.S.C. Sections 161 and 182.

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

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

Sheleen Dumas,

PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–24130 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Meeting of Bureau of Economic Analysis Advisory Committee

AGENCY: Bureau of Economic Analysis, Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409, Pub. L. 96–523, Pub. L. 97–375, and Pub. L. 105–153), we are announcing a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting will address ways in which the national economic accounts can be presented more effectively for current economic analysis and recent statistical developments in national accounting.

DATES: Friday, November 13, 2015, the meeting will begin at 9 a.m. and adjourn at 3:30 p.m.

ADDRESSES: The meeting will take place at the Bureau of Economic Analysis at 1441 L St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gianna Marrone, Program Analyst, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; telephone number: (202) 606–9633.

SUPPLEMENTARY INFORMATION: The Committee was established September 2, 1999. The Committee advises the Director of BEA on matters related to the development and improvement of BEA's national, regional, industry, and international economic accounts, especially in areas of new and rapidly growing economic activities arising from innovative and advancing technologies, and provides recommendations from the perspectives of the economics profession, business, and government. This will be the Committee's twenty-ninth meeting.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Gianna Marrone of BEA at (202) 606–9633 in advance. The meeting is physically accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Gianna Marrone at (202) 606–9633.

Dated: August 11, 2015,

Brian C. Moyer,

Director, Bureau of Economic Analysis.

[FR Doc. 2015–24179 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821]

Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Commencement of Compliance Proceedings Pursuant to Section 129 of the Uruguay Round Agreements Act

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

DATES: *Effective Date:* September 23, 2015.

SUMMARY: Pursuant to Section 129 of the Uruguay Round Agreements Act (URAA), 19 U.S.C. 3538, the Department of Commerce (Department), is commencing proceedings to gather information, analyze record evidence, and consider the determinations which would be necessary to bring its measures into conformity with the recommendations and rulings of the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) in *United States—Countervailing Duty Measures on Certain Hot-Rolled Carbon Steel Flat Products from India*—(*WTO/DS436*). This dispute concerns the final results issued in certain administrative reviews of the countervailing duty (CVD) order on certain hot-rolled carbon steel flat products from India.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds, Program Manager, AD/CVD Operations Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; Telephone: (202) 482–6071.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2015, the United States informed the DSB that the United States intends to implement the DSB's recommendations and rulings in *WTO/DS436.* The segments of the proceeding subject to implementation are as follows:

Title of administrative review	Period of review	**Federal Register** citation and publication date
Final Results of Countervailing Duty Administrative Review: Certain Hot-rolled Carbon Steel Flat Products from India.	January 1, 2004 through December 31, 2004.	71 FR 28665 (May 17, 2006).
Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products From India.	January 1, 2006 through December 31, 2006.	73 FR 40295 (July 14, 2008).
Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products From India.	January 1, 2007 through December 31, 2007.	74 FR 20923 (May 6, 2009).
Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products From India.	January 1, 2008 through December 31, 2008.	75 FR 43488 (July 26, 2010).

Commencement of Section 129 Proceedings

In accordance with Section 129(b)(1) of the URAA, the Department consulted with the Office of the United States Trade Representative, and on August 21, 2015, pursuant to those consultations, opened segments in the CVD administrative reviews at issue to commence administrative actions to comply with the DSB's recommendations and rulings. Each segment will consist of a separate administrative record with its own administrative protective order. In accordance with 19 CFR 351.305(b), interested parties may request access to business proprietary information in the segment of the proceeding to which they are participating. For each of these Section 129 segments, we may request additional information and we may conduct verification of such information. Consistent with Section 129(d) of the URAA, the Department will issue preliminary results in each of the Section 129 segments, the Department will provide interested parties with an opportunity to provide written comments on those preliminary results, and the Department may hold a hearing.

Filing Requirements & Letter of Appearance

In accordance with the Department's regulations, all submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.[1]

Pursuant to 19 CFR 351.103(d)(l), to be included on the public service list for the Section 129 determination for the aforementioned proceedings, all interested parties, including parties that were part of the public service list in the underlying segments of the proceeding and any parties otherwise notified of the

[1] *See generally* 19 CFR 351.303 (for general filing requirements).

Department's commencement of these Section 129 proceedings, must file a letter of appearance. The letter of appearance must be filed separately from any other document (with the exception of an application for administrative protective order (APO) access; parties applying for and granted APO access would automatically be on the public service list). Parties wishing to enter an appearance or submit information with regard to these proceedings must upload their filing(s) to each relevant case number. Additionally, for each submission made in ACCESS, parties must select ''S 129–SEC 129'' as the segment, and enter ''DS436–''2004'' ''DS436–2006,'' ''DS436–2007'' or ''DS436–2008'' as appropriate in the segment specific information field.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these segments.

Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. *Review Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR–2013–09–20/html/2013-22853.htm* prior to submitting factual information in these segments.

Certification Requirements

Any party submitting factual information in an antidumping (AD) or CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[3] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is published in accordance with Section 129(b)(1) of the URAA.

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (Final Rule); *see also* frequently asked questions regarding the Final Rule, available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

Dated: September 17, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–24183 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–846]

Sugar From Mexico: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to exporters and producers of sugar from Mexico. For information on the estimated subsidy rates, see the ''Final Determination'' section of this notice.

DATES: *Effective date:* September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3857.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is the American Sugar Coalition and its members (Petitioners).[1] In addition to the Government of Mexico (GOM), the mandatory respondents in this investigation are Fondo de Empresas Expropiadas del Sector Azucarero (FEESA) and Ingenio Tala S.A. de C.V. and certain affiliated companies owned by Grupo Azucarero Mexico S.A. de C.V. (collectively, the GAM Group). The period of investigation (POI) is January 1, 2013, through December 31, 2013.

The Department published its affirmative *Preliminary Determination* on September 2, 2014.[2] On December

[1] The American Sugar Coalition is comprised of the following individual members: American Sugar Cane League; American Sugar Refining, Inc.; American Sugarbeet Growers Association; Florida Sugar Cane League; Hawaiian Commercial and Sugar Company; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and United States Beet Sugar Association.

[2] *See Sugar from Mexico: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 79 FR

Continued

19, 2014, the Department and a representative of the GOM signed an agreement suspending this CVD investigation.[3] Pursuant to timely requests for continuation filed on January 16, 2015,[4] the Department published notice of continuation of the investigation on May 4, 2015.[5] Subsequently, on June 18, 2015, the Department issued a post-preliminary analysis memorandum.[6] A complete summary of the events that occurred since publication of the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the ''Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Sugar from Mexico'' (Issues and Decision Memorandum),[7] which is dated concurrently with and hereby adopted by this notice. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the Department's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/*. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The product covered by this investigation is sugar from Mexico. Since the *Preliminary Determination,* the Department has updated the scope of the investigation. For a discussion of these changes, see the ''Scope Comments'' section of the Issues and Decision Memorandum and, for a complete description of the scope, see Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by the Department in the Issues and Decision Memorandum is attached at Appendix II to this notice.

Changes to the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination* and our post-preliminary analysis. These changes are discussed in the ''Analysis of Programs'' section of the Issues and Decision Memorandum. As discussed in the Issues and Decision Memorandum, for purposes of this final determination, the Department relied, in part, on facts available when necessary information was not available on the record.[8]

Final Determination

In accordance with 705(c)(1)(B)(i)(1) of the Tariff Act of 1930, as amended (the Act), the Department calculated a countervailable subsidy rate for each individually investigated exporter/producer of the subject merchandise. Consistent with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, the Department also calculated an estimated ''all others'' rate for exporters and producers not individually investigated. Section 705(c)(5)(A)(i) of the Act provides that the ''all others'' rate will be equal to the weighted-average of the countervailable subsidy rates, excluding *de minimis* rates and rates determined entirely under section 776 of the Act, established for individually investigated exporters and producers. Because the weighted-average countervailable subsidy rates calculated for FEESA and the GAM Group are not *de minimis* and are not based entirely on section 776 of the Act as facts available, the Department has estimated the ''all others'' rate in this final determination by weight-averaging the weighted-average countervailable subsidy rates calculated for FEESA and the GAM Group.

We determine the total estimated countervailable subsidy rates to be:

Company	Subsidy rate
Fondo de Empresas Expropiadas del Sector Azucarero	43.93 percent.
Ingenio Tala S.A. de C.V. and certain affiliated sugar mills of Grupo Azucarero Mexico S.A. de C.V.	5.78 percent.
All Others	38.11 percent.

In accordance with 19 CFR 351.224(b), we will disclose the calculations performed within five days of any public announcement of this notice.

As noted above, the Department signed a Suspension Agreement in this investigation on December 19, 2014. On March 27, 2015, following a review of the Suspension Agreement by the International Trade Commission (ITC), the Department, in accordance with sections 704(h)(3)(A) and (B) of the Act, instructed Customs and Border Protection (CBP) to terminate the suspension of liquidation of all entries of sugar from Mexico and to refund any collected cash deposits without regard to countervailing duties.[9] Notwithstanding the continuation and completion of the investigation, as the Suspension Agreement continues to be in place, the Department will not instruct CBP to suspend liquidation or to assess cash deposits at the countervailing duty rates noted above unless the Suspension Agreement is terminated.

51956 (September 2, 2014) (*Preliminary Determination*).

[3] *See Sugar from Mexico: Suspension of Countervailing Duty Investigation,* 79 FR 78044 (December 29, 2014) (Suspension Agreement).

[4] *See* Letter from Imperial Sugar Company, ''*Sugar from Mexico,* Inv. Nos. A–201–845 and C–201–846—Request for Continuation of Investigations,'' January 16, 2015; *see also* Letter from AmCane Sugar LLC, ''Sugar from Mexico: Request for Continuation of Investigations,'' January 16, 2015.

[5] *See* Department Memorandum, ''Standing of Imperial Sugar and AmCane Sugar to Request Continuation of the AD and CVD Investigations on Sugar from Mexico,'' dated April 24, 2015; *see also Sugar from Mexico: Continuation of Antidumping and Countervailing Duty Investigations,* 80 FR 25278 (May 4, 2015).

[6] *See* Department Memorandum, ''Countervailing Duty Investigation of Sugar from Mexico: Post-Preliminary Analysis,'' June 18, 2015.

[7] *See* Department Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Sugar from Mexico,'' September 16, 2015.

[8] *See* section 776(a) of the Act.

[9] *See* Department Memorandum, ''Termination of Suspension of Liquidation: Suspended Countervailing Duty Investigation on Sugar from Mexico,'' March 27, 2015.

ITC Notification

In accordance with 705(d) of the Act, we will notify the ITC of our final determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the Suspension Agreement shall have no force or effect, and the investigation shall be terminated.[10] If the ITC determines that such injury does exist, the Suspension Agreement shall remain in force but the Department shall not issue a CVD order so long as (1) the Suspension Agreement remains in force, (2) the Suspension Agreement continues to meet the requirements of subsections (c) and (d) of the Act, and (3) the parties to the Suspension Agreement carry out their obligations under the Suspension Agreement in accordance with its terms.[11]

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act.

Dated: September 16, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. The chemical sucrose gives sugar its essential character. Sucrose is a nonreducing disaccharide composed of glucose and fructose linked by a glycosidic bond via their anomeric carbons. The molecular formula for sucrose is $C_{12}H_{22}O_{11}$; the International Union of Pure and Applied Chemistry (IUPAC) International Chemical Identifier (InChI) for sucrose is 1S/C12H22O11/c13–1–4–6(16)8(18)9(19)11(21–4)23–12(3–15)10(20)7(17)5(2–14)22–12/h4–11,13–20H,1–3H2/t4-,5-,6-,7-,8+,9-,10+,11-,12+/m1/s1; the InChI Key for sucrose is CZMRCDWAGMRECN–UGDNZRGBSA–N; the U.S. National Institutes of Health PubChem Compound Identifier (CID) for sucrose is 5988; and the Chemical Abstracts Service (CAS) Number of sucrose is 57–50–1.

Sugar described in the previous paragraph includes products of all polarimeter readings described in various forms, such as raw sugar, estandar or standard sugar, high polarity or semi-refined sugar, special white sugar, refined sugar, brown sugar, edible molasses, desugaring molasses, organic raw sugar, and organic refined sugar. Other sugar products, such as powdered sugar, colored sugar, flavored sugar, and liquids and syrups that contain 95 percent or more sugar by dry weight are also within the scope of this investigation.

The scope of the investigation does not include (1) sugar imported under the Refined Sugar Re-Export Programs of the U.S. Department of Agriculture; [1] (2) sugar products produced in Mexico that contain 95 percent or more sugar by dry weight that originated outside of Mexico; (3) inedible molasses (other than inedible desugaring molasses noted above); (4) beverages; (5) candy; (6) certain specialty sugars; and (7) processed food products that contain sugar (*e.g.,* cereals). Specialty sugars excluded from the scope of this investigation are limited to the following: caramelized slab sugar candy, pearl sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations.

Merchandise covered by this investigation is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5025, 1701.99.5050, 1702.90.4000 and 1703.10.3000. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2015–24195 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See* section 704(f)(3)(A) of the Act.

[11] *See* section 704(f)(3)(B) of the Act.

[1] This exclusion applies to sugar imported under the Refined Sugar Re-Export Program, the Sugar-Containing Products Re-Export Program, and the Polyhydric Alcohol Program administered by the U.S. Department of Agriculture.

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

SUMMARY: The Department of Commerce (''Department'') hereby publishes a list of scope rulings and anticircumvention determinations made between April 1, 2015, and June 30, 2015, inclusive. We intend to publish future lists after the close of the next calendar quarter.

DATES: Effective Date: September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on June 16, 2015.[2] This

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 80 FR 34368 (June 16, 2015).

current notice covers all scope rulings and anticircumvention determinations made by Enforcement and Compliance between April 1, 2015, and June 30, 2015, inclusive. Subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Made Between April 1, 2015 and June 31, 2015

People's Republic of China

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: All Points Industries Inc. (''All Points''); All Points' cleats are within the scope of the orders on aluminum extrusions from the PRC because they are single-piece aluminum extrusions without accessories, attachments, fasteners, or other non-extruded parts of aluminum or any other material, and match the physical description of subject merchandise; April 2, 2015.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Guardian Fall Protection, Inc.; window anchors are outside the scope of the orders because they represent finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry; April 21, 2015.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Unger Enterprises Inc. (''Unger''); Unger's pole handles, consisting of aluminum extrusion tubes, polypropylene hand grips, polypropylene tool and accessory attachment heads, and ''optiloc'' plastic locking collars, are outside the scope of the orders on aluminum extrusions from the PRC under the finished goods exclusion because they are finished goods containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry; April 22, 2015.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Ikea Supply AG (''IKEA''); IKEA's cabinet/drawer handles are within the scope of the orders on aluminum extrusions from the PRC because the cabinet/drawer handles are comprised solely of an aluminum extrusion that matches the description of subject merchandise and fasteners (*i.e.,* screws and nuts); April 27, 2015.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Ikea Supply AG (''IKEA''); IKEA's towel racks are within the scope of the orders on aluminum extrusions from the PRC because the towel racks are comprised solely of an aluminum extrusion that matches the description of subject merchandise and fasteners; April 27, 2015.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Streamlight, Inc. (''Streamlight''); Streamlight's heat sink parts for LED lamps are within the scope of the orders on aluminum extrusions from the PRC because the heat sink parts for LED lamps do not meet the two criteria to qualify for the finished heat sink exclusion from the orders; May 14, 2015.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: TSS, Inc.; the LT–10H2 Wind Sign Frame is outside the scope of the orders because it is finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry; June 16, 2015.

A–570–899: Certain Artist Canvas From the People's Republic of China

Requestor: Suqian Langer International Trade Co., Ltd. (''Suqian Langer''); Suqian Langer's artist canvases are outside the scope of the order because the weaving and priming of the canvases, which impart the artist canvases' essential characteristics, are performed in India and not the People's Republic of China; May 26, 2015.

A–570–910 and C–570–911: Circular Welded Carbon-Quality Steel Pipe From People's Republic of China

Requestor: Unique Fire Stop Products, Inc. (UFS); Smooth Fire Stop Sleeve System products are not within the scope, which states that covered products are ''generally known as standard and structural pipe.'' UFS' product could not be used for the purposes for which standard or structural pipe are used; June 10, 2015.

A–570–891: Hand Trucks and Certain Parts Thereof From the People's Republic of China

Requestor: National Public Seating (NPS); NPS' Banquet Stack Chair Dolly is within the scope of the order because it possesses all the essential physical characteristics of subject hand trucks; April 6, 2015.

A–570–891: Hand Trucks and Certain Parts Thereof From the People's Republic of China

Requestor: Bond Street Ltd.; the Bond Cart Model 390008 is within the scope of the order because it possesses all the essential physical characteristics of subject hand trucks; April 22, 2015.

A–570–890: Wooden Bedroom From the People's Republic of China

Requestor: Bassett Mirror Company, Inc.; Reflections and Murano chairside chests are outside the scope of the antidumping duty order because of their limited storage space and characteristics consistent with end tables or occasional tables; April 30, 2015.

Spain

A–469–805: Stainless Steel Bar From Spain

Requestor: Rodacciai S.p.A. and Roda Specialty Steel, Inc.; Cold-finished stainless steel bar manufactured through cold-drawing and other finishing steps in Italy using stainless steel wire rod imported from Spain is not within the scope of the antidumping duty order; May 12, 2015.

A–469–807: Stainless Steel Wire Rod From Spain

Requestor: Rodacciai S.p.A. and Roda Specialty Steel, Inc.; Cold-finished stainless steel bar manufactured through cold-drawing and other finishing steps in Italy using stainless steel wire rod imported from Spain is not within the scope of the antidumping duty order; May 12, 2015.

Interested parties are invited to comment on the completeness of this list of completed scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, 14th Street and Constitution Avenue NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: September 17, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–24185 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–845]

Sugar From Mexico: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) determines that imports of sugar from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation is January 1, 2013, through December 31, 2013. The final weighted-average dumping margins are listed below in the section entitled ''Final Determination Margins.''

DATES: *Effective Date:* September 23, 2015.

FOR FURTHER INFORMATION CONTACT: David Lindgren, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3870.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2014, the Department published in the **Federal Register** the *Preliminary Determination* of sales at LTFV in the antidumping duty investigation of sugar from Mexico.[1] The following events occurred since the *Preliminary Determination* was issued. Between December 3 and 16, 2014, we conducted sales and cost verifications of the two respondents in this investigation, FEESA [2] and the GAM Group.[3] The verification reports were issued between January 29 and March 31, 2015.

On December 19, 2014, the Department and a representative of the producers/exporters accounting for substantially all imports of sugar from Mexico, the Camara Nacional de Las Industrias Azucarera y Alcoholera, signed a suspension agreement in this investigation.[4] On January 8, 2015, Imperial Sugar (Imperial) and AmCane Sugar LLC (AmCane) each notified the Department that they had petitioned the International Trade Commission (ITC) to conduct a review to determine whether the injurious effects of the imports of the subject merchandise are eliminated completely by the AD Suspension Agreement (a section 734(h) review).[5] Additionally, on January 16, 2015, AmCane and Imperial submitted timely requests for the continuation of the instant investigation.[6] On March 19, 2015, in a unanimous vote, the ITC found that the AD Suspension Agreement eliminated completely the injurious effects of imports of sugar from Mexico. On the same day, the Department announced that it would issue a decision regarding continuation of the investigations promptly after the ITC made its views and findings available.[7] On March 24, 2015, the ITC notified the Department of its determination, and on April 10, 2015, provided a report of its views and findings to the Department.[8] Subsequently, on April 24, 2015, the Department determined that AmCane and Imperial had standing to request continuation of this investigation and, as a result, published a continuation notice on May 4, 2015.[9] Accordingly, on May 4, 2015, the Department announced the briefing schedule. Consistent with the schedule, case briefs were filed on May 29, 2015, and rebuttal briefs on June 12, 2015.

Scope of the Investigation

The product covered by this investigation is sugar from Mexico. Since the *Preliminary Determination,* the Department has updated the scope of the investigation. For a discussion of these changes, *see* ''Scope Comments'' section of the Issues and Decision Memorandum [10] and, for a complete description of the scope of the investigation, *see* Appendix I to this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and it is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, in December, 2014, we verified the sales and cost information submitted by FEESA and the GAM Group for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the two respondents.[11]

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[1] *See Sugar From Mexico: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 79 FR 65189 (November 3, 2014) (*Preliminary Determination*).

[2] Fondo de Empresas Expropiadas del Sector Azucarero (FEESA) consists of FEESA and the following sugar mills: Fideicomiso Ingenio El Modelo, Fideicomiso Ingenio San Cristobal, Fideicomiso Ingenio Plan De San Luis, Fideicomiso Ingenio San Miguelito, Fideicomiso Ingenio La Providencia, Fideicomiso Ingenio Atencingo, Fideicomiso Ingenio Casasano, Fideicomiso Ingenio El Potrero, and Fideicomiso Ingenio Emiliano Zapata.

[3] The GAM Group consists of the following sugar mills: Ingenio Tala S.A. de C.V.; Ingenio El Dorado S.A. de C.V.; and Ingenio Lazaro Cardenas S.A. de C.V.

[4] *See Sugar From Mexico: Suspension of Antidumping Investigation,* 79 FR 78093 (December 29, 2014) (*AD Suspension Agreement*).

[5] *See Sugar From Mexico: Continuation of Antidumping and Countervailing Duty Investigations,* 80 FR 25278, 25279 (May 4, 2015) (*Continuation Notice*).

[6] *Id.*

[7] *See Continuation Notice,* 80 FR at 25280.

[8] *Id.*

[9] *See* Memorandum to the Files regarding ''Standing of Imperial Sugar and AmCane Sugar to Request Continuation of the AD and CVD Investigations on Sugar from Mexico,'' dated April 24, 2015; *see also Continuation Notice,* 80 FR at 25278.

[10] *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less than Fair Value Investigation of Sugar from Mexico'' (Issues and Decision Memorandum), which is dated concurrently with and hereby adopted by this notice.

[11] *See* Memorandum to the File regarding ''Verification of the Cost Response of Ingenio Tala de C.V. and its affiliates Ingenio Lazaro Cardenas S.A. de C. V. and Ingenio El Dorado S.A. de C. V. in the Antidumping Duty Investigation of Sugar from Mexico,'' dated January 29, 2015; *see also* Memorandum to the File regarding ''Verification of the Cost Response of Fondo de Empresas Expropiadas del Sector Azucarero in the Less-Than-

Continued

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/Producer	Weighted-average dumping margin (%)
FEESA	40.48
Ingenio Tala S.A. de C.V. and certain affiliated sugar mills of Grupo Azucarero Mexico S.A. de C.V. (collectively, the GAM Group)	42.14
All-Others	40.74

Section 735(c)(5)(A) of the Act provides that the estimated ''all-others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. As we calculated weighted-average dumping margins for both mandatory respondents that are above *de minimis* and which are not based on total facts available, they are the basis for the ''all others'' rate. However, a weighted average would reveal proprietary information regarding the respondents' sales information. As such, we have calculated the weighted-average ''all others'' rate by relying on publicly-ranged information reported by FEESA and the GAM Group.[12]

Disclosure

We will disclose the calculations performed within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Termination of Suspension of Liquidation

As noted above, on December 19, 2014, the Department signed the AD Suspension Agreement. Pursuant to section 734(h)(3) of the Act, suspension of liquidation ordered in the *Preliminary Determination* continued to be in effect pending the ITC's section 734(h) review. Following the ITC's affirmative determination, *i.e.,* that the AD Suspension Agreement completely eliminated the injurious effects of imports of sugar from Mexico, on March 27, 2015, the Department, in accordance with section 734(h)(3) of the Act, instructed U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation of all entries of sugar from Mexico and refund all cash deposits. Pursuant to the requests for continuation discussed above, we have continued and completed the investigation in accordance with section 734(g) of the Act. We found the antidumping duty margins noted above in the ''Final Determination Margins'' section.

The Department will not instruct CBP to suspend liquidation or collect cash deposits calculated herein unless the AD Suspension Agreement is terminated and the Department issues an antidumping duty order.[13] In the event that Department issues an order, consistent with sections 735(c)(1) and 736(a) of the Act, as well as 19 CFR 351.210(d) and 351.211, we will instruct CBP to suspend liquidation and require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) The rate for FEESA, when adjusted for export subsidies, is 40.33 percent; (2) the rate for the GAM Group, when adjusted for export subsidies, is 41.97 percent; (3) if the exporter is not a firm identified in this investigation, but the producer is, then the rate will be the rate established for the producer of the subject merchandise; (4) the rate for all other producers or exporters, when adjusted for export subsidies, will be 40.59 percent.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the AD Suspension Agreement shall have no force or effect, and the investigation shall be terminated.[14] If the ITC determines that such injury does exist, the AD Suspension Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the AD Suspension Agreement remains in force, (2) the AD Suspension Agreement continues to meet the requirements of subsections (c) and (d) of the Act, and (3) the parties to the AD Suspension Agreement carry out their obligations under the AD Suspension Agreement in accordance with its terms.[15]

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction or APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: September 16, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The product covered by this investigation is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. The chemical sucrose gives sugar its essential character. Sucrose is a nonreducing disaccharide composed of glucose and

Fair-Value Investigation of Sugar from Mexico,'' dated January 30, 2015; Memoranda to the File regarding ''Verification of the Sales and Subsidy Responses of FEESA in the Antidumping and Countervailing Duty Investigations of Sugar from Mexico,'' and ''Verification of the Sales and Subsidy Responses of the GAM Group in the Antidumping and Countervailing Duty Investigations of Sugar from Mexico,'' both dated March 31, 2015.

[12] For more detail on this calculation, *see* Memorandum to the File regarding ''Antidumping Duty Investigation of Sugar from Mexico: Final Determination Calculation for the ''All-Others'' Rate,'' dated September 16, 2015.

[13] *See* section 734(f)(3)(B) of the Act.

[14] *See* section 734(f)(3)(A) of the Act.

[15] *See* section 734(f)(3)(B) of the Act.

fructose linked by a glycosidic bond via their anomeric carbons. The molecular formula for sucrose is $C_{12}H_{22}O_{11}$; the International Union of Pure and Applied Chemistry (IUPAC) International Chemical Identifier (InChI) for sucrose is 1S/C12H22O11/c13-1-4-6(16)8(18)9(19)11(21-4)23-12(3-15)10(20)7(17)5(2-14)22-12/h4-11,13-20H,1-3H2/t4-,5-,6-,7-,8+,9-,10+,11-,12+/m1/s1; the InChI Key for sucrose is CZMRCDWAGMRECN–UGDNZRGBSA–N; the U.S. National Institutes of Health PubChem Compound Identifier (CID) for sucrose is 5988; and the Chemical Abstracts Service (CAS) Number of sucrose is 57-50-1.

Sugar described in the previous paragraph includes products of all polarimeter readings described in various forms, such as raw sugar, estandar or standard sugar, high polarity or semi-refined sugar, special white sugar, refined sugar, brown sugar, edible molasses, desugaring molasses, organic raw sugar, and organic refined sugar. Other sugar products, such as powdered sugar, colored sugar, flavored sugar, and liquids and syrups that contain 95 percent or more sugar by dry weight are also within the scope of this investigation.

The scope of the investigation does not include (1) sugar imported under the Refined Sugar Re-Export Programs of the U.S. Department of Agriculture; [16] (2) sugar products produced in Mexico that contain 95 percent or more sugar by dry weight that originated outside of Mexico; (3) inedible molasses (other than inedible desugaring molasses noted above); (4) beverages; (5) candy; (6) certain specialty sugars; and (7) processed food products that contain sugar (*e.g.,* cereals). Specialty sugars excluded from the scope of this investigation are limited to the following: caramelized slab sugar candy, pearl sugar, rock candy, dragees for cooking and baking, fondant, golden syrup, and sugar decorations.

Merchandise covered by this investigation is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5025, 1701.99.5050, 1702.90.4000 and 1703.10.3000. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

[16] This exclusion applies to sugar imported under the Refined Sugar Re-Export Program, the Sugar-Containing Products Re-Export Program, and the Polyhydric Alcohol Program administered by the U.S. Department of Agriculture.

[FR Doc. 2015–24189 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE205

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Eel Fishery

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

ACTION: Notice of determination of non-compliance; declaration of a moratorium.

SUMMARY: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act (Act), NMFS, upon a delegation of authority from the Secretary of Commerce (Secretary), has determined that the State of Delaware has failed to carry out its responsibilities under the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for American Eel (Plan) and that the measures Delaware has failed to implement and enforce are necessary for the conservation of the American eel resource. This determination is consistent with the findings of the Commission on August 6, 2015. Pursuant to the Act, a Federal moratorium on fishing, possession, and landing of all American eel is hereby declared and will be effective on March 18, 2016. The moratorium will be withdrawn by NMFS when Delaware is found to have come back into compliance with the Commission's Plan for American Eel.

DATES: Effective March 18, 2016.

ADDRESSES: Alan Risenhoover, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Derek Orner, Fishery Management Specialist, NMFS Office of Sustainable Fisheries, (301) 427–8567.

SUPPLEMENTARY INFORMATION:

Non-Compliance Statutory Background

The Atlantic Coastal Act, 16 U.S.C. 5101 *et seq.,* sets forth a non-compliance review and determination process that is triggered when the Commission finds that a State has not implemented measures specified in an Interstate Fishery Management Plan (ISFMP) and refers that determination to the Secretary for review and potential concurrence.

The Atlantic Coastal Act's non-compliance process involves two stages of decision-making. In the first stage, the Secretary (delegated to the AA) must make two findings: (1) Whether the State in question has failed to carry out its responsibility under the Commission's ISFMP; and if so (2) whether the measures that the State failed to implement and enforce are necessary for the conservation of the fishery in question. These initial findings must be made within 30 days after receipt of the Commission's non-compliance referral and consequently, this first stage of decision-making is referred to as the 30-Day Determination.

A positive 30-Day Determination triggers the second stage of Atlantic Coastal Act non-compliance decision-making, which occurs contemporaneous with the first decision. That is, if the AA determines non-compliance in the first stage, the Act mandates that a moratorium on fishing in State waters in the fishery in question occur. The timing of the moratorium, however, is at the discretion of the AA, so long as it is implemented within six (6) months of the 30-Day Determination. In other words, although the implementation of the moratorium is non-discretionary, the AA has the discretion to decide when the moratorium will be implemented subject to the Act's six (6) month deadline.

Commission Referral of Non-Compliance

On August 6, 2015, the Commission found that the State of Delaware is out of compliance with the Commission Plan. Specifically, the Commission found that Delaware has not implemented regulations that are necessary to rebuild the depleted

American eel stock, and to ensure sustainable commercial and recreational harvest while preventing over-harvest of any eel life stage. The required measures that Delaware failed to implement are as follows:

Commercial Measures

The following measures apply to all current yellow eel commercial fisheries. The development of any future yellow eel fisheries would be subject to the following measures:

Minimum size and mesh requirements—It is generally accepted that American eel in the northern portion of the species' range are larger than eel in the southern end of the range. However, there is not enough information at this time to develop regional or state specific maximum sizes for the coast. Nonetheless, there is growing concern about the development of fisheries on small yellow eels and an increase in the minimum size is a means to prevent this fishery from developing further. The benefit of effective gear restrictions is smaller eels are not landed, thus eliminating the need for harvesters to handle these fish or enforcement having to measure fish. No gear requirements are sought to exclude larger eels from pots at this time because only a low number of silver eels are caught in pot fisheries. Gear restrictions that are instituted should be monitored for effectiveness. States and jurisdictions are required to adopt a nine (9) inch minimum size limit for all yellow eel fisheries. Harvesters are required to sort their catch and discard eels smaller than the size limit.

States and jurisdictions are required to implement a ½'' by ½'' minimum on the mesh size used in commercial yellow eel pots. States may allow, for up to three years starting January 1, 2014, the use of a 4 by 4 inch escape panel constructed of a mesh size of at least ½'' by ½'' inch mesh in order to reduce the financial burden of gear changes on the fishery.

Recreational Measures

The following measures apply to all current yellow eel recreational fisheries. In order to minimize the chance of excessive recreational harvest, as well as circumvention of commercial eel regulations, the ASMFC member states/jurisdictions shall establish uniform possession limits for recreational fisheries. States and jurisdictions are required to adopt a nine (9) inch minimum size limit for all recreational fisheries.

Recreational Bag Limit—Given the interest to have all fishery sectors contribute to conservation measures under Addendum III all states and jurisdictions are required to implement a daily recreational bag limit of 25 fish per day per angler.

Party/charter (for hire) exemption—Crew and captain involved in party/charter (for-hire) employment on party/charter (for-hire) activities are exempt from recreational bag limit reduction. Crew members involved in for-hire employment are allowed to maintain the current 50 fish per day bag limit for bait purposes during fishing, as specified under the American Eel ISFMP.

The Commission's Plan required all member States to implement the plan's eel regulations by January 1, 2014. As of August 6, 2015, Delaware still had not implemented the required actions. During both the Commission's August 5, 2015, American Eel Management Board meeting and its August 6, 2015, Policy and Business Board meetings, Delaware agreed with the Boards' determinations that they were not in compliance with the Plan.

Agency Action in Response to Commission Non-Compliance Referral

The Commission forwarded its findings of their August 6th vote in a formal non-compliance referral letter that the Secretary received on August 19, 2015. In response to receipt of this letter, NMFS began the Atlantic Coastal Act's 30-day determination clock. On August 21, 2015, NMFS sent letters to the State of Delaware, the Mid-Atlantic Fishery Management Council, the U.S. Fish & Wildlife Service (USFWS), and to the Commission, advising them of the Atlantic Coastal Act's non-compliance process, inviting them to provide commentary on the issue, and in the case of Delaware, inviting the State to meet with NMFS to present its position in person or provide written comments on the Commission findings. NMFS also advised the public of the referral, and invited comments in a **Federal Register** notice dated August 27, 2015 (80 FR 166).

On September 2, 2015, Delaware representatives met with NMFS staff via conference call. During this meeting, Delaware agreed that it was out of compliance and that it did not contest the conservation necessity of the Commission's American eel measures. Delaware described its legal and regulatory framework for eel, its eel fishery, and confirmed its intent to finalize legislation to comply with measures identified in Addendum III in January 2016 irrespective of any Federal action. Delaware followed up that meeting with a letter on September 11, 2015, that provided additional information on Delaware's past efforts and current plans to comply with the Plan, previous and current eel conservation measures and eel fisheries. NMFS received one public comment in response to the referral of non-compliance. That comment supported a full moratorium, albeit without articulating any background or factual support. The USFWS also provided a letter with comments concurring with the Commission finding that the State of Delaware is currently out of compliance with the ISFMP for American Eel. In addition, the USFWS has been undertaking an extensive status review for the American eel to determine if adding the species to the Federal list of endangered and threatened wildlife list is warranted. A petition to list American eel was submitted by the Council for Endangered Species Act Reliability. A 12-month finding as to whether the listing is warranted is expected by September 30, 2015.

Agency's Findings

NMFS' findings in this matter support a positive 30-Day Determination of non-compliance. The best available science suggests that American eel are depleted and that management measures are necessary to conserve the species. Specifically, the 2012 Benchmark American Eel Stock Assessment indicated that the American eel stock has declined in recent decades and the prevalence of significant downward trends in multiple surveys across the coast is cause for concern. The measures that Delaware failed to adopt were recommended by the Commission in Addendum III to respond to the stock assessment's findings. Delaware voted to approve those measures in 2013 during the Addendum III process and the state agrees even now that the measures are necessary for conservation. NMFS also agrees.

NMFS recommends that the required moratorium begin on March 18, 2016. This moratorium would prohibit, in Delaware waters, the possession of American eel (all life stages). We chose the March implementation date after consulting with the relevant staff from Delaware, and reviewing the facts of this situation, including the Commission deliberations from this past August. Based upon our analysis, we found that a March implementation date is appropriate for two principle reasons. First, a March 18th closure date will give Delaware the time necessary for its legislature to bring these regulations back into compliance. Second, although the involved measures are necessary for conservation, the immediacy of that need is less critical given that Delaware's fall eel fishery appears to not

target eels that are the subject of Addendum III's protection.

Delaware indicated to us that they expect to have appropriate regulations protecting American eel in place by early next year. If the State of Delaware does enact such measures, and the Commission determines that the measures are compliant with the Plan, under the Act, the Commission would immediately notify the Secretary that the state of Delaware is in compliance with the Plan. If NMFS concurs, the moratorium in the state waters of Delaware will be rescinded. If Delaware is unable to put in place appropriate regulations prior to March 18, 2016, then a Federal moratorium on eel fishing in Delaware waters would be immediately implemented and continue until the Secretary concurs with a determination from the Commission that the state of Delaware has come into compliance with the Plan.

Moratorium Prohibitions

The positive 30-day finding triggers the moratorium prohibitions set forth in the Atlantic Coastal Act, 16 U.S.C. 5106(e). Accordingly, on March 18, 2016, NMFS will implement an American eel moratorium for in Delaware state waters. At that time, it will be unlawful to do the following:

(1) Engage in fishing for American eel within the waters of the Delaware (**Note:** Under the Atlantic Coastal Act, the definition of ''fishing'' includes landing and/or possessing);

(2) Land, attempt to land, or possess American eel that are caught, taken, or harvested in violation of the moratorium;

(3) Fail to return to the water immediately, with a minimum of injury, any American eel in Delaware waters that are taken incidental to fishing for species other than those to which the moratorium applies;

(4) Refuse to permit any officer authorized to enforce the provisions of this moratorium to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(5) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this moratorium;

(6) Resist a lawful arrest for any act prohibited by this moratorium;

(7) Ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this moratorium; or

(8) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this moratorium.

Classification

This declaration of a moratorium is consistent with the Atlantic Coastal Act at 16 U.S.C. 5106 insofar as Delaware has been found to have failed to carry out its responsibilities under the Commission's American Eel Plan and the measures that Delaware has failed to implement and enforce are necessary for the conservation of the American eel fishery. Further, the moratorium prohibits fishing, possessing and/or landing American eel within Delaware state waters and is being implemented within six months of the agency findings.

The declaration of a moratorium is consistent with the Administrative Procedures Act at 5 U.S.C. 555 insofar as Delaware was given prompt notice of the Commission's non-compliance referral and was given an opportunity to meet with the agency and provide comments on this matter. Further, the agency has immediately notified Delaware of the agency's determination in this matter. Additionally, NMFS provided notice to the public of this compliance action in a notice in the **Federal Register** dated (80 FR 166, August 27, 2015). NMFS received one comment in response to that notice suggesting that Delaware be found out of compliance and that a moratorium be implemented. The comment did not provide any further detail. NMFS' present action is consistent with the commenter's suggested outcome.

NMFS finds that public comment is impracticable and contrary to the public interest, not only because the rigid statutory time lines makes such impracticable and would impermissibly delay mandatory agency action, but also because the issue has been considerably vetted in public forums, such as before the Delaware General Assembly and the Commission in the months prior to the referral. Nevertheless, NMFS did notify the public of this action in its **Federal Register** Notice (80 FR 166; August 27, 2015). NMFS received one comment, which supported a moratorium and is described above.

The declaration of moratorium does not trigger the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because the action was not the result of notice and comment rulemaking under Section 553 of the Administrative Procedures Act.

The declaration of a moratorium does not fall under review under Executive Order 12866 insofar as the moratorium is not a regulatory action of the agency but is an action mandated by Congress upon the findings of certain conditions precedent set forth in the Atlantic Coastal Act, which also prescribes the nature and extent of the moratorium. Nevertheless, the agency has determined that this action is not significant for the purpose of E.O. 12866. The fishery is small and a moratorium is not expected to materially adversely affect the economy or have an impact of over $100 million. The matter creates no serious inconsistency with actions by other agencies and is not expected to have material budgetary impacts.

The moratorium is not the result of a policy formulated or implemented by the agency, but instead is the result of the application of found facts to the Congressional standards set forth in the Atlantic Coastal Act and as such, the declaration does not implicate federalism in the manner contemplated by Executive Order 13132. The agency, however, has nevertheless consulted, to the extent practicable, with appropriate state and local administrative and law enforcement officials to address the principles, criteria, and requirements of E.O. 13132.

Authority: 16 U.S.C. 5101 *et seq.*

Dated: September 18, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–24203 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Expenditure Survey of Golden Crab Fishermen in the U.S. South Atlantic Region

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 November 23, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Scott Crosson, (305) 361–4468 or *scott.crosson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a reinstatement without change. The National Marine Fisheries Service (NMFS) proposes to collect economic information from golden-crab landing commercial fishermen in the United States (U.S.) South Atlantic region. The data gathered will be used to evaluate the likely economic impacts of management proposals. In addition, the information will be used to satisfy legal mandates under Executive Order 12898, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statues.

II. Method of Collection

A standardized survey will be administered via in-person, telephone and/or mail to all fishermen participating in the fishery.

III. Data

OMB Number: 0648–0631.

Form Number: None.

Type of Review: Regular submission (reinstatement without change of a previously approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 9.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 9.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 18, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–24132 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Matters Related to First Inventor to File''

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

Agency: United States Patent and Trademark Office, Commerce.

Title: Matters Related to First Inventor to File.

OMB Control Number: 0651–0071.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 50,150.

Average Time per Response: 6.79 hours (between 2 and 10 hours, depending upon the instrument used).

Burden Hours: 340,300.

Cost Burden: $8,475.50.

Needs and Uses: This information collection is necessary so that patent applicants and/or patentees may: (1) Provide a statement if a nonprovisional application filed on or after March 16, 2013, claims the benefit of the filing date of a foreign, provisional, or nonprovisional application filed prior to March 16, 2013, and also contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013; (2) provide a statement if a nonprovisional application filed on or after March 16, 2013, claims the benefit of the filing date of a foreign, provisional, or nonprovisional application filed prior to March 16, 2013, does not contain a claim to a claimed invention that has an effective filing date on or after March 16, 2013, but discloses subject matter not also disclosed in the foreign, provisional, or nonprovisional application; (3) identify the inventor, and ownership on the effective filing date, of each claimed invention in an application or patent with more than one named inventor, when necessary for purposes of a USPTO proceeding; and (4) show that a disclosure was by the inventor or joint inventor, or was by a party who obtained the subject matter from the inventor or a joint inventor, or that there was a prior public disclosure by the inventor or a joint inventor, or by a party who obtained the subject matter from the inventor or a joint inventor.

The USPTO will use the statement that a nonprovisional application filed on or after March 16, 2013, that claims the benefit of the filing date of a foreign, provisional, or nonprovisional application filed prior to March 16, 2013, contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013, or that such application does not contain a claim to a claimed invention that has an effective filing date on or after March 16, 2013, but discloses subject matter not also disclosed in the foreign, provisional, or nonprovisional application (or lack of such a statement) to readily determine whether the nonprovisional application is subject to the changes to 35 U.S.C. 102 and 103 in the AIA. The USPTO will use the identification of the inventor, and ownership on the effective filing date, when it is necessary to determine whether a U.S. patent or U.S. patent application publication resulting from another nonprovisional application qualifies as prior art under 35 U.S.C. 102(a)(2). The USPTO will use information concerning whether a disclosure was by the inventor or joint inventor, or was by a party who obtained the subject matter from the inventor or a joint inventor, or that there was a prior public disclosure by the inventor or a joint inventor, or by a party who obtained the subject matter from the inventor or a joint inventor, to determine whether the disclosure qualifies as prior art under 35 U.S.C. 102(a)(1) or (a)(2).

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0071 copy request'' in the subject line of the message.

• *Mail:* Joseph Rivera, Deputy Director, Office of Information Management Services, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 23, 2015 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202 395–5167, marked to the attention of Nicholas A. Fraser.

Dated: September 15, 2015.

Joseph Rivera,

Deputy Director, Office of Information Management Services, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–24144 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Patent Review and Derivation Proceedings''

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

Agency: United States Patent and Trademark Office, Commerce.

Title: Patent Review and Derivation Proceedings.

OMB Control Number: 0651–0069.

Form Number(s):

• N/A

Type of Request: Regular.

Number of Respondents: 11,349 per year.

Average Minutes per Response: Average response of 128.6 hours, with response times ranging from 0.1–165.3 hours.

Burden Hours: 1,459,184.

Cost Burden: $60,404,425.50.

Needs and Uses: The public will use this new information collection to petition the Patent Trial and Appeal Board (PTAB) to seek institution of, and to participate in, *inter partes* reviews, post-grant reviews, covered business method patent reviews, and derivation proceedings. The PTAB will use the information collected under these final rulemakings in deciding the various proceedings. The PTAB disseminates information that it collects (unless filed under seal) through various publications and databases. This information includes the filings of the parties and decisions and orders by the Board in trials and derivation proceedings.

Affected Public: Individuals or households; businesses or other for-profit institutions; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov*.

Once submitted, the request will be publicly available in electronic format through *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov*. Include ''0651–0069 copy request'' in the subject line of the message.

• *Mail:* Joseph Rivera, Deputy Director, Office of Information Management Services, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 23, 2015 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: September 16, 2015.

Joseph Rivera,

Deputy Director, Office of Information Management Services, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–24142 Filed 9–22–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (Judicial Proceedings Panel); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Judicial Proceedings since Fiscal Year 2012 Amendments Panel (''the Judicial Proceedings Panel'' or ''the Panel''). The meeting is open to the public.

DATES: A meeting of the Judicial Proceedings Panel will be held on Friday, October 9, 2015. The Public Session will begin at 9:00 a.m. and end at 5:00 p.m.

ADDRESSES: The Holiday Inn Arlington at Ballston, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Carson, Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *whs.pentagon.em.mbx.judicial-panel@mail.mil.* Phone: (703) 693–3849. Web site: *http://jpp.whs.mil.*

SUPPLEMENTARY INFORMATION: This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: In Section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), as amended, Congress tasked the Judicial Proceedings Panel to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. At this meeting, the Panel will deliberate on issues relating to restitution and compensation for sexual assault victims as well as retaliation against individuals who report incidents of sexual assault within the military. It will also examine military justice data for sexual assault crimes and comparative sentencing schemes. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to these issues or any of the Panel's tasks.

Agenda

• 9:00 a.m.–10:30 a.m. Deliberations on Restitution Compensation for Sexual Assault Victims

- 10:30 a.m.–12:00 p.m. Deliberations on Retaliation Against Victims of Sexual Assault Crimes
- 12:00 p.m.–1:00 p.m. Lunch
- 1:00 p.m.–3:00 p.m. How the Department of Defense and the Military Services Manage Military Justice Data for Sexual Assault Cases
- 3:00 p.m.–4:15 p.m. Comparing Sexual Assault Crime Sentencing in Military and Civilian Courts
- 4:15 p.m.–4:45 p.m. Panel Discussion: Courts-Martial Data and Trends Analysis
- 4:45 p.m.–5:00 p.m. Public Comment

Availability of Materials for the Meeting: A copy of the October 9, 2015 public meeting agenda or any updates or changes to the agenda, to include individual speakers not identified at the time of this notice, as well as other materials provided to Panel members for use at the public meeting, may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by the JPP at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. Oral presentations by members of the public will be permitted from 4:45 p.m. to 5:00 p.m. on October 9, 2015 in front of the Panel members. The number of oral presentations to be made will depend on the number of requests received from members of the public on a first-come basis. After reviewing the requests for oral presentation, the Chairperson and the Designated Federal Officer will, if they determine the statement to be relevant to the Panel's mission, allot five minutes to persons desiring to make an oral presentation.

Committee's Designated Federal Officer: The Panel's Designated Federal Officer is Ms. Maria Fried, Department of Defense, Office of the General Counsel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: September 17, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24078 Filed 9–22–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Federal Interagency Steering Committee on Multimedia Environmental Modeling Meeting

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: The annual public meeting of the Federal Interagency Steering Committee on Multimedia Environmental Modeling (ISCMEM) will convene to discuss some of the latest developments in environmental modeling applications, tools and frameworks, as well as new operational initiatives for FY 2016 among the participating agencies. The meeting this year will emphasize environmental modeling challenges in the California Bay Delta.

DATES: October 27–28, 2015, from 8 a.m. to 5 p.m.

ADDRESSES: Department of the Army, Corps of Engineers, Institute for Water Resources, 609 Second Street, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be emailed to: Patrick Deliman, ISCMEM Chair, U.S. Army Corps of Engineers, Engineering Research And Development Center, CEERD–EZT, 3909 Halls Ferry Road, Vicksburg, MS 39046. TEL 601–634–3623. *Patrick.N.Deliman@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Background: Nine Federal agencies have been cooperating under a Memorandum of Understanding (MOU) on the research and development of multimedia environmental models. The MOU, which was revised in 2012, continues an effort that began in 2001. It establishes a framework for facilitating cooperation and coordination among the following agencies (the specific research organization within the agency is in parentheses): National Science Foundation; U.S. Army Corps of Engineers (Engineer Research and Development Center); U.S. Department of Agriculture (Natural Resources Conservation Service); U.S. Department of Energy (Office of Biological and Environmental Research); U.S. Environmental Protection Agency; U.S. Geological Survey; U.S. National Oceanographic and Atmosphere Administration; U.S. Nuclear Regulatory Commission (Office of Nuclear Regulatory Research); and U.S. Bureau of Reclamation. These agencies are cooperating and coordinating in the research and development (R&D) of multimedia environmental models, software and related databases, including development, enhancements, applications and assessments of site specific, generic, and process-oriented multimedia environmental models as they pertain to human and environmental health risk assessment. Multimedia model development and simulation supports interagency interests in risk assessment, uncertainty analyses, water supply issues and contaminant transport.

Purpose of the Public Meeting: The annual public meeting and workshop provides an opportunity for the scientific community, other Federal and State agencies, and the public to be briefed on ISCMEM activities and their initiatives for the upcoming year, and to discuss technological advancements in multimedia environmental modeling.

Proposed Agenda: The ISCMEM Chair will open the meeting with a brief overview of the goals of the MOU and an update on current activities of ISCMEM. This introduction will be followed by a series of invited presentations starting on Wednesday morning, October 28, 2015, and ending on Thursday afternoon, October 29, 2015.

Meeting Access: The meeting will be available through Web Meeting Services. To obtain web access to the

ISCMEM October 28–29 meeting and workshop, all interested attendees will need to pre-register by emailing Julie Marcy (*Julie.B.Marcy@usace.army.mil*) and Patrick Deliman (*Patrick.N.Deliman@usace.army.mil*), indicating their intent to participate in the meeting and providing their full contact information and affiliation.

Dated: September 17, 2015.

Patrick N. Deliman,

Chair, Federal Interagency Steering Committee on Multimedia Environmental Modeling.

[FR Doc. 2015–24172 Filed 9–22–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

National Power Transformer Reserve

AGENCY: Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

ACTION: Request for Information; re-opening of comment period.

SUMMARY: On July 9, 2015, the Department of Energy (DOE) published in the **Federal Register** a Request for Information (RFI) regarding the policy development related to the possible establishment of a national reserve of power transformers that support the bulk power grid and requested public comment by August 24, 2015. DOE is re-opening the original public comment period for this RFI.

DATES: The comment period for the RFI published July 9, 2015 is re-opened. Written comments must be received on or before October 7, 2015.

ADDRESSES: Comments can be submitted by any of the following methods and must be identified by ''Transformer Reserve''. By the *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments. By email: *LPT.RFI.2015@hq.doe.gov*, and include ''Transformer Reserve'' in the subject line of the message. By mail: Alice Lippert, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 1E–078, 1000 Independence Avenue SW., Washington, DC 20585. Note: Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email.

FOR FURTHER INFORMATION CONTACT: Ms. Alice Lippert, Office of Electricity Delivery and Energy Reliability, U. S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 at *Alice.Lippert@hq.doe.gov*, or by email: *LPT.RFI.2015@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On July 9, 2015, the DOE published a request for information in the **Federal Register** (80 FR 39422). DOE is seeking comments and information from interested parties to inform its policy development related to the possible establishment of a national reserve of power transformers that support the bulk power grid. The focus of the RFI is on the design and implementation of a National Power Transformer Reserve Program.

The July 9 notice requested comments and information from interested parties to inform its policy development related to the possible establishment of a national reserve of power transformers that support the bulk power grid by August 24, 2015. DOE is re-opening the comment period to allow additional time for more substantive comment on the significant questions to which DOE is seeking response.

DOE believes that re-opening the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is re-opening the comment period to provide interested parties additional time to prepare and submit comments and will consider any comments received by the new closing date. All comments received between the original August 24 closing date and the new closing date are considered timely filed, so people who submitted late comments during the original comment period do not need to re-submit comments.

Issued in Washington, DC, on September 18, 2015.

Liz Dalton,

Principal Deputy Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2015–24163 Filed 9–22–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 15–130–LNG]

ConocoPhillips Company; Application for Blanket Authorization To Export Previously Imported Liquefied Natural Gas on a Short-Term Basis

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on August 27, 2015, by ConocoPhillips Company (ConocoPhillips), requesting blanket authorization to export liquefied natural gas (LNG) previously imported into the United States from foreign sources in an amount up to the equivalent of 500 billion cubic feet (Bcf) of natural gas on a short-term or spot market basis for a two-year period commencing on January 1, 2016.[1] ConocoPhillips seeks authorization to export the LNG from the LNG terminal facilities owned by Freeport LNG Development, L.P. located on Quintana Island, Texas,[2] to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. ConocoPhillips states that it does not seek authorization to export any domestically produced natural gas or LNG. DOE/FE notes that ConocoPhillips currently holds a blanket authorization to import LNG from various international sources by vessel, and to export LNG to Canada and Mexico by vessel, in an amount up to the equivalent of 500 Bcf of natural gas.[3] ConocoPhillips is requesting this authorization both on its own behalf and as agent for other parties who will hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in ConocoPhillips's Application, posted on the DOE/FE Web site at: *http://energy.gov/fe/downloads/freeport-lng-development-lp-fe-dkt-no-15-130-lng*. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the **Public Comment Procedures** Section No Later than 4:30 p.m., Eastern time, October 23, 2015.

ADDRESSES:

Electronic Filing by Email fergas@hq.doe.gov.

Regular Mail

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security

[1] ConocoPhillips's current blanket authorization to export previously imported LNG, granted in DOE/FE Order No. 3359 on November 7, 2013, extends through December 31, 2015 (FE Docket No. 13–97–LNG).

[2] ConocoPhillips states that it has a commercial terminaling arrangement at the Freeport LNG Terminal that currently extends through June 30, 2016, and the parties are contemplating entering into other terminaling arrangements thereafter.

[3] *ConocoPhillips Co.*, DOE/FE Order No. 3685, FE Docket No. 15–102–LNG, Order Granting Blanket Authorization to Import Liquefied Natural Gas from Various International Sources by Vessel and to Export LNG to Canada and Mexico by Vessel (July 23, 2015).

and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Beverly Howard, or Larine Moore, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9387; (202) 586–9478.

Cassandra Bernstein, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–9793.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00N (July 11, 2013) and DOE Redelegation Order No. 00–006.02 (Nov. 17, 2014). In reviewing this LNG export application, DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 15–130–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 15–130–LNG. **Please Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on September 17, 2015.

John A. Anderson,

Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2015–24197 Filed 9–22–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–208–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Section 203 Application of Consolidated Edison Company of New York, Inc.
Filed Date: 9/16/15.
Accession Number: 20150916–5155.
Comments Due: 5 p.m. ET 10/7/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–125–000.
Applicants: Colbeck's Corner, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Colbeck's Corner, LLC.
Filed Date: 9/17/15.
Accession Number: 20150917–5024.
Comments Due: 5 p.m. ET 10/8/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1437–002.
Applicants: Tampa Electric Company.
Description: Third Supplement to June 30, 2014 Triennial Market Power Update of Tampa Electric Company.
Filed Date: 9/16/15.
Accession Number: 20150916–5150.
Comments Due: 5 p.m. ET 10/7/15.

Docket Numbers: ER15–2500–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: Amended Distribution Service Agreement with Edom Hills to be effective 10/1/2015.
Filed Date: 9/17/15.
Accession Number: 20150917–5072.
Comments Due: 5 p.m. ET 10/8/15.

Docket Numbers: ER15–2657–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2015–09–16_Order 1000 CTDS

Enhancement Filing to be effective 11/16/2015.

Filed Date: 9/16/15.

Accession Number: 20150916–5137.

Comments Due: 5 p.m. ET 10/7/15.

Docket Numbers: ER15–2658–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2015–09–16_Order 1000 (TOA) CTDS Enhancement Filing to be effective 11/15/2015.

Filed Date: 9/16/15.

Accession Number: 20150916–5139.

Comments Due: 5 p.m. ET 10/7/15.

Docket Numbers: ER15–2659–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended SGIA SEPV Palmdale East, LLC to be effective 11/17/2015.

Filed Date: 9/17/15.

Accession Number: 20150917–5002.

Comments Due: 5 p.m. ET 10/8/15.

Docket Numbers: ER15–2660–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Annual Calculation of the Cost of New Entry value (''CONE'') for each Local Resource Zone (''LRZ'') in the MISO Region of Midcontinent Independent System Operator, Inc.

Filed Date: 9/16/15.

Accession Number: 20150916–5149.

Comments Due: 5 p.m. ET 10/7/15.

Docket Numbers: ER15–2661–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA SA No. 4259, Queue No. Z1–110 to be effective 7/22/2015.

Filed Date: 9/17/15.

Accession Number: 20150917–5070.

Comments Due: 5 p.m. ET 10/8/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 17, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–24135 Filed 9–22–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD06–6–000]

Joint Meeting of the Nuclear Regulatory Commission and the Federal Energy Regulatory Commission; Notice of Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission

The Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) will hold a joint meeting on Wednesday, October 21, 2015 at the headquarters of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The meeting is expected to begin at 9:00 a.m. and conclude at approximately 11:30 a.m. Eastern Time. Members of the public may attend the open session. Commissioners from both agencies are expected to participate.

The format for the joint meeting will consist of discussions between the two sets of Commissioners following presentations by their respective staffs. In addition, representatives of the North American Electric Reliability Corporation (NERC) will attend and participate in this meeting.

The technical conference will be transcribed. Transcripts of the technical conference will be available for a fee from Ace-Federal Reporters, Inc. ((202) 347–3700 or 1 (800) 336–6646). There will be a free Webcast of the conference. The webcast will allow persons to listen to the technical conference, but not participate. Anyone with Internet access can listen to the conference by navigating to the Calendar of Events at *www.ferc.gov* and locating the technical conference in the Calendar. The technical conference will contain a link to its webcast. The Capital Connection provides technical support for the webcast and offers the option of listing to the meeting via phone-bridge for a fee. If you have any questions, please visit *www.CapitolConnection.org* or call 703–993–3100.[1]

Pre-registration is not required but is highly encouraged for those attending in person. Attendees may register in advance at the following Web page: *https://www.ferc.gov/whats-new/registration/10-21-15-NRC-form.asp.* Attendees should bring a photo ID and allow time to pass through building security procedures. There is no fee to attend the open meeting.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

Questions about the meeting should be directed to Sarah McKinley at *sarah.mckinley@ferc.gov* or by phone at 202–502–8368.

[1] The Webcast will continue to be available on the Calendar of Events on the Commission's Web site *www.ferc.gov* for three months after the conference.

Dated: September 17, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–24134 Filed 9–22–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF15–9–000]

Before Commissioners: Norman C. Bay, Chairman; Philip D. Moeller, Cheryl A. LaFleur, Tony Clark, and Colette D. Honorable; Bonneville Power Administration; Order Approving Rates on an Interim Basis and Providing Opportunity for Additional Comments

1. In this order, we approve the Bonneville Power Administration's (Bonneville) proposed 2016 wholesale power and transmission rates on an interim basis, pending our further review. We also provide an additional period of time for the parties to file comments.

I. Background

2. On July 29, 2015, Bonneville filed a request for interim and final approval of its wholesale power [1] and transmission rates [2] in accordance with

[1] The proposed wholesale power rates for which Bonneville seeks approval for the period October 1, 2015 through September 30, 2017, include: Priority Firm Power Rate (PF–16); New Resource Firm Power Rate (NR–16); Industrial Firm Power Rate (IP–16); Firm Power Products and Services Rate (FPS–16); and Power General Rate Schedule Provisions (GRSPs).

[2] The proposed transmission rates for which Bonneville seeks approval for the period October 1, 2015 through September 30, 2017, include: Formula Power Transmission Rate (FPT–16.1); Formula

Continued

the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) [3] and Part 300 of the Commission's regulations.[4] Bonneville projects that the filed rates will produce average annual power revenues of $2.861 billion, and average annual revenues from transmission and ancillary services rates of $1.085 billion. Bonneville asserts that this level of annual revenues is sufficient to recover its costs for the 2016–2017 rate approval period, while providing cash flow to ensure at least a 95 percent probability of making all payments to the United States Treasury in full and on time for each year of the rate period.

II. Notice of Filing

3. Notice of Bonneville's application was published in the **Federal Register**,[5] with protests and interventions due on or before August 28, 2015. Timely motions to intervene were filed by the Turlock Irrigation District, Calpine Corporation, Public Power Council, Industrial Customers of Northwest Utilities, Northwest Requirements Utilities, Public Power Council, Idaho Power Company, PacifiCorp, Puget Sound Company, M-S-R Public Power Agency, Caithness Shepherds Flat LLC, Modesto Irrigation District, Pacific Northwest Generating Cooperative, Western Public Agencies Group, Powerex Corporation and Portland General Electric Company.

4. Iberdrola Renewables, LLC (Iberdrola) filed a motion to intervene and protest. Iberdrola asserts that Bonneville's Oversupply Rate, OS–16, violates the Northwest Power Act by incorrectly allocating Bonneville's power costs to Bonneville's transmission customers.[6] Iberdrola quotes Northwest Power Act section 7(g) as saying all costs of fish and wildlife measures, as well as all costs associated with the sale of or inability to sell excess power, must be allocated to power rates.[7] Iberdrola argues Bonneville's oversupply management costs are fish and wildlife costs as well as costs associated with the inability to sell excess electric power, and thus should be allocated to power customers, not transmission customers.[8] Iberdrola continues that, although Bonneville states that oversupply costs occur because wind generators have been interconnected to its system, the oversupply costs are actually caused by Bonneville having too much generation and not enough load, and having fish-protection restrictions on spillage that require Bonneville to pay someone to take the excess generation.[9] Finally, Iberdrola argues that if Bonneville wishes to extend the use of the Oversupply Management Proposal (OMP) for the 2016–17 rate period, it should submit those rates to the Commission for review and approval under Federal Power Act section 211A.[10]

5. Avista Corporation, Portland General Electric Company, Puget Sound Energy, Inc, and PacifiCorp (collectively Joint Commenters) filed Joint Comments requesting that the Commission reject Bonneville's proposed allocation of oversupply costs to transmission customers and deny Bonneville's application for confirmation and approval of the OS–16 Rate.[11] The Joint Commenters request that the OS–16 Rate should be rejected as a permanent solution to Bonneville's purported oversupply.[12] The Joint Commenters also request that the Commission not rely on its prior OS–14 rate determinations in reviewing the OS–16 rate,[13] and that Bonneville's proposed allocation of oversupply costs to transmission is based on the flawed premise that interconnection of, or scheduling of transmission for, generation in Bonneville's Balancing Authority Area causes oversupply.[14] The Joint Commenters also assert that it is Bonneville's reliance on OMP and its failure to take all reasonable actions to avoid excess spill that lead to the erroneous conclusion that transmission of displaceable generation interconnected in Bonneville's Balancing Authority Area causes oversupply.[15] The Joint Commenters further assert that the Northwest Power Act [16] and Transmission System Act [17] cost allocation standards prohibit the allocation of oversupply costs to transmission rates.[18]

III. Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[19] the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure [20] prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority.

B. Standard of Review

8. Under the Northwest Power Act, the Commission's review of Bonneville's regional power and transmission rates is limited to determining whether Bonneville's proposed rates meet the three specific requirements of section 7(a)(2) of the Northwest Power Act: [21]

(A) They must be sufficient to assure repayment of the federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting Bonneville's other costs;

(B) they must be based upon Bonneville's total system costs; and

(C) insofar as transmission rates are concerned, they must equitably allocate the costs of the federal transmission system between federal and non-federal power.

9. Commission review of Bonneville's non-regional, non-firm rates also is limited. Review is restricted to determining whether such rates meet the requirements of section 7(k) of the Northwest Power Act,[22] which requires that they comply with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Taken together, those statutes require that Bonneville's non-regional, non-firm rates:

(A) Recover the cost of generation and transmission of such electric energy, including the amortization of investments in the power projects within a reasonable period;

(B) encourage the most widespread use of Bonneville power; and

Power Transmission Rate (FPT–16.3); Integration of Resources Rate (IR–16); Network Integration Rate (NT–16); Point-to-Point Rate (PTP–16); Southern Intertie Rate (IS–16); Montana Intertie Rate (IM–16); Use-of-Facilities Transmission Rate (UFT–16); Advance Funding Rate (AF–16); Ancillary Services and Control Area Services Rates (ACS–16); Townsend-Garrison Transmission Rate (TGT–16); WECC and Peak Service Rate (PW–16); Oversupply Rate (OS–16); Eastern Intertie Rate (IE–16); and Transmission General Rate Schedule Provisions (GRSPs).

[3] 16 U.S.C. 839e (2012).

[4] 18 CFR Part 300 (2015).

[5] 80 FR 46,983 (Aug. 8, 2015).

[6] Iberdrola Protest at 3.

[7] *Id.* at 4.

[8] *Id.* at 5.

[9] *Id.* at 6.

[10] *Id.* at 7–8; 16 U.S.C. 824j–1(f) (2012).

[11] Joint Commenters at 18.

[12] Joint Commenters at 2, citing *Bonneville Power Admin.,* 149 FERC ¶ 61,043 (2014).

[13] *Id.* at 5–6.

[14] *Id.* at 7–11.

[15] *Id.* at 11–14.

[16] 16 U.S.C. 839 (2012).

[17] 16 U.S.C. 838 (2012).

[18] *Id.* at 14–17.

[19] 18 CFR 385.214 (2015).

[20] 18 CFR 385.213(a)(2) (2015),

[21] 16 U.S.C. 839e(a)(2) (2012). Bonneville also must comply with the financial, accounting, and ratemaking requirements in Department of Energy Order No. RA 6120.2.

[22] 16 U.S.C. 839e(k) (2012).

(C) provide the lowest possible rates to consumers consistent with sound business principles.

10. Unlike the Commission's statutory authority under the Federal Power Act, the Commission's authority under sections 7(a) and 7(k) of the Northwest Power Act does not include the power to modify the rates. The responsibility for developing rates in the first instance is vested with Bonneville's Administrator. The rates are then submitted to the Commission for approval or disapproval. In this regard, the Commission's role can be viewed as an appellate one: to affirm or remand the rates submitted to it for review.[23]

11. Moreover, review at this interim stage is further limited. In view of the volume and complexity of a Bonneville rate application, such as the one now before the Commission in this filing, and the limited period in advance of the requested effective date in which to review the application,[24] the Commission generally defers resolution of issues on the merits of Bonneville's application until the order on final confirmation. Thus, the proposed rates, if not patently deficient, generally are approved on an interim basis and the parties are afforded an additional opportunity in which to raise issues with regard to Bonneville's filing.[25]

12. The Commission declines at this time to grant final confirmation and approval of Bonneville's proposed wholesale power and transmission rates. The Commission's preliminary review nevertheless indicates that Bonneville's wholesale power and transmission rates filing appears to meet the statutory standards and the minimum threshold filing requirements of Part 300 of the Commission's regulations.[26] Moreover, the Commission's preliminary review of Bonneville's submittal indicates that it does not contain any patent deficiencies. The proposed rates therefore will be approved on an interim basis pending our further review. We note, as well, that no one will be harmed by this decision because interim approval allows Bonneville's rates to go into effect subject to refund with interest; the Commission may order refunds with interest if the Commission later determines in its final decision not to approve the rates.[27]

13. In addition, we will provide an additional period of time for parties to file comments and reply comments on issues related to final confirmation and approval of Bonneville's proposed rates. This will ensure that the record in this proceeding is complete and fully developed.

The Commission orders:

(A) Interim approval of Bonneville's proposed wholesale power and transmission rates is hereby granted, to become effective on October 1, 2015, through September 30, 2017, subject to refund with interest as set forth in section 300.20(c) of the Commission's regulations [28] pending final action and either their approval or disapproval.

(B) Within thirty (30) days of the date of this order, parties who wish to do so may file additional comments regarding final confirmation and approval of Bonneville's proposed rates. Parties who wish to do so may file reply comments within twenty (20) days thereafter.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Issued: September 17, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–24136 Filed 9–22–15; 8:45 am]

BILLING CODE 6717–01–P

[23] *See, e.g., United States Department of Energy—Bonneville Power Admin.,* 67 FERC ¶ 61,351, at 62,216–17 (1994); *see also, e.g., Aluminum Co. of America* v. *Bonneville Power Admin.,* 903 F.2d 585, 592–93 (9th Cir. 1989).

[24] *See* 18 CFR 300.10(a)(3)(ii) (2015).

[25] *See, e.g., United States Department of Energy—Bonneville Power Administration,* 64 FERC ¶ 61,375, at 63,606 (1993); *United States Department of Energy—Bonneville Power Admin.,* 40 FERC ¶ 61,351, at 62,059–60 (1987).

[26] *See, e.g., United States Department of Energy—Bonneville Power Admin.,* 105 FERC ¶ 61,006, at PP 13–14 (2003); *United States Department of Energy—Bonneville Power Admin.,* 96 FERC ¶ 61,360, at 62,358 (2001).

[27] *See* 18 CFR 300.20(c) (2015).

[28] 18 CFR 300.20(c) (2015).

DEPARTMENT OF ENERGY

Southeastern Power Administration

Kerr-Philpott System

AGENCY: Southeastern Power Administration, (Southeastern), Department of Energy.

ACTION: Notice of interim approval.

SUMMARY: The Deputy Secretary, Department of Energy, confirmed and approved, on an interim basis new rate schedules VA–1–C, VA–2–C, VA–3–C, VA–4–C, DEP–1–C, DEP–2–C, DEP–3–C, DEP–4–C, AP–1–C, AP–2–C, AP–3–C, AP–4–C, NC–1–C, and Replacement–2–B. These rate schedules are applicable to Southeastern power sold to existing preference customers in the Virginia and North Carolina service area. The rate schedules are approved on an interim basis through September 30, 2020, and are subject to confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis.

DATES: The rates are effective October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–4578, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission, by Order issued March 11, 2011, in Docket No. EF10–8–000 (134 FERC 62,233), confirmed and approved Wholesale Power Rate Schedules VA–1–B, VA–2–B, VA–3–B, VA–4–B, CP&L–1–B, CP&L–2–B, CP&L–3–B, CP&L–4–B, AP–1–B, AP–2–B, AP–3–B, AP–4–B, NC–1–B, and Replacement–2–A through September 30, 2015. This order replaces these rate schedules on an interim basis, subject to final approval by FERC.

Dated: September 16, 2015.

Elizabeth Sherwood-Randall,

Deputy Secretary of Energy.

Department of Energy

Deputy Secretary

In the Matter of: Southeastern Power Administration), Kerr-Philpott System Power Rates), Rate Order No. SEPA–58

Order Confirming and Approving Power Rates on an Interim Basis

Pursuant to Sections 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00A, effective December 6, 2001, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates, to the Deputy Secretary of Energy the authority to confirm, approve, and place in effect such rates on interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place into effect on a final basis or to disapprove rates developed by the Administrator under the delegation. This rate is issued by the Deputy Secretary pursuant to that delegation order.

Background

Power from the Kerr-Philpott Projects is presently sold under Wholesale

Power Rate Schedules VA–1–B, VA–2–B, VA–3–B, VA–4–B, CP&L–1–B, CP&L–2–B, CP&L–3–B, CP&L–4–B, AP–1–B, AP–2–B, AP–3–B, AP–4–B, NC–1–B, and Replacement–2–A. These rate schedules were approved by the FERC on March 11, 2011, for a period ending September 30, 2015 (134 FERC 62,233).

Public Notice and Comment

Notice of a proposed rate adjustment for the Kerr-Philpott System was published in the **Federal Register** (80 FR 12819) on March 11, 2015. The notice advised interested parties that a public information and comment forum would be held in Boydton, Virginia on April 21, 2015. Written comments were due on or before June 9, 2015. The proposed rate adjustment was a reduction of about six percent (6%).

Subsequent to the Public Information and Comment Forum on April 21, Southeastern discovered an error due to omissions in the repayment study used to develop the proposed rate schedules. Two accounting lines were omitted from the estimated Corps O&M expenses included in the study. The accounting lines were Work Category Code 602, Operation for Flood Damage Reduction, and Work Category Code 612, Maintenance for Flood Damage Reduction. On June 1, 2015, Southeastern sent a letter to all Kerr-Philpott customers notifying them of the error and notifying them Southeastern intended to add the omitted accounting lines and correct the error in the rate schedules Southeastern would recommend to the Deputy Secretary. After these corrections, the proposed rate is an increase of about 2.2 percent.

Southeastern received comments from one source, the Southeast Federal Power Customers, Inc., as a result of the above notifications. The comments and Southeastern's response are below.

Comment: *The SeFPC questions whether the expenses in accounts WCC 602 and 612 should properly be assigned to hydropower as a joint expense. Given the Congressional Mandate to provide flood control at the Kerr and Philpott projects, the assignment of these costs appears to be arbitrary, capricious, and not consistent with the authorizing statutes. The SeFPC would ask SEPA to review the inclusion of these costs and work with Corps representatives to remove such expenses as joint expense for purpose of the proposed rate. Failure to take this action would impose over $10 million in additional cost for the hydropower customers over the five year study period in the repayment study which should properly be borne by the flood control purpose.*

The referenced Work Category Codes 602 and 612 contain operation and maintenance expenses associated with flood risk management. The Corps has taken the position the John H. Kerr and Philpott final cost allocations state that the only specific costs at these reservoirs are Power and Recreation, and that as a result, the Corps cannot charge costs to the flood control purpose at these projects.

The $10 million assigned to hydropower and disputed by SeFPC include the operations, maintenance and readiness of equipment associated with spillways, sluices, pumping plants and earthen dams. The Corps has included these costs in the O&M expenses included in the financial statements provided to Southeastern for the John H. Kerr and Philpott projects. SeFPC has raised legitimate questions about the nature and assignment of WCC s 602 and 612. Further study of this issue is necessary. Southeastern will continue to discuss with the Corps the appropriateness of assigning these costs solely to hydropower.

Southeastern and the Corps have discussed the need for a new authorized purpose allocation study and agreed to jointly fund the effort. Once completed, Southeastern and the Corps will work together to determine whether costs in these accounts should be allocated to purposes other than Power and Recreation. A reallocation could significantly reduce the proportion of charges assigned to Southeastern's power customers and ensure that costs are being assigned to appropriate cost-causers.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in July 2015, for the Kerr-Philpott System shows that with the proposed rates, all system power costs are paid within the appropriate repayment period required by existing law and DOE Procedure RA 6120.2. The Administrator of Southeastern Power Administration has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles, pursuant to section 5 of the Flood Control Act (16 U.S.C.A.835(s)).

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded that, because the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C.A 4332), the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies and other supporting materials and transcripts of the public information and comment forum, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635, and in the Power Marketing Liaison Office, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 2015, attached Wholesale Power Rate Schedules VA–1–C, VA–2–C, VA–3–C, VA–4–C, DEP–1–C, DEP–2–C, DEP–3–C, DEP–4–C, AP–1–C, AP–2–C, AP–3–C, AP–4–C, NC–1–C, and Replacement–2–B. The Rate Schedules shall remain in effect on an interim basis through September 30, 2020, unless such period is extended or until the FERC confirms and approves them or substitutes Rate Schedules on a final basis.

Dated: September 16, 2015.

Elizabeth Sherwood-Randall
Deputy Secretary of Energy

Wholesale Power Rate Schedule VA–1–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia and North Carolina to whom power may be transmitted and scheduled pursuant to contracts between the Government, Virginia Electric and Power Company (hereinafter called the Company), the Company's Transmission Operator, currently PJM Interconnection LLC (hereinafter called PJM), and the Customer. This rate schedule is applicable to customers receiving power from the Government on an arrangement where the Company schedules the power and provides the Customer a credit on their bill for Government power. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	$2,730,000	$3,220,000
2017	$2,420,000	$5,640,000
2018	$1,910,000	$7,550,000
2019	$1,910,000	$9,460,000
2020	$2,010,000	$11,470,000
2021	$2,110,000	$13,580,000
2022	$2,190,000	$15,770,000
2023	$2,290,000	$18,060,000
2024	$2,400,000	$20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and any ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company or PJM. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$0.775 per kilowatt of total contract demand per month estimated as of April 2015, is presented for illustrative purposes.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charge:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts) in the month incurred.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy

each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the FERC, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule VA–2–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia and North Carolina to whom power may be transmitted pursuant to contracts between the Government, Virginia Electric and Power Company (hereinafter called the Company), the Company's Transmission Operator, currently PJM Interconnection LLC (hereinafter called PJM), and the Customer. The Customer has chosen to self-schedule and does not receive Government power under an arrangement where the Company schedules the power and provides a credit on the Customer's bill for Government power. The Customer is responsible for providing a scheduling arrangement with the Government. The Government is responsible for arranging transmission with the Company and PJM. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and any ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company or PJM. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$0.775 per kilowatt of total contract demand per month estimated as of April 2015, is presented for illustrative purposes.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and ancillary services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may

charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charge:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts) in the month incurred.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by FERC, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule VA–3–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia and North Carolina to whom power may be scheduled pursuant to contracts between the Government, Virginia Electric and Power Company (hereinafter called the Company), the Company's Transmission Operator, currently PJM Interconnection LLC (hereinafter called PJM), and the Customer. The Government is responsible for providing the scheduling. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base

capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for Transmission and Ancillary Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company or PJM. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charge:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts) in the month incurred.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule VA–4–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia and North Carolina served through the transmission facilities of Virginia Electric and Power Company (hereinafter called the Company) and PJM Interconnection LLC (hereinafter called PJM). The Customer has chosen to self-schedule and does not receive Government power under an arrangement where the Company schedules the power and provides a credit on the Customer's bill for Government power. The Customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company or PJM. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charge:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts) in the month incurred.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the FERC, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule DEP–1–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be transmitted and scheduled pursuant to contracts between the Government and Duke Energy Progress (formerly known as Carolina Power & Light Company and hereinafter called the Company) and the Customer. This rate schedule is applicable to customers receiving power from the Government on an arrangement where the Company schedules the power and provides the Customer a credit on their bill for Government power. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$1.546 per kilowatt of total contract demand per month as of April 2015, is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The rate is subject to periodic adjustment and will be computed in accordance with the terms of the Government-Company contract.

Proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT) or the distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission, in accordance with the Government-Company contract, is six (6) per cent. This loss factor will be governed by the terms of the Government-Company contract.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule DEP–2–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be transmitted pursuant to contracts between the Government and Duke Energy Progress (formerly known as Carolina Power & Light Company and hereinafter called the Company) and the Customer. The Customer has chosen to self-schedule and does not receive Government power under an arrangement where the Company schedules the power and provides a credit on the Customer's bill for Government power. The Customer is responsible for providing a scheduling arrangement with the Government. The Government is responsible for arranging transmission with the Company. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$1.546 per kilowatt of total contract demand per month as of April 2015, is presented for illustrative purposes.

The initial transmission charge will be the Customer's ratable share of the transmission and distribution charges paid by the Government. The rate is subject to periodic adjustment and will be computed in accordance with the terms of the Government-Company contract.

Proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT) or the distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission, in accordance with the Government-Company contract, is six (6) per cent. This loss factor will be governed by the terms of the Government-Company contract.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule DEP–3–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Energy Progress (formerly known as Carolina Power & Light Company and hereinafter called the Company) and the Customer. The Government is responsible for providing the scheduling. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Proceedings before FERC involving the Company's Open Access Transmission Tariff (OATT) or the distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission and distribution charges paid by the Government in behalf of the Customer.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or

an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission, in accordance with the Government-Company contract, is six (6) per cent. This loss factor will be governed by the terms of the Government-Company contract.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule DEP–4–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and South Carolina served through the transmission facilities of Duke Energy Progress (formerly known as Carolina Power & Light Company and hereinafter called the Company). The Customer has chosen to self-schedule and does not receive Government power under an arrangement where the Company schedules the power and provides a credit on the Customer's bill for Government power. The Customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or

an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission, in accordance with the Government-Company contract, is six (6) per cent. This loss factor will be governed by the terms of the Government-Company contract.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule AP–1–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia to whom power may be transmitted and scheduled pursuant to contracts between the Government, American Electric Power Service Corporation (hereinafter called the Company), the Company's Transmission Operator, currently PJM Interconnection LLC (hereinafter called PJM), and the Customer. This rate schedule is applicable to customers receiving power from the Government on an arrangement where the Company schedules the power and provides the Customer a credit on their bill for Government power. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$0.775 per kilowatt of total contract demand per month estimated as of April 2015, is a presented for illustrative purposes.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are

governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charge:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts).

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the FERC, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule AP–2–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia to whom power may be transmitted pursuant to contracts between the Government, American Electric Power Service Corporation (hereinafter called the Company), the Company's Transmission Operator, currently PJM Interconnection LLC (hereinafter called PJM), and the Customer. The Customer has chosen to self-schedule and does not receive Government power under an arrangement where the Company schedules the power and provides a credit on the Customer's bill for Government power. The Customer is responsible for providing a scheduling arrangement with the Government. The Government is responsible for arranging transmission with the Company. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Company's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table

above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Transmission:

$0.775 per kilowatt of total contract demand per month estimated as of April 2015, is presented for illustrative purposes.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charges:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts).

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by American Electric Power Service Corporation under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule AP–3–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia to whom power may be scheduled pursuant to contracts between the Government, American Electric Power Service Corporation (hereinafter called the Company), PJM Interconnection LLC (hereinafter called PJM), and the Customer. The Government is responsible for providing the scheduling. The Customer is responsible for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charges:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts).

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the FERC, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule AP–4–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia served through the facilities of American Electric Power Service Corporation (hereinafter called the Company) and PJM Interconnection LLC (hereinafter called PJM). The Customer has chosen to self-schedule and does not receive Government power under an arrangement where the Company schedules the power and provides a credit on the Customer's bill for Government power. The Customer is

responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the Projects.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every $100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for Transmission and Ancillary Services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Company. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of the Company's rate.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Company's or PJM's OATT.

Capacity Performance Non-Performance Charges:

Requirements of the PJM capacity performance market may lead to non-performance charges to Southeastern. These non-performance charges, if incurred, will be allocated to the capacity delivered in PJM (currently 120,100 kilowatts).

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will

purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Company (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the Federal Energy Regulatory Commission, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule NC–1–C

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Virginia and North Carolina to whom power may be transmitted pursuant to a contract between the Government and Virginia Electric and Power Company (hereinafter called the Virginia Power) and PJM Interconnection LLC (hereinafter called PJM), scheduled pursuant to a contract between the Government and Duke Energy Progress (formerly known as Carolina Power & Light and hereinafter called DEP), and billed pursuant to contracts between the Government and the Customer. Nothing in this rate schedule shall preclude modifications to the aforementioned contracts to allow an eligible customer to elect service under another rate schedule.

Applicability:

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the John H. Kerr and Philpott Projects and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The electric capacity and energy supplied hereunder will be delivered at the delivery points of the Customer on the Virginia Power's transmission and distribution system.

Monthly Rate:

The initial base monthly rate for capacity, energy, and generation services provided under this rate schedule for the period specified shall be:

Initial Base Capacity Charge:

$4.40 per kilowatt of total contract demand per month.

Initial Base Energy Charge:

17.80 mills per kilowatt-hour.

The rates are based on a repayment study that projects that the Kerr-Philpott System will produce the following net revenue available for repayment by fiscal year and cumulative net revenue available for repayment by fiscal year:

Fiscal year	Estimated annual net revenue available for repayment	Cumulative net revenue available for repayment
2015	$490,000	$490,000
2016	2,730,000	3,220,000
2017	2,420,000	5,640,000
2018	1,910,000	7,550,000
2019	1,910,000	9,460,000
2020	2,010,000	11,470,000
2021	2,110,000	13,580,000
2022	2,190,000	15,770,000
2023	2,290,000	18,060,000
2024	2,400,000	20,460,000

The rates include a true-up of the capacity and energy rates based on the variance of the actual cumulative net revenue available for repayment from the planned cumulative net revenue available for repayment in the table above. For every 100,000 under-recovery of the planned cumulative net revenue available for repayment, Southeastern will increase the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and increase the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. For every $100,000 of over-recovery of the planned cumulative net revenue available for repayment, Southeastern will reduce the base capacity charge by $0.02 per kilowatt per month, up to a maximum of $0.75 per kilowatt per month, and reduce the base energy charge by 0.10 mills per kilowatt-hour, up to a maximum of 3.0 mills per kilowatt per hour, to be implemented April 1 of the next fiscal year. Southeastern will give written notice to the customers of the amount of the true-up to the capacity and energy rates by February 1 of the next fiscal year.

Additional rates for transmission and ancillary services provided under this rate schedule shall be the rates charged Southeastern Power Administration by the Virginia Power and DEP. Future adjustments to these rates will become effective upon acceptance for filing by the Federal Energy Regulatory Commission (FERC) of Virginia Power's or DEP's rate.

Transmission:

$0.775 per kilowatt of total contract demand per month estimated as of April 2015, is presented for illustrative purposes.

Ancillary Services:

0.34 mills per kilowatt-hour of energy estimated as of April 2015, is presented for illustrative purposes.

The initial charge for transmission and Ancillary Services will be the Customer's ratable share of the charges for transmission, distribution, and ancillary services paid by the Government. The charges for transmission and ancillary services are governed by and subject to refund based upon the determination in proceedings before the FERC involving the Company's or PJM's Open Access Transmission Tariff (OATT).

Proceedings before FERC involving the OATT or the Distribution charge may result in the separation of charges currently included in the transmission rate. In this event, the Government may charge the Customer for any and all separate transmission, ancillary services, and distribution charges paid

by the Government in behalf of the Customer. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Tandem Transmission Charge:

$0.42 per kilowatt of total contract demand per month, as an estimated cost as of April 2015.

The tandem transmission charge will recover the cost of transmitting power from a project to the border of another transmitting system. This rate will be a formulary rate based on the cost to the Government for transmission of power from the Philpott project to the border of the Virginia Electric and Power Company System and the cost to the Government for transmission of power from the John H. Kerr Project to the border of the Duke Energy Progress System. These charges could be recovered through a capacity charge or an energy charge, as determined by the Government.

Transmission and Ancillary Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving the Virginian Power or PJM's OATT.

Transmission, System Control, Reactive, and Regulation Services:

The charges for transmission and ancillary services shall be governed by and subject to refund based upon the determination in the proceeding involving Virginia Power's, DEP's, or PJM's OATT.

Contract Demand:

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Virginia Power (less applicable losses). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Virginia Power's system. The applicable energy loss factor for transmission is specified in the OATT.

These losses shall be effective until modified by the FERC, pursuant to application by the Company or PJM under Section 205 of the Federal Power Act or Southeastern Power Administration under Section 206 of the Federal Power Act or otherwise.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Wholesale Power Rate Schedule Replacement–2–B

Availability:

This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in North Carolina and Virginia to whom power is provided pursuant to contracts between the Government and the customer from the John H. Kerr and Philpott Projects (or Kerr-Philpott System).

Applicability:

This rate schedule shall be applicable to the sale of wholesale energy purchased to meet contract minimum energy and sold under appropriate contracts between the Government and the Customer.

Character of Service:

The energy supplied hereunder will be delivered at the delivery points provided for under appropriate contracts between the Government and the Customer.

Monthly Charge:

The customer will pay its ratable share of Southeastern's monthly cost for replacement energy. The ratable share will be the cost allocation factor for the customer listed in the table below times Southeastern's monthly cost for replacement energy purchased for the Kerr-Philpott System, rounded to the nearest $0.01.

Contract No. 89-00-1501-	Customer	Capacity allocation	Average energy	Cost allocation factor
1230	Albemarle EMC	2,593	6,950,707	1.565921%
1221	B–A–R–C EC	3,740	10,060,472	2.266518%
853	Brunswick EMC	3,515	10,468,686	2.358485%
854	Carteret-Craven EMC	2,679	7,978,836	1.797548%
869	Carteret-Craven EMC	56	42,281	0.009525%
855	Central EMC	1,239	3,690,100	0.831341%
1220	Central Virginia EC	7,956	21,534,960	4.851599%
1203	City of Bedford	1,200	906,166	0.204150%
1204	City of Danville	5,600	4,228,775	0.952698%
895	City of Elizabeth City	2,073	1,565,205	0.352624%
1215	City of Franklin	1,003	754,359	0.169949%
878	City of Kinston	1,466	1,106,893	0.249371%
880	City of Laurinburg	415	313,343	0.070593%
881	City of Lumberton	895	675,764	0.152242%
1205	City of Martinsville	1,600	1,208,222	0.272200%
882	City of New Bern	1,204	909,072	0.204804%
1206	City of Radford	1,300	981,575	0.221138%
885	City of Rocky Mount	2,538	1,916,300	0.431722%
1208	City of Salem	2,200	1,661,127	0.374234%
892	City of Washington	2,703	2,040,882	0.459789%
889	City of Wilson	2,950	2,227,377	0.501805%
1222	Community EC	4,230	11,394,466	2.567053%
1211	Craig-Botetourt EC	1,692	4,575,816	1.030883%
1231	Edgecombe-Martin County EMC	4,155	11,275,547	2.540262%
875	Fayetteville Public Works Commission	5,431	4,100,640	0.923831%
856	Four County EMC	4,198	12,502,857	2.816762%
891	Greenville Utilities Commission	7,534	5,688,496	1.281558%
857	Halifax EMC	585	1,742,299	0.392522%
1232	Halifax EMC	2,021	5,478,308	1.234205%
1216	Harrisonburg Electric Commission	2,691	2,050,360	0.461924%
858	Jones-Onslow EMC	5,184	15,439,450	3.478345%
859	Lumbee River EMC	3,729	11,106,040	2.502074%

Contract No. 89-00-1501-	Customer	Capacity allocation	Average energy	Cost allocation factor
1223	Mecklenburg EMC	11,344	30,806,162	6.940303%
1224	Northern Neck EC	3,944	10,572,278	2.381823%
1225	Northern Virginia EC	3,268	8,875,341	1.999521%
860	Pee Dee EMC	2,968	8,839,562	1.991460%
861	Piedmont EMC	1,086	3,234,540	0.728708%
862	Pitt & Greene EMC	1,580	4,705,697	1.060144%
1226	Prince George EC	2,530	6,781,913	1.527893%
863	Randolph EMC	3,608	10,745,666	2.420885%
1227	Rappahannock EC	22,427	60,450,624	13.618889%
1233	Roanoke EMC	5,528	14,904,403	3.357805%
1228	Shenandoah Valley EMC	9,938	26,943,520	6.070091%
864	South River EMC	6,119	18,224,150	4.105709%
1229	Southside EC	14,575	39,381,017	8.872128%
865	Tideland EMC	680	2,025,236	0.456264%
1234	Tideland EMC	2,418	6,554,050	1.476558%
870	Town of Apex	145	109,482	0.024665%
871	Town of Ayden	208	157,049	0.035381%
893	Town of Belhaven	182	137,418	0.030959%
872	Town of Benson	120	90,605	0.020412%
1212	Town of Blackstone	389	292,568	0.065912%
873	Town of Clayton	161	121,562	0.027387%
1213	Town of Culpepper	391	297,916	0.067117%
894	Town of Edenton	775	585,159	0.131830%
1214	Town of Elkton	171	128,609	0.028974%
1218	Town of Enfield	259	194,810	0.043889%
874	Town of Farmville	237	178,946	0.040315%
876	Town of Fremont	60	45,303	0.010206%
896	Town of Hamilton	40	30,202	0.006804%
897	Town of Hertford	203	153,274	0.034531%
898	Town of Hobgood	46	34,732	0.007825%
877	Town of Hookerton	30	22,651	0.005103%
879	Town of La Grange	93	70,219	0.015820%
868	Town of Louisburg	857	2,552,452	0.575041%
883	Town of Pikeville	40	30,202	0.006804%
884	Town of Red Springs	117	88,340	0.019902%
1207	Town of Richlands	500	377,569	0.085062%
899	Town of Robersonville	232	175,170	0.039464%
900	Town of Scotland Neck	304	229,533	0.051711%
886	Town of Selma	183	138,173	0.031129%
887	Town of Smithfield	378	285,407	0.064299%
901	Town of Tarboro	2,145	1,619,568	0.364872%
888	Town of Wake Forest	149	112,501	0.025345%
1217	Town of Wakefield	106	79,723	0.017961%
1219	Town of Windsor	331	248,946	0.056085%
866	Tri-County EMC	3,096	9,220,782	2.077345%
867	Wake EMC	2,164	6,445,017	1.451994%
Total		196,500	443,873,428	

Energy to be Furnished by the Government:

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Facilitator (less any losses required by the Facilitator). The customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Facilitator's system.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

[FR Doc. 2015–24196 Filed 9–22–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9934–35–Region 10]

Issuance of NPDES General Permit for Tribal Marine Net Pen Enhancement Facilities in Washington State (Permit Number WAG132000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final NPDES General Permit.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10 is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permit for Tribal Marine Net Pen Enhancement Facilities in Washington State (General Permit). The General Permit authorizes discharges to Waters of the U.S. within the State of Washington. The General Permit contains effluent limitations, along with administrative reporting and monitoring requirements, as well as standard conditions, prohibitions, and management practices.

DATES: The issuance date of the General Permit is September 23, 2015. The effective date of this General Permit will be November 1, 2015. Existing operators

must submit a Notice of Intent (NOI) to discharge no more than 30 days following the effective date of this general permit. New operators must submit NOIs at least 180 days prior to initiation of operations.

ADDRESSES: Copies of the General Permit and Response to Comments are available through written requests submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW–191, Seattle, WA 98101. Electronic requests may be sent to: *washington.audrey@epa.gov.* For requests by phone, call Audrey Washington at (206) 553–0523.

The General Permit, Fact Sheet, and Response to Comments may be found on the Region 10 Web site at *http://yosemite.epa.gov/r10/water.nsf/npdes+permits/general+npdes+permits/.*

FOR FURTHER INFORMATION CONTACT: Catherine Gockel, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10, Mail Stop OWW–191, 1200 6th Avenue, Suite 900, Seattle, WA 98101–3140, at (206) 553–0325 or *gockel.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION:

Endangered Species Act [16 U.S.C. 1531 et al.]: EPA has analyzed the discharges proposed to be authorized by the General Permit, and their potential to adversely affect threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges. Based on this analysis, EPA has determined that the issuance of this permit will have no effect to any threatened or endangered species in the vicinity of the discharge. Therefore, ESA consultation was not required.

National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et.seq.] and Other Federal Requirements: Regulations at 40 CFR 122.49 list the federal laws that may apply to the issuance of permits *i.e.,* ESA, National Historic Preservation Act, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of information regarding potential impacts, development and analysis of options to avoid or minimize impacts, and development and analysis of measures to mitigate adverse impacts. EPA determined that no Environmental Assessments (EAs) or Environmental Impact Statements (EISs) are required under NEPA. EPA also determined that CZARA does not apply.

Essential Fish Habitat (EFH): The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA–NMFS when a proposed discharge has the potential to adversely affect a designated EFH. The EFH regulations define an adverse effect as ''any impact which reduces quality and/or quantity of EFH . . . [and] may include direct (*e.g.* contamination or physical disruption), indirect (*e.g.* loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.'' NMFS may recommend measures for attachment to the federal action to protect EFH; however, such recommendations are advisory, and not prescriptive in nature. EPA has evaluated the General Permit and has made the determination that issuance of the General Permit will have no effect on EFH.

Executive Order 12866: The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Economic Impact [Executive Order 12291]: The EPA has reviewed the effect of Executive Order 12291 on this General Permit and has determined that it is not a major rule pursuant to that Order.

Paperwork Reduction Act [44 U.S.C. 3501 et seq.]: The EPA has reviewed the requirements imposed on regulated facilities in the General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act [5 U.S.C. 601 et seq.]: The Regulatory Flexibility Act (RFA) requires that EPA prepare an initial regulatory flexibility analysis for rules subject to the requirements of the Administrative Procedures Act [APA, 5 U.S.C. 553] that have a significant impact on a substantial number of small entities. However, EPA has concluded that NPDES General Permits are not rulemakings under the APA, and thus not subject to APA rulemaking requirements or the RFA.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their regulatory actions (defined to be the same as rules subject to the RFA) on tribal, state, and local governments, and the private sector. However, General NPDES Permits are not rules subject to the requirements of the APA, and are, therefore, not subject to the UMRA.

Appeal of Permit

Any interested person may appeal the General Permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the General Permit issuance date. Affected persons may not challenge the conditions of the General Permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the General Permit in court or apply for an individual NPDES permit.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342.

Dated: September 9, 2015.

Daniel D. Opalski,

Director, Office of Water & Watersheds, Region 10.

[FR Doc. 2015–23477 Filed 9–22–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 15–1002]

Disability Advisory Committee; Announcement of Next Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date of the next meeting of the Commission's Disability Advisory Committee (Committee or DAC). The meeting is open to the public. During this meeting, members of the Committee will receive and discuss summaries of activities and recommendations from its subcommittees.

DATES: The Committee's next meeting will take place on Thursday, October 8, 2015, from 9:00 a.m. to 3:30 p.m. (EST).

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, in the Commission Meeting Room.

FOR FURTHER INFORMATION CONTACT: Elaine Gardner, Consumer and Governmental Affairs Bureau: 202–418–0581 (voice); email: *DAC@fcc.gov;* or Suzy Rosen Singleton, Alternate DAC Designated Federal Officer, Consumer and Governmental Affairs Bureau: 202–510–9446 (VP/voice), at the same email address: *DAC@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established in December 2014 to make recommendations to the Commission on a wide array of disability matters within the jurisdiction of the Commission, and to facilitate the participation of people with disabilities in proceedings before the Commission. The Committee is organized under, and operated in accordance with, the provisions of the Federal Advisory

Committee Act (FACA). The Committee held its first meeting on March 17, 2015.

At its October 8, 2015 meeting, the Committee will consider a recommendation from its Communications Subcommittee regarding ways to address the needs of people with disabilities in new and emerging technologies; will receive a report on the activities of its Emergency Communications Subcommittee; may consider proposed comments from its Relay/Equipment Distribution Subcommittee for the DAC to file in FCC Docket GN 13–5 regarding the transition of communication networks to Internet protocol; will receive a report on the activities of its Video Programming Subcommittee; and will consider recommendations from its Real Time Text (RTT) Ad Hoc Subcommittee regarding the FCC Public Notice about AT&T's Petition for Waiver and Petition for Rulemaking. The Committee will also celebrate the fifth anniversary of the Twenty-First Century Communications and Video Accessibility Act (CVAA), and may discuss new issues to be taken under consideration.

A limited amount of time may be available on the agenda for comments and inquiries from the public. The public may comment or ask questions of presenters via the email address *livequestions@fcc.gov.* The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. If making a request for an accommodation, please include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible by sending an email to *fcc504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). Last minute requests will be accepted, but may be impossible to fill. The meeting will be webcast with open captioning, at: *www.fcc.gov/live.*

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

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2015–24173 Filed 9–22–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012359.

Title: MOL/Volkswagen Konzernlogistik GmbH & Co.OHG Space Charter Agreement.

Parties: Mitsui O.S.K. Lines Ltd and Volkswagen Konzernlogistik Gmbh & Co.OHG.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 799 9th Street NW., Suite 500; Washington, DC 20001.

Synopsis: The agreement would authorize Mitsui to charter space to Volkswagen for the carriage of vehicles and other Ro-Ro cargo between the U.S. on the one hand, and Mexico, Germany and Canada on the other hand.

By Order of the Federal Maritime Commission.

Dated: September 18, 2015.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2015–24174 Filed 9–22–15; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 2015.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *First Dakota Financial Corporation,* Yankton, South Dakota; to acquire 100 percent of the voting shares of Dakota State Bank, Blunt, South Dakota.

Board of Governors of the Federal Reserve System, September 18, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–24139 Filed 9–22–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 8, 2015.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *The Asheville Savings Bank, S.S.B. Employee Stock Ownership Plan, Asheville, North Carolina, and its trustee, Pentegra Trust Company,* Shelton, Connecticut; to retain voting shares of ASB Bancorp, Inc., and thereby indirectly retain voting shares of Ashville Savings Bank, SSB, both in Asheville, North Carolina.

Board of Governors of the Federal Reserve System, September 18, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–24138 Filed 9–22–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB number.

DATES: Comments must be submitted on or before November 23, 2015.

ADDRESSES: You may submit comments, identified by Reg G, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725, 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

1. *Report title:* Requirements for Disclosure and Reporting of Community Reinvestment Act (CRA)-Related Agreements (Regulation G).

Agency form number: Reg G.

OMB control number: 7100–0299.

Frequency: On occasion and annual.

Reporters: State member banks and their subsidiaries; bank holding companies; savings and loan holding companies; and affiliates of bank holding companies and savings and loan holding institutions, other than banks, savings associations and subsidiaries of banks and savings associations; and nongovernmental entities or persons (NGEPs) that enter into covered agreements with any of the aforementioned companies.

Estimated annual reporting hours: Disclosure burden for insured depository institutions (IDI) and affiliates: Covered agreements to public, 6 hours; and Agreements relating to activities of CRA affiliates, 6 hours; Reporting burden for IDI and affiliates: Copy of agreements to agency, 8 hours; List of agreements to agency, 8 hours; Annual report, 8 hours; and Filing NGEP annual report, 6 hours; Disclosure burden for NGEP: Covered agreements to public, 6 hours; Reporting burden for NGEP: Copy of agreements to agency, 6 hours; and Annual report, 24 hours.

Estimated average hours per response: Disclosure burden for IDI and affiliates: Covered agreements to public, 1 hour; and Agreements relating to activities of CRA affiliates, 1 hour; Reporting burden for IDI and affiliates: Copy of agreements to agency, 1 hour; List of agreements to agency, 1 hour; Annual

report, 4 hours; and Filing NGEP annual report, 1 hour; Disclosure burden for NGEP: Covered agreements to public, 1 hour; Reporting burden for NGEP: Copy of agreements to agency, 1 hour; and Annual report, 4 hours.

Number of respondents: Disclosure burden for IDI and affiliates: Covered agreements to public, 2 respondents; and Agreements relating to activities of CRA affiliates, 2 respondents; Reporting burden for IDI and affiliates: Copy of agreements to agency, 2 respondents; List of agreements to agency, 2 respondents; Annual report, 2 respondents; and Filing NGEP annual report, 2 respondents; Disclosure burden for NGEP: Covered agreements to public, 6 respondents; Reporting burden for NGEP: Copy of agreements to agency, 6 respondents; and Annual report, 6 respondents.

General description of report: This information collection is mandatory pursuant to Section 48 of the Federal Deposit Insurance Act (12 U.S.C. 1831y). The Board does not generally consider the information obtained under Regulation G to be confidential. However, a respondent may request confidential treatment under section (b)(4) of the Freedom of Information Act (FOIA). Section (b)(4) provides an exemption for ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'' (5 U.S.C. 552(b)(4)). In order for a respondent to avail itself of this exemption, the respondent would have to show that the release of information would likely cause substantial harm to their competitive position. In addition, the information obtained under Regulation G may in appropriate circumstances also be withheld pursuant to section (b)(8) of the FOIA, which exempts information contained in ''examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions'' (5 U.S.C. 552(b)(8)).

Abstract: Regulation G implements provisions of the Gramm-Leach-Bliley Act (GLBA) that require reporting and public disclosure of written agreements between (1) IDIs or their affiliates and (2) NGEPs, that are made in connection with the fulfillment of CRA requirements.[1] The GLBA requires both IDIs and NGEPs to make a copy of any CRA-Related agreement available upon request and file an annual report with each relevant supervisory agency regarding the use of funds under such agreement for that fiscal year. In addition, an IDI and affiliate must provide to the relevant supervisory agency each calendar quarter a list of all CRA-related agreements entered into during the quarter with a copy of the agreement.

Board of Governors of the Federal Reserve System, September 18, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–24131 Filed 9–22–15; 8:45 am]

BILLING CODE 6210–01–P

[1] 12 U.S.C. 2901 *et seq.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Tribal Consultation Meetings

AGENCY: Office of Head Start (OHS), Administration for Children and Families, HHS.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Improving Head Start for School Readiness Act of 2007, Public Law 110–134, notice is hereby given of two 1-day Tribal Consultation Sessions to be held between the Department of Health and Human Services (HHS), Administration for Children and Families, OHS leadership and the leadership of Tribal Governments operating Head Start (including Early Head Start) programs. The purpose of these Consultation Sessions is to discuss ways to better meet the needs of American Indian and Alaska Native children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations [42 U.S.C. 9835, Section 640(l)(4)].

DATES: October 13, 2015, from 1 p.m. to 5 p.m.; October 28, 2015, from 2 p.m. to 5 p.m.

ADDRESSES:

Locations:

- October 13, 2015—Aleutian Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518.
- October 28, 2015—The Pearl River Resort, 13541 Highway, 16 West, Choctaw, Mississippi 39350.

FOR FURTHER INFORMATION CONTACT: Fran Majestic, Director of Program Operations Division, Office of Head Start, email *Frances.Majestic@acf.hhs.gov*, or phone (202) 205–8390. Additional information and online meeting registration is available at: *http://eclkc.ohs.acf.hhs.gov/hslc/hs/calendar/tc2015.*

SUPPLEMENTARY INFORMATION: HHS announces OHS Tribal Consultations for leaders of Tribal Governments operating Head Start and Early Head Start programs. The agenda for the scheduled OHS Tribal Consultations in Anchorage, Alaska, and Choctaw, Mississippi, will be organized around the statutory purposes of Head Start Tribal Consultations related to meeting the needs of American Indian and Alaska Native children and families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations. In addition, OHS will share actions taken and in progress to address the issues and concerns raised in the 2014 OHS Tribal Consultations.

The Consultation Sessions will be conducted with elected or appointed leaders of Tribal Governments and their designated representatives [42 U.S.C. 9835, Section 640(l)(4)(A)]. Designees must have a letter from the Tribal Government authorizing them to represent the tribe. Tribal Governments must submit the designee letter at least 3 days in advance of the Consultation Session to Fran Majestic at *Frances.Majestic@acf.hhs.gov.* Other representatives of tribal organizations and Native nonprofit organizations are welcome to attend as observers.

A detailed report of each Consultation Session will be prepared and made available within 45 days of the Consultation Sessions to all Tribal Governments receiving funds for Head Start and Early Head Start programs. Tribes wishing to submit written testimony for the report should send testimony to Fran Majestic at *Frances.Majestic@acf.hhs.gov* either prior to each Consultation Session or within 30 days after each meeting. OHS will summarize oral testimony and comments from the Consultation Session in each report without attribution, along with topics of concern and recommendations.

Dated: September 11, 2015.

Blanca E. Enriquez,

Director, Office of Head Start.

[FR Doc. 2015–23720 Filed 9–22–15; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Center for Integrative Medicine in Primary Care

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Single-Award Deviation from Competition Requirements for the University of Arizona's Center for Integrative Medicine in Primary Care.

SUMMARY: The Health Resources and Services Administration (HRSA) will be issuing a noncompetitive award for the Center for Integrative Medicine in Primary Care program. Approximately $330,000 will be made available in the form of a cooperative agreement to the University of Arizona, Center for Integrative Medicine in Primary Care program, Tucson, Arizona (HP 2771) during the current budget/project period of September 1, 2014, through August 31, 2017. This cooperative agreement was fully funded for a 3-year project period on September 1, 2014. The purpose of the Center for Integrative Medicine in Primary Care program is to incorporate competency based Integrative Medicine (IM) curricula and practices into existing primary care residencies and other health professions training programs. This center is expected to contribute to the evidence-base for IM, and to identify promising practices related to the integration of IM into primary care and interprofessional practice. The Center formally partners with existing primary care residency programs (pediatrics, internal medicine, family medicine, preventive medicine) and other health professions training programs (nursing, physician assistant, public health, and behavioral health among others) to: (a) Pilot and implement the incorporation of IM into the curricula and training; (b) Provide faculty development; (c) Engage in interprofessional education and practice; (d) Develop practice-based IM rotations for residents and students; (e) Reach out to underserved populations through existing training sites to spread IM practice; (f) Identify promising IM practices through the work of the program; and (g) Evaluate students' and faculty members' knowledge gained and practice changes made through IM trainings and curriculum development.

SUPPLEMENTARY INFORMATION: Federal awardee of record and intended award amount is:

Grantee/Organization name	Grant number	State	FY 2014 authorized funding level	FY 2015 estimated funding level
University of Arizona Center for Integrative Medicine.	UE1 HP 27710.	AZ	$1,699,998 fully funded for a 3-year project period.	The program did not receive FY 2015 appropriated funds. HRSA proposes to award an additional $330,000 through a program expansion supplement in FY 2015.

Amount of the Award(s): Up to $330,000.

CFDA Number: 93.117.

Current Project Period: September 1, 2014, through August 31, 2017.

Period of Supplemental Funding: September 1, 2014, through August 31, 2017.

Authority: Section 765 of the Public Health Service Act (42 U.S.C. 295 and 295a), as amended by Section 5206 of the Patient Protection and Affordable Care Act.

Justification

HRSA seeks to provide a program expansion supplement of $330,000 for the Center for Integrative Medicine in Primary Care Program award for the purpose of increasing the number of pilot sites and disciplines that are reached with the initial offering of the Foundations in Integrative Healthcare online course. The program will be able to accomplish outreach to a broad range of disciplines, health professionals, types of programs, and underrepresented groups. They also will be able to provide outreach to consumers on integrative healthcare. This request is for a single-award deviation because there is only one currently funded cooperative agreement with the capacity to use the funding during the required time period.

FOR FURTHER INFORMATION CONTACT: Irene Sandvold, Medical Training and Geriatrics Branch, Division of Medicine and Dentistry, Bureau of Health Workforce, Health Resources and Services Administration, Department of Health and Human Services, 5600 Fishers Lane Room 12 C 05, Rockville, Maryland 20857, Phone: 301–443–2295, *isandvold@hrsa.gov.*

Dated: September 15, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–24115 Filed 9–22–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Ryan White HIV/AIDS Program Part C HIV Early Intervention Services Program Existing Geographic Service Area

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The HIV/AIDS Bureau (HAB) is requesting a class deviation from the competition requirements in order to provide a one-year extension with funds to nineteen Part C HIV Early Intervention Services Program Existing Geographic Service Area (EISEGA) grantees. HAB is currently evaluating the EISEGA program and intends to recompete the entire program in fiscal year (FY) 2017. Nineteen of the 347 Part C grantees were scheduled to recompete in FY 2016. One-year extensions with funds enables HAB to align all cohorts of EISEGA grantees without disrupting the provision of critical HIV primary medical care services to the current Ryan White HIV/AIDS Program (RWHAP) clients served by these nineteen RWHAP Part C recipients. Pending the availability of funds, the amount of each FY 2016 award will be based on a proportion of the current Part C EISEGA award to each of the nineteen recipients, respectively.

FOR FURTHER INFORMATION CONTACT: Chrissy Abrahms Woodland, Acting Director, Division of Community HIV/AIDS Programs, HRSA/HAB/DCHAP, 5600 Fishers Lane, Room 9–74, Rockville, MD 20857, email: *cabrahms@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Period of Performance: April 1, 2016, to March 31, 2017.

Intended Recipients of the Award: Borinquen Health Care Center, CareSouth-Carolina, Community Health Center Incorporated, Community Health Net, County of Ventura, Hamilton Health Center, Inc., Howard University Inc., Med Star Health Research Institute, and Northwest Health Services, Inc.

Period of Performance: May 1, 2016, to April 30, 2017.

Aaron E. Henry Community Health Services Center, Inc., Carepoint Health Foundation, Centra Health, Inc., Detroit Community Health Connection, Family Health Center of Worcester, Harbor Health Services, Inc., Mount Sinai Hospital, T.H.E. Clinic, UPMC Presbyterian Shadyside, and Vanderbilt University.

Aggregate amount of Non-Competitive Awards: $8,097,427.

CFDA Number: 93.918

Authority: Sections 2651–2667 of the Public Health Service Act (42 U.S.C. 300ff–51–67) and section 2693 of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. 111–87).

Justification: The purpose of the RWHAP Part C EISEGA Program is to provide HIV primary care in the outpatient setting. Grantees provide a comprehensive continuum of outpatient HIV primary care services in the designated service area including: (1) Targeted HIV counseling, testing, and referral; (2) medical evaluation and clinical care; (3) other primary care services; and (4) referrals to other health services. Identifying people infected with HIV and linking them to HIV primary care with initiation and long-term maintenance of life-saving antiretroviral treatment (ART) are important public health steps toward the elimination of HIV in the United States. The continuum of interventions that begins with outreach and testing and concludes with HIV viral load suppression is generally referred to as the HIV Care Continuum or the Care Treatment Cascade. The HIV Care Continuum includes the diagnosis of HIV, linkage to HIV medical care, lifelong retention in HIV medical care, appropriate prescription of ART, and ultimately HIV viral load suppression.

Dated: September 15, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–24171 Filed 9–22–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Institutional Training Grant Applications.

Date: October 5, 2015

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Daniel R. Kenshalo, Ph.D., Scientific Review Officer, National Eye Institute National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892, 301–451–2020, *kenshalod@nei.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. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 18, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24201 Filed 9–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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 Heart, Lung, and Blood 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 Heart, Lung, and Blood Advisory Council.

Date: October 28, 2015.

Open: Open: 8:00 a.m. to 12:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Stephen C. Mockrin, Ph.D. Director, Division of Extramural Research Activities National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260 *mockrins@nhlbi.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.nhlbi.nih.gov/meetings/nhlbac/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 17, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24046 Filed 9–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research (R21).

Date: October 7, 2015.

Time: 1:30 p.m. to 2:10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–402–6020, *hiromi.ono@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Medication Development.

Date: October 8, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Advancing Exceptional Research on HIV/AIDS and Substance Abuse (R01).

Date: October 15, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Tools and Services for Designing Methodologically Rigorous Animal Studies.

Date: October 29, 2015.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Strategic Alliances for Medications Development to Treat Substance Use Disorders (R01).

Date: October 30, 2015.

Time: 8:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Grand Opportunity in Medications Development for Substance-Related Disorders (U01).

Date: October 30, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA) (R21).

Date: November 18, 2015.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 17, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24045 Filed 9–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiovascular Differentiation and Development Study Section.

Date: October 15, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20817–7814, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry A Study Section.

Date: October 15–16, 2015.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21044.

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated

Review Group; Macromolecular Structure and Function D Study Section.

Date: October 15–16, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: James W Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetic Variation and Evolution Study Section.

Date: October 23, 2015.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: NIH–PEPFAR Collaboration on Implementation Science for HIV.

Date: October 26–27, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3206, Bethesda, MD 20892, 301–435–1165, *bynumsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychosocial and Developmental Risk and Disease Prevention.

Date: October 27, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 18, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24202 Filed 9–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Muscular Dystrophy Coordinating Committee Call for Committee Membership Nominations

SUMMARY: The Office of the Secretary of the Department of Health and Human Services (HHS) is seeking nominations for an individual to serve as a non-federal public member on the Muscular Dystrophy Coordinating Committee.

DATES: Nominations are due by 5 p.m., October 26, 2015.

ADDRESSES: Nominations must be sent to Glen Nuckolls, Ph.D., by email to *nuckollg@ninds.nih.gov.*

FOR FURTHER INFORMATION CONTACT: Glen Nuckolls, Ph.D., by email to *nuckollg@ninds.nih.gov.*

SUPPLEMENTARY INFORMATION: The Muscular Dystrophy Coordinating Committee (MDCC) is a federal advisory committee established in accordance with the Muscular Dystrophy Community Assistance, Research, and Education Amendments of 2001 (MD–CARE Act; Pub. L. 107–84). The MD–CARE Act was reauthorized in 2008 by Public Law 110–361, and again in 2014 by Public Law 113–166. The MD–CARE Act specifies that the committee membership be composed of ⅔ governmental agency representatives and ⅓ public members. We are seeking nominations for a non-federal, public member at this time, due to turnover of committee membership. Nominations will be accepted between September 25, 2015 and October 26, 2015.

Who is Eligible: Nominations for a new non-federal public member interested in providing the public and/or patient perspective are encouraged. Self-nominations and nominations of other individuals are both permitted. Only one nomination per individual is required. Multiple nominations for the same individual will not increase likelihood of selection. Non-federal, public members may be selected from the pool of submitted nominations or other sources as needed to meet statutory requirements and to form a balanced committee that represents the diversity within the muscular dystrophy communities. Those eligible for nomination include leaders or representatives of major muscular dystrophy research, advocacy, and service organizations, parents or guardians of individuals with muscular dystrophy, individuals with muscular dystrophy, educators, researchers, and other individuals with professional or personal experience with muscular dystrophy. In accordance with White House Office of Management and Budget guidelines (FR Doc. 2014–19140), federally-registered lobbyists are not eligible.

Committee Composition: The Department strives to ensure that the membership of HHS Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that the views of all genders, all ethnic and racial groups, and people with disabilities are represented on HHS Federal advisory committees and, therefore, the Department encourages nominations of qualified candidates from these groups. The Department also encourages geographic diversity in the composition of the Committee. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status. Requests for reasonable accommodation to enable participation on the Committee should be indicated in the nomination submission.

Member Terms: Non-Federal public members of the Committee serve for a term of 3 years, and may serve for an unlimited number of terms if reappointed. Members may serve after the expiration of their terms, until their successors have taken office.

Meetings and Travel: As specified by Public Law 113–166, the MDCC ''shall meet no fewer than two times per calendar year.'' Travel expenses are provided for non-federal public Committee members to facilitate attendance at in-person meetings. Members are expected to make every effort to attend all full committee meetings, twice per year, either in person or via remote access. Participation in relevant subcommittee, working and planning group meetings, and workshops, is also encouraged.

Submission Instructions and Deadline: Nominations are due by 5 p.m. EST on October 26, 2015, and should be sent to Glen Nuckolls, Ph.D., by email to *nuckollg@ninds.nih.gov.*

Nominations must include contact information for the nominee, a current curriculum vitae or resume of the nominee and a paragraph describing the qualifications of the person to represent some portion(s) of the muscular dystrophy research, advocacy and/or patient care communities.

More information about the MDCC is available at *http://www.ninds.nih.gov/about_ninds/groups/mdcc/.*

Dated: September 16, 2015.

Walter J. Koroshetz,

Director, National Institute of Neurological Disorders and Stroke, National Institutes of Health.

[FR Doc. 2015–24117 Filed 9–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology descriptions follow.

A Novel Rapid Point-of-Care Diagnostic Method for Infectious and Autoimmune Diseases

Description of Technology: Rapid point-of-care, antibody-based testing is not available for the diagnosis of autoimmune and most infectious diseases. For detecting autoantibodies associated with most autoimmune conditions, fluid-phase immunoprecipitation assays are required. However, these assays usually involve radioactivity and are not feasible for point-of-care applications. The subject invention describes methods of using neodymium magnet for diagnosis of infectious and autoimmune diseases including lupus, Sjögren's syndrome, type I diabetes, HIV and Lyme disease. The assay takes 3.5 minutes, is highly efficient, and has low background.

Potential Commercial Applications

- A rapid assay for point-of-care diagnosis of infectious and autoimmune diseases.
- Applications to different assay platforms, such as a portable, commercially available hand-held luminometer or an automated, high-throughput device.

Competitive Advantages

- Highly efficient, rapid, and easy to perform.
- Low background signals.

Development Stage

- Early-stage
- *In vitro* data available
- Prototype.

Inventor: Peter D. Burbelo (NIDCR)

Publications

1. Burbelo PD, *et al.* Luciferase immunoprecipitation systems for measuring antibodies in autoimmune and infectious diseases. Transl Res. 2015 Feb; 165(2):325–335. [PMID 25241936]

2. Burbelo PD, *et al.* New autoantibody detection technologies yield novel insights into autoimmune disease. Curr Opin Rheumatol. 2014 Nov; 26(6):717–723. [PMID 25203116]

3. Burbelo PD, *et al.* Searching for biomarkers: humoral response profiling with luciferase immunoprecipitation systems. Expert Rev Proteomics. 2011 Jun; 8(3):309–316. [PMID 21679112]

4. Burbelo PD, *et al.* Antibody profiling by luciferase immunoprecipitation systems (LIPS). J Vis Exp. 2009 Oct 7; (32). [PMID 19812534]

Intellectual Property: HHS Reference No. E–190–2015/0—US Provisional Application No. 62/212,973 filed 01 Oct 2015.

Related Technologies

- E–036–2010 family: PCT/US2011/027888, US 8,926,989, issued. US 14/562,068 and EP 11730770.1, pending.
- E–281–2010: US 13/882,850, allowed.
- E–063–2009: US 8,951,723, issued.

Licensing Contact: Sally Hu, Ph.D., M.B.A.; 301–435–5606; *hus@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Dental and Craniofacial Research is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize using neodymium magnet for rapid diagnosis. For collaboration opportunities, please contact David Bradley, Ph.D. at *bradleyda@nidcr.nih.gov.*

A Mobile Health Platform

Description of Technology: The NIH inventors have developed a mobile health technology to monitor and predict a user's psychological status and to deliver an automated intervention when needed. The technology uses smartphones to monitor the user's location and ask questions about psychological status throughout the day. Continuously collected ambulatory psychological data are fused with data on location and responses to questions. The mobile data are combined with geospatial risk maps to quantify exposure to risk and predict a future psychological state. The future predictions are used to warn the user when he or she is at especially high risk of experiencing a negative event that might lead to an unwanted outcome (*e.g.,* lapse to drug use in a recovering addict).

An internally developed mobile app is now being deployed to deliver an intervention in the context of drug addiction. The inventors are also seeking to test the technology for other health applications.

Potential Commercial Applications

- Real time behavior monitoring
- Therapeutic delivery of an intervention via a mobile device

Competitive Advantages

- Mobile device
- Real time
- Exposure to risk

Development Stage: Prototype

Inventors: Kenzie L. Preston, David H. Epstein, Matthew Tyburski, Massoud Vahabzadeh (all of NIDA)

Publications

1. Epstein DH, *et al.* Real-time tracking of neighborhood surroundings and mood in urban drug misusers: Application of a new method to study behavior in its geographical context. Drug Alcohol Depend. 2014 Jan 1;134:22–9. [PMID 24332365]

2. Kennedy AP, *et al.* Continuous in-the-field measurement of heart rate: Correlates of drug use, craving, stress and mood in polydrug users. Drug Alcohol Depend. 2015 June 1;151:159–66. [PMID 25920802]

Intellectual Property: HHS Reference No. E–049–2015/0—US Provisional Application No. 62/186, 983 filed 30 June 2015

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*

Collaborative Research Opportunity: The National Institute on Drug Abuse is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize

mhealth system to analyze and intervene. For collaboration opportunities, please contact Vio Conley at *conleyv@mail.nih.gov.*

Detection and Discrimination of Classical and Atypical L-Type BSE Strains by RT-QuIC

Description of Technology: Statutory surveillance of bovine spongiform encephalopathy (BSE) indicates that cattle are susceptible to both classical (C–BSE) and atypical forms of BSE. Atypical forms of BSE appear to be sporadic and thus may never be eradicated. A major challenge is the lack of sufficiently practical and sensitive tests for routine BSE detection and strain discrimination. The RT-QuIC test, which is based on prion-seeded fibrillization of recombinant prion protein ($rPrP_{Sen}$), is known to be highly specific and sensitive for detection of multiple human and animal prion diseases, but not BSE. This application claims methods for distinguishing whether a sheep, cow or goat has atypical L-bovine spongiform encephalopathy prion or classical bovine spongiform encephalopathy.

Potential Commercial Applications

- Detection and distinguishing of both BSE forms
- Rapid detection and discrimination of BSE forms

Competitive Advantages

- Orders of magnitude more sensitive than ELISA tests
- Eliminates need for multi-phase analyses of samples
- Can be applied to large scale testing of multiple samples

Development Stage

- *In vitro* data available
- *In vivo* data available (animal)
- Prototype

Inventors: Byron W. Caughey (NIAID), Christina D. Orrú (NIAID), Alessandra Favolez (EM), Cristina Casalone (EM), Maria Mazza (EM), Cristiano Corona (EM)

Publications

1. Orrú CD, *et al.* Detection and discrimination of classical and atypical L-type bovine spongiform encephalopathy by real-time quaking-induced conversion. J Clin Microbiol. 2015 Apr;53(4):1115–20. [PMID 25609728]

2. Orrú CD, *et al.* Correction: Bank Vole Prion Protein As an Apparently Universal Substrate for RT-QuIC-Based Detection and Discrimination of Prion Strains. PLoS Pathog. 2015 Aug 18;11(8):e1005117. [PMID 26284358]

3. Orrú CD, *et al.* Bank Vole Prion Protein As an Apparently Universal Substrate for RT-QuIC-Based Detection and Discrimination of Prion Strains. PLoS Pathog. 2015 Jun 18;11(6):e1004983. [PMID 26086786]

Intellectual Property: HHS Reference E–048–2015/0—US Provisional Application No. 62/092,645 filed 16 Dec 2014

Licensing Contact: Peter A. Soukas; 301–435–4646; *ps193c@nih.gov*

Lenalidomide Analogs for the Treatment of Neurodegenerative Disorders and Cancer

Description of Technology: Inflammatory processes associated with the over-production of tumor necrosis-alpha (TNF-alpha), a potent activator of the immune system accompany numerous neurodegenerative diseases. TNF-alpha has been validated as a drug target with the development of the inhibitors Enbrel and Remicade (fusion antibodies) as prescription medications. Both, however, are large macromolecules that require direct injection and have limited brain access. The classical drug, thalidomide is being increasingly used in the clinical management of a wide spectrum of immunologically-mediated and infectious diseases, and cancers. The NIA inventors developed and assessed novel thio analogs of lenalidomide (Celegene's Revlimid and an analog of thalidomide) as immunomodulatory agents, with the potential to reduce chronic systemic and central nervous system inflammation. These compounds were synthesized and evaluated for their TNF-alpha inhibitory activity. This invention was extended from the inventors' prior work to develop potent compounds to reduce neuroinflammation as a treatment strategy for neurodegenerative disorders. The current studies focus the compounds activity in classical models of neurodegeneration as well as cancer.

Potential Commercial Applications

- Treatment for blood disorders (myelodysplastic syndrome), cancer (multiple myeloma), inflammatory processes and erythema
- Immunomodulatory agents
- Reduce chronic systemic and central nervous system inflammation

Competitive Advantages

- Effective smaller molecular weight compound that can enter brain among current agents
- Experimental therapeutic to reduce inflammation systematically and within the brain
- Effective in reducing proinflammatory cytokines than existing agents

Development Stage

- *In vitro* data available
- *In vivo* data available (animal)
- Prototype

Inventors: Nigel H. Greig, Weiming Luo, David Tweedie, Harold W. Holloway, Qian-sheng Yu (all of NIA)

Publication: Luo W, *et al.* Design, synthesis and biological assessment of novel N-substituted 3-(phthalimidin-2-yl)-2,6-dioxopiperidines and 3-substituted 2,6-dioxopiperidines for TNF-alpha inhibitory activity. Bioorg Med Chem. 2011 Jul 1;19(13):3965–3972. [PMID 21658960]

Intellectual Property: HHS Reference No. E–045–2012/0—

- US Patent No. 8,927,725 issued 06 Jan 2015
- US Patent No. 9,084,783 issued 21 Jul 2015
- US Patent Application No. 14/746,512 filed 22 Jun 2015

Related Technologies: HHS Reference No. E–189–2003/0—

- US Patent No. 7,973,057 issued 05 Jul 2011
- US Patent No. 8,546,430 issued 01 Oct 2013
- US Patent Application No. 13/648,625 filed 10 Oct 2012
- US Patent Application No. 14/314,124 filed 25 Jun 2014
- and related international patents/patent applications

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*

Novel Regulatory B Cells for Treatment of Cancer and Autoimmune Disease

Description of Technology: The manner by which cancers evade the immune response is not well-understood. What is known is that the manner is an active process that regulates immune responses employing at least two types of suppressive cells, myeloid-derived suppressive cells and regulatory T cells (Tregs), a key subset of $CD4^+$ T cells that controls peripheral tolerance to self- and allo-antigens. Tregs are considered to play a key role in the escape of cancer cells from anti-tumor effector T cells.

Cancer cells have been found to directly activate resting B cells to form suppressive regulatory B cells (tBregs) and utilize them to evade immune surveillance and mediate metastasis. tBregs directly inhibit $CD4^+$ and $CD8^+$ T cell activity in a cell contact-dependent manner, induce $FoxP3^+$ T cell activity, and promote Treg-dependent metastasis.

Researchers from the National Institute on Aging (NIA), NIH, have developed methods for the generation of tBregs, and for using tBregs to produce

Tregs, and methods that inactivate or deplete tBregs. These methods have significant therapeutic value in the combat with cancer immune escape and metastasis, and in the control of harmful autoimmune diseases.

Potential Commercial Applications:

- Production of cellular cancer vaccines
- Treatments for immune-mediated disorders
- Treatments for cancer
- Treatments for chronic viral infections

Development Stage:

- Early-stage
- *In vitro* data available
- *In vivo* data available (animal)
- *In situ* data available
- *Ex vivo* data available

Inventors: Bira Arya and Purevdorj Olkhanud (NIA)

Intellectual Property: HHS Reference No. E–101–2010/0—US Patent Application No. 13/577,226 filed 03 Aug 2012

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*

Collaborative Research Opportunity: The National Institute on Aging, Laboratory of Molecular Biology and Immunology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the utilization of regulatory B cells to control autoimmune diseases and strategies that inactivate tBregs to control cancer immune escape. Please contact Nicole Darack, Ph.D. at 240–276–5493 or *darackn@mail.nih.gov* for more information.

Immunogenic Tumor-associated Antigen SPANX–B for Selective Cancer Immunotherapy

Description of Technology: Researchers at the National Institute on Aging (NIA) have characterized a novel tumor-associated antigen, SPANX–B, which is naturally immunogenic and is expressed in a variety of human malignancies, including melanoma and lung, colon, renal, ovarian and breast carcinomas. In melanoma specifically, SPANX–B expression is associated with advanced and metastatic disease. Moreover, the researchers have found several agonist epitope peptides from SPANX–B which can be used to activate the immune system to eradicate tumors utilizing T cells. SPANX–B peptides have significant clinical and immunotherapeutic potential for the development of cancer diagnostic assays and potent protective and/or therapeutic vaccines to combat a wide-range of cancers.

Potential Commercial Applications:

- *In vitro* diagnostic assays for highly-metastatic melanomas or other cancers
- Therapeutic monoclonal antibodies
- Cancer vaccine development

Competitive Advantages:

- Immunogenic: SPANX–B peptides are naturally able to elicit immune response.
- Expressed in a wide-range of cancers.
- Use of epitope peptides facilitates the activation of cells of the more therapeutically effective branch of the immune system.
- Small epitope peptides: Can be more easily manufactured in contrast to recombinant proteins.

Development Stage:

- *In vitro* data available
- *In vivo* data available (animal)

Publication: Almanzar G, *et al.* Sperm-derived SPANX–B is a clinically relevant tumor antigen that is expressed in human tumors and readily recognized by human CD4+ and CD8+ T cells. Clin Cancer Res. 2009 Mar 15;15(6):1954–63. [PMID 19276289]

Inventors: Bira Arya (NIA) and Vladimir Larionov (NCI)

Intellectual Property: HHS Reference No. E–089–2009/0—

- US Patent No. 8,664,183 issued 04 Mar 2014
- US Patent Application No. 14/155,230 filed 14 Jan 2014

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*

Collaborative Research Opportunity: The National Institute on Aging, Laboratory of Molecular Biology and Immunology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the use of SPANX–B-based therapeutic approaches to combat cancers. Please contact Nicole Darack, Ph.D. at 240–276–5493 or *darackn@mail.nih.gov* for more information.

Method for the Diagnosis and Prognosis of Age-Related Cardiovascular Disorders

Description of Technology: NIH investigators have discovered a method for the diagnosis and prognosis of cardiovascular aging. Current methodologies include the measurement of patient lipid profiles or expression of up to two proteins. In contrast, this technology utilizes the expression levels of a panel of proteins not previously known to be related to cardiovascular aging and may prove to be a more accurate diagnostic or prognostic of cardiovascular aging than currently available tests or it may improve the accuracy of currently available tests when used in concert.

The technology relates to methods for determining susceptibility to having an extremely common age-associated vascular disorder. It also describes the subsequent use of these proteins as markers for disease. While the underlying cellular and molecular mechanisms of age-related vascular disease remain largely undefined, the expression levels of the genes described in this technology have been empirically determined to differ between healthy and age-inflamed arterial tissue. Further, this technology includes a companion mass spectroscopic-based methodology for reproducible quantification of specific expression levels of interest.

Potential Commercial Applications: Diagnosis of age-related vascular disorder.

Inventors: Mingyi Wang *et al.* (NIA)

Intellectual Property: HHS Reference No. E–219–2008/0—US Patent Application No. 13/202,319 filed 18 Aug 2011

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*

Collaborative Research Opportunity: The National Institute on Aging, Laboratory of Cardiovascular Science, Cardiac Biology Section—Vascular Group, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize idea of how to assess and retard accelerated arterial aging and its attendant risks for atherosclerosis and hypertension. Please contact Vio Conley at 240–276–5531 or *conleyv@mail.nih.gov* for more information.

A Novel and Efficient Technology for Targeted Delivery of siRNA

Description of Technology: The biological phenomenon of RNA interference (RNAi) has much promise for developing therapeutics to a variety of diseases. However, development of RNAi therapies remains mainly in preclinical stages largely because of difficulties in delivering small inhibitory RNAs (siRNA) and short hairpin RNAs (shRNA) into target cells. Although viral vector-based siRNA delivery systems have been widely used, their specificity and safety remains significant issue. Without a

solution to this delivery problem, RNAi cannot fulfill its therapeutic promise.

Investigators at the National Institutes of Health have developed novel compositions and methods for delivering inhibitory oligonucleotides to cells in a targeted and efficient manner. The compositions and methods are based on utilizing a cell surface receptor targeting ligand, such as cytokine or chemokine, and a domain that binds an inhibitory oligonucleotide, to efficiently deliver the inhibitory oligonucleotide to the cell that expresses the cell surface receptor targeting ligand. Chemokine receptors are differentially expressed on various cells, including tumors; hence this technology allows targeting siRNA to aberrant cells. Gene silencing can also be achieved in variety of immune cells by targeting cytokine receptors. This technology has great potential for developing into a safe and effective means of delivering therapeutic siRNAs.

Potential Commercial Applications

- Treatment of cancers and autoimmune diseases by delivery of siRNA to tumor cells or various aberrantly functioning immune cells.
- This technology can be used to boost vaccine responses against cancers and chronic infectious diseases.
- Targeted delivery of fluorochrome-labeled RNA both *in vitro* and *in vivo* for diagnostic purposes, for example, to trace or localize various cells and to determine tumor metastasis and aberrant proliferation or homing of immune cells.

Competitive Advantages

- Simple method for linking siRNA to polypeptides to create non-covalent or covalent complexes
- *In vivo* targeted delivery of inhibitory RNAs into cells rather than systemically
- Delivery of multiple inhibitory RNAs to target multiple genes
- Long-term repression of target gene expression through RNAi phenomenon

Development Stage

- *In vitro* data available
- *In vivo* data available (animal)
- *In situ* data available

Inventors: Bira Arya, Purevdorj Olkhanud, Juan Espinoza (all of NIA)

Intellectual Property: HHS Reference No. E–051–2008/0—

- US Patent No. 8,703,921 issued 22 Apr 2014
- US Patent Application No. 14/220,726 filed 20 Mar 2014
- Various international patents/patent applications

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*

Collaborative Research Opportunity: The National Institute on Aging, Laboratory of Molecular Biology and Immunology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize chemokine-based siRNA/shRNA technology for treatment of cancers and autoimmune diseases, *i.e.* to control expression of immunomodulatory cytokines and other factors that facilitate tumor escape, activity of regulatory T cells or Th2 type of cells. This technology can be also utilized to boost vaccine responses against cancers and chronic infectious diseases. Please contact John D. Hewes, Ph.D. at 240–276–5515 or *john.hewes@nih.gov* for more information.

Dated: September 17, 2015.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2015–24137 Filed 9–22–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering Sciences Biocomputational and Modeling.

Date: October 28, 2015.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301–435–1047, *kkrishna@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton McLean Tysons Corner, 7920 Jones Branch Drive, McLean, VA 22102.

Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov*.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, DC Convention Center, 900 10 Street, Washington, DC 20001.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Warwick Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Georgetown, 2350 M St. NW., Washington, DC 20037.

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, *schauweckerpe@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John Burch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–408–9519, *burchjb@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: October 29–30, 2015.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Cheryl M. Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 18, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24133 Filed 9–22–15; 08:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–FHC–2015–N160; FVHC98210408710–XXX–FF04G01000]

Deepwater Horizon Oil Spill; Final Phase IV Early Restoration Plan and Environmental Assessments

AGENCY: Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill, notice is hereby given that the Federal and State natural resource trustee agencies (Trustees) have approved the Phase IV Early Restoration Plan and Environmental Assessments (Phase IV ERP/EAs). The Trustees have selected 10 early restoration projects in the Phase IV ERP/EAs that are consistent with the early restoration program alternatives selected in the final Phase III Early Restoration Plan/Programmatic Environmental Impact Statement (Phase III ERP/PEIS). The projects selected in the Phase IV ERP/EAs will continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The Phase IV ERP/EAs also retains a notice of change and supporting analysis for one Phase III Early Restoration Project, ''Enhancement of Franklin County Parks and Boat Ramps—Eastpoint Fishing Pier Improvements'' that was included in the Draft Phase IV plan.

ADDRESSES: *Obtaining Documents:* You may download the Phase IV ERP/EAs at: *http://www.gulfspillrestoration.noaa.gov* or *http://www.doi.gov/deepwaterhorizon.* Alternatively, you may request a CD of the Phase IV ERP/EAs (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, at *nanciann_regalado@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 87 days. In addition, well over 1 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 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 of 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 for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), the Trustees previously selected, and BP agreed to fund, a total of 54 early restoration projects, expected to cost approximately $700 million, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA), Phase II Early Restoration Plan/Environmental Review (Phase II ERP/ER), and the Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase III ERP/PEIS). 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;

[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.

• 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.

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 and their services caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources and their services and 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 under way. The Trustees released the Phase I ERP/EA in April 2012, the Phase II ERP/ER in December 2012, and the Phase III ERP/PEIS on June 26, 2014, after public review of the draft documents. Subsequently, the Trustees approved the Phase III ERP/PEIS in a Record of Decision on October 2, 2014.

A Notice of Availability of the Draft Phase IV Early Restoration Plan and Environmental Assessments (Draft Phase IV ERP/EAs) was published in the **Federal Register** on May 20, 2015 (80 FR 29019). The Draft Phase IV ERP/EAs proposed an additional 10 early restoration projects consistent with the project types included within the approved early restoration programmatic alternative in the Phase III ERP/PEIS. The Trustees provided the public with 30 days to review the Draft Phase IV ERP/EAs but later extended the comment period to July 6, 2015. (80 FR 35393, June 19, 2015). During the public review period, the Trustees held public meetings in Pensacola, Florida; Mobile, Alabama; Long Beach, Mississippi; Belle Chasse, Louisiana; and in Galveston, and Corpus Christi, Texas, to facilitate public participation. The Trustees considered the public comments received, which informed the Trustees' analyses and selection of the early restoration projects in the final Phase IV ERP/EAs. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 15 of the final Phase IV ERP/EAs.

Overview of the Phase IV ERP/EAs

The Trustees approved 10 projects in the Phase IV ERP/EAs. The total estimated cost for these projects is $134 million. Details on the projects are provided in the Phase IV ERP/EAs. The Phase IV ERP/EAs also retains a notice of change and supporting analysis for one Phase III Early Restoration Project, ''Enhancement of Franklin County Parks and Boat Ramps—Eastpoint Fishing Pier Improvements,'' that was included in the Draft Phase IV plan.

These 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 these 10 projects and 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.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: *https://www.doi.gov/deepwaterhorizon/adminrecord.*

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 part 990.

Cynthia K. Dohner,

DOI Authorized Official.

[FR Doc. 2015–24155 Filed 9–22–15; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–935]

Certain Personal Transporters, Components Thereof, and Manuals Therefor; Commission's Determination Not To Review an Initial Determination Terminating Respondents Ninebot (Tianjin) Technology Co., Ltd., Ninebot Inc. (USA), and Powerunion (Beijing) Tech Co., Ltd. Based on Settlement; Amendment of the Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 27) terminating Ninebot (Tianjin) Technology Co., Ltd, Ninebot Inc. (USA), and PowerUnion (Beijing) Tech Co. Ltd. based on settlement. The Commission amends the Notice of Investigation to correct the corporate name of Ninebot Inc. (China) to Ninebot (Tianjin) Technology Co., Ltd.

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 November 10, 2014, based on a complaint filed on behalf of Segway Inc. of Bedford, New Hampshire and DEKA Products Limited Partnership of Manchester, New Hampshire (collectively ''Complainants''). 79 *FR* 66739–40 (Nov. 10, 2014). The complaint was filed on September 9, 2014; a supplement to the complaint was filed on September 19, 2014; and an amended complaint was filed on October 6, 2014. The amended complaint alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain personal transporters, components thereof, and manuals therefor by reason of infringement of certain claims of U.S. Patent No. 6,789,640; U.S. Patent No. 7,275,607; U.S. Patent No. 8,830,048; U.S. Design Patent No. D551,722; U.S. Design Patent No. D551,592; and Copyright Registration No. TX 7–800–563. The Commission's notice of investigation named numerous respondents including, among others: PowerUnion (Beijing) Tech Co. Ltd. (''PowerUnion'') of Beijing, China; Ninebot Inc. of Beijing China, and Ninebot Inc. of Newark, Delaware (collectively ''Ninebot''). A Commission investigative attorney (IA) is participating in the investigation.

On August 13, 2015, Complainants and Respondents Ninebot and PowerUnion (collectively the ''Settling Respondents'') filed a joint motion to terminate the investigation with respect to the Settling Respondents based on a settlement agreement. On August 19, 2015, the IA filed a response supporting the motion.

On August 20, 2015, the ALJ granted the motion. Order No. 27. The ALJ explained that Complainants and the Settling Respondents entered into a sublicense agreement; and Segway and the Settling Respondents entered into a license agreement. *Id.* at 2–3. The ALJ found that the parties complied with the rules and provided confidential and non-confidential versions of the sublicense agreement and that the license agreement is non-confidential. *Id.* at 3. The ALJ noted that the parties represented that the only other relevant agreements, written or oral, express or implied between them concerning the subject matter of this investigation are an agreement attached to the joint motion as Confidential Exhibit D, and the Ginger License Agreement that was attached to the amended complaint (Exhibit 7). *Id.* at 3–4. The ALJ also determined that partial termination of the investigation based on settlement would not impose any undue burdens on public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. *Id.* at 4. No petitions for review were filed.

In the ID, the ALJ noted that the correct corporate name for Ninebot Inc. (China) is Ninebot (Tianjin) Technology Co., Ltd. which was identified by Ninebot in its response to the amended complaint.

The Commission has determined not to review the subject ID.

The Commission hereby amends the Notice of Investigation to correct the corporate name of Ninebot Inc. (China) to Ninebot (Tianjin) Technology Co., Ltd.

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 C.F.R. part 210).

By order of the Commission.

Issued: September 18, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–24151 Filed 9–22–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1070B (Second Review)]

Certain Tissue Paper From China; Notice of Commission Determination To Conduct a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to the Tariff Act of 1930 (''The Act'') to determine whether revocation of the antidumping duty order on certain tissue paper from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date.

DATES: *Effective date:* September 4, 2015.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), 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.* 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).

SUPPLEMENTARY INFORMATION: On September 4, 2015, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that the domestic interested party group response was adequate and that the respondent interested party group response was inadequate to its notice of institution (80 FR 31065, June 1, 2015). The Commission also found that other circumstances warranted conducting a full review.[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.

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: September 17, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–24080 Filed 9–22–15; 8:45 am]

BILLING CODE 7020–02–P

[1] Vice Chairman Dean A. Pinkert and Commissioners Irving A. Williamson and Rhonda K. Schmidtlein voted to conduct an expedited review.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–465 and 731–TA–1161 (Review)]

Certain Steel Grating From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty and countervailing duty orders on certain steel grating from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: *Effective date:* September 4, 2015.

FOR FURTHER INFORMATION CONTACT: Charles Yost ((202) 205–3432), 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 September 4, 2015, the Commission determined that the domestic interested party group response to its notice of institution (80 FR 31071, June 1, 2015) 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 Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

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 and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on September 30, 2015, 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 October 5, 2015 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 review by October 5, 2015. 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 filing have changed. The most recent amendments took effect on July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from 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.

Issued: September 17, 2015.

By order of the Commission.

Lisa R. Barton,

Secretary the Commission.

[FR Doc. 2015–24081 Filed 9–22–15; 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 the responses submitted by the Metal Grating Coalition and its individual member, Alabama Metal Industries Corporation, fisher & Ludlow, Inc., Harsco Industrial IKG, Interstate Gratings, LLC, and Ohio Gratings, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: AMRI Rensselaer Inc.

ACTION: Notice of registration.

SUMMARY: AMRI Rensselaer, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants AMRI Rensselaer, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated April 14, 2015, and published in the **Federal Register** on April 22, 2015, 80 FR 22560, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144 applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of AMRI Rensselaer, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Meperidine (9230)	II
Fentanyl (9801)	II

The company plans to manufacture bulk controlled substances for use in product development and for distribution to its customers.

In reference to drug code 7360 (marihuana), and 7370 (THC), the company plans to bulk manufacture these drugs as synthetic. No other activity for this drug code is authorized for this registration.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24122 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Mallinckrodt LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 23, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 21, 2015, Mallinckrodt LLC, 3600 North Second Street, Saint. Louis, Missouri 63147 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Tetrahydrocannabinols (7370)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Norlevorphanol (9634)	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide) (9821).	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacturer bulk active pharmaceutical ingredients (API) for distribution its customers.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24125 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Fisher Clinical Services, Inc.

ACTION: Notice of registration.

SUMMARY: Fisher Clinical Services, Inc. applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Fisher Clinical Services, Inc. registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated August 27, 2014, and published in the **Federal Register** on September 4, 2014, 79 FR 52762, Fisher Clinical Services, Inc., 700A–C Nestle Way, Breinigsville, Pennsylvania 18031–1522 applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Fisher Clinical Services, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Levorphanol (9220)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to import the listed substances for analytical research, testing, and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24121 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Chemtos, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 23, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on May 28, 2015, Chemtos, LLC, 14101 W. Highway 290, Building 2000B, Austin, Texas 78737–9331 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Marihuana (7360)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Etorphine HCl (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Dihydroetorphine (9334)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II

The company plans to manufacture small quantities of the listed controlled substances in bulk for distribution to its customers for use as reference standards.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24123 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Fresenius Kabi USA, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 23, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 23, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on June 16, 2015, Fresenius Kabi USA, LLC, 3159 Staley Road, Grand Island, New York 14072 applied to be registered as an importer of remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for product development and preparation of stability batches.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24118 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Rhodes Technologies

ACTION: Notice of registration.

SUMMARY: Rhodes Technologies applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Rhodes Technologies

registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated April 14, 2015, and published in the **Federal Register** on April 22, 2015, 80 FR 22556, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island, 02816 applied to be registered as an importer of a certain basic classes of controlled substances. Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Rhodes Technologies to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances in order to bulk manufacture controlled substances in Active Pharmaceutical Ingredient (API) form. The company distributes the manufactured APIs in bulk to its customers.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24119 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cedarburg Pharmaceuticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 23, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on June 16, 2015, Cedarburg Pharmaceuticals, Inc., 870 Badger Circle, Grafton, Wisconsin 53024 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333).	II
Remifentanil (9739)	II
Fentanyl (9801)	II

The company plans to manufacture the above-listed controlled substances in bulk for distribution to its customers. In reference to drug code (7360) marihuana, the company plans to bulk manufacture cannabidiol as a synthetic intermediate. This controlled substance will be further synthesized to bulk manufacture synthetic tetrahydrocannabinols (7370). No other activity for this drug code is authorized for this registration.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24127 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Wildlife Laboratories, Inc.

ACTION: Notice of registration.

SUMMARY: Wildlife Laboratories, Inc., applied to be registered as an importer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Wildlife Laboratories, Inc. registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated June 12, 2015, and published in the **Federal Register** on June 23, 2015, 80 FR 35975, Wildlife Laboratories, Inc., 1230 W. Ash Street, Suite D, Windsor, Colorado 80550 applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Wildlife Laboratories, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of controlled substances:

Controlled substance	Schedule
Etorphine (except HCl) (9056)	I
Etorphine HCl (9059)	II

The company plans to import the listed controlled substances for sale to its customer.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24120 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Euticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 23, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 23, 2015, Euticals, Inc., 2460 W. Bennett Street, Springfield, Missouri 65807–1229 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled Substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Oripavine (9330)	II
Tapentadol (9780)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers.

In reference to oripavine (9330), the company plans to acquire the listed controlled substance in bulk from a domestic source in order to manufacture other controlled substances in bulk for distribution to its customers.

Dated: September 16, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–24124 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 15–25]

James Alvin Chaney, M.D.: Decision and Order

On July 23, 2015, Chief Administrative Law Judge (CALJ) John J. Mulrooney, II, issued the attached Recommended Decision (cited as R.D.). Respondent filed Exceptions to the Recommended Decision.

In his Recommended Decision, the CALJ found that on October 21, 2014, the Commonwealth of Kentucky, Board of Medical Licensure, had issued Respondent an Emergency Order of Suspension against his medical license. R.D. at 2. The CALJ further found that on November 17, 2014, the Board issued a final order that affirmed the emergency order of suspension ''and that the suspension order remains in effect.'' *Id.* Noting that the Controlled Substances Act defines ''term 'practitioner' [to] mean[ ] a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to . . . dispense [or] administer . . . a controlled substance in the course of professional practice,'' *id.* at 3 (quoting 21 U.S.C. 802(21), as well as that the registration provision applicable to practitioners directs the Attorney General to ''register [a] practitioner[] . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices,'' *id.* (quoting 21 U.S.C. 823(f)), the CALJ then noted that the Agency ''has long held that possession of authority under state law to dispense controlled substances is an essential condition for obtaining and maintaining a DEA registration.'' *Id.* (collecting cases). Because there is no dispute that ''Respondent lacks state authority to handle controlled substances in'' Kentucky, the CALJ granted the Government's motion for summary disposition and recommended that Respondent's registration be revoked.[1] *Id.* at 5.

In his Exceptions, Respondent argues that Board's Emergency Order suspending his license ''is not a final order as it has been appealed and is currently being reviewed by the Kentucky Court of Appeals.'' Exceptions at 1. He argues that the CALJ's Recommended Decision is therefore ''based upon an order that is not final and consequently will constitute arbitrary and capricious action.'' *Id.* at 2. Finally, Respondent contends that ''[s]ummary judgment is improper because issues of fact exist concerning the enforceability of the temporary suspension of [his] medical license given its unconstitutionality.'' *Id.*

I reject Respondent's contentions. Putting aside whether—in light of the state Hearing Officer's issuance of the ''Final Order Affirming The Emergency Order of Suspension''—Respondent has accurately described the procedural posture of the state licensing matter, based on the plain language of sections 802(21) and 823(f), this Agency has held repeatedly that ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a DEA registration '''is currently authorized to handle controlled substances in the [S]tate.''' *James L. Hooper,* 76 FR 71371, 71371 (2011) (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), *pet. for rev.*

[1] While the Government alleged in the Order to Show Cause that Respondent's registration does not expire until August 31, 2016, Show Cause Order, at 1; and in his hearing request, Respondent states that he ''holds a medical license . . . and a DEA registration,'' Hearing Request, at 1; the Agency is still required to establish that it has jurisdiction to act. *See Sharad C. Patel,* 80 FR 28693, 28694 n.3 (2015) (''Even in summary disposition proceedings which are based on a lack of state authority, the ALJ is obligated to make a finding establishing that the Agency has jurisdiction.''); *see also* 5 U.S.C. 706(2)(C) (directing reviewing courts ''to hold unlawful and set aside agency action, findings and conclusions found to be . . . in excess of statutory jurisdiction''). This generally requires the ALJ to make a finding either that a respondent retains an active registration or has submitted an application for registration.

In the interest of conducting an expeditious review of this matter, I have taken official notice of Respondent's registration record with the Agency and find that his registration does not expire until August 31, 2016. *See* 5 U.S.C. 556(e); 21 CFR 1316.59(e). However, in the future, where a recommended decision lacks the requisite finding, I will remand the matter for this purpose.

denied, Hooper v. *Holder,* 481 Fed.Appx. 826 (4th Cir. 2012). Thus, it is of no consequence that the State has employed summary process in suspending Respondent's state license and that the Board's ''order remains subject to challenge in either [further] administrative or judicial proceedings.'' *Patel,* 80 FR at 28694; *see also Gary Alfred Shearer,* 78 FR 19009, 19012 (2013); *Michael G. Dolin,* 65 FR at 5661, 5662 (2000).

As for Respondent's contention that summary disposition is inappropriate ''because issues of fact exist concerning the enforceability of the temporary suspension'' order, the only fact that is material in this proceeding is whether Respondent ''is currently authorized to handle controlled substances'' by the State. *Hooper,* 76 FR at 71371; *cf. Sunil Bhasin,* 72 FR 5082, 5083 (2007) (holding that a registrant cannot collaterally attack the results of a state administrative or criminal proceeding in a proceeding brought under section 304 (21 U.S.C. 824(a)). Accordingly, because the suspension order remains in effect, I adopt the Recommended Decision [2] and will order that Respondent's registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) and 28 CFR 0.100(b), I order that DEA Certificate of Registration BC3278492 issued to James Alvin Chaney, M.D., be, and it hereby is, revoked. I further order that any application of James Alvin Chaney, M.D., to renew or modify his registration be, and it hereby is, denied. This Order is effective immediately.[3]

Dated: September 15, 2015.

Chuck Rosenberg,

Acting Administrator.

Brian Bayly, Esq., for the Government.

Lisa English Hinkle, Esq., for the Respondent.

[2] Notwithstanding that the language of section 824(a) authorizes either the suspension or revocation of a registration upon the making of one of the five findings enumerated therein, *see* R.D. at 4 n.1, the Agency has consistently interpreted the CSA as mandating revocation where a practitioner's state authority has been suspended or revoked. As the Fourth Circuit has held, ''[b]ecause sections 823(f) and 802(21) make clear that a practitioner's registration is dependent upon the practitioner having state authority to dispense controlled substances, the [Administrator's] decision to construe section 824(a)(3) as mandating revocation upon suspension of a state license is not an unreasonable interpretation of the CSA.'' *Hooper,* 481 Fed.Appx. at 828.

[3] For the same reasons that lead the Board to order the emergency suspension of Respondent's medical license (*i.e.,* his indictment on various counts of the unlawful distribution of controlled substances), I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

ORDER GRANTING THE GOVERNMENT'S MOTION FOR SUMMARY DISPOSITION AND RECOMMENDED RULINGS, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION OF THE ADMINISTRATIVE LAW JUDGE

Chief Administrative Law Judge John J. Mulrooney, II. The Deputy Assistant Administrator, Drug Enforcement Administration (DEA or Government), issued an Order to Show Cause (OSC) dated May 21, 2015, seeking to revoke the DEA Certificate of Registration (COR), Number BC3278492, of James Alvin Chaney, M.D. (Respondent), pursuant to 21 U.S.C. 824(a)(3) and 21 U.S.C. 823(f), and deny any pending applications for renewal or modification of the COR, pursuant to 21 U.S.C. 823(f). In the OSC, the Government alleges that the Respondent is, *inter alia,* without ''authority to handle controlled substances in the Commonwealth of Kentucky'' as grounds for revocation of the Respondent's DEA registration. On July 2, 2015, the Respondent, by counsel, filed a Request for Hearing in the above-captioned matter. The Request for Hearing stated that a hearing is appropriate because ''the review of [the Kentucky Board of Medical Licensure's] illegal suspension by emergency order of [the Respondent's] medical license is currently on appeal before the Kentucky Court of Appeals . . .'' and because ''any action concerning [the Respondent's DEA COR] . . . is premature . . . .'' Req. for Hrg. at 7.

Consistent with my direction, the parties have briefed the issues. On July 9, 2015, the Government filed a Motion for Summary Disposition Based on Respondent's Lack of State Authorization to Handle Controlled Substances and Submission of Evidence in Support of Such Motion (Motion for Summary Disposition), seeking that this tribunal issue a Recommended Decision granting the Government's Motion on the ground that the Respondent is currently without state authority to handle controlled substances. Mot. for Summary Disp. at 1. According to the Government's Motion, the Commonwealth of Kentucky, Board of Medical Licensure (BML) suspended the Respondent's license to practice medicine effective October 21, 2014, and that suspension order remains in effect. *Id.* Attached to the Government's Motion is the BML Emergency Order of Suspension dated October 21, 2014 suspending the Respondent's state license No. 28914 on the grounds that there was probable cause to believe that the Respondent's practice constituted a danger to the health, welfare, and safety of his patients or the general public, as evidenced by the Respondent's indictments for crimes related to controlled substances. *Id.* at 1–2; Attachment 1 at 1–4. Also attached to the Government's Motion is the BML Final Order Affirming the Emergency Order of Suspension, dated November 17, 2014. Attachment 2 at 17.

On July 23, the Respondent, through counsel, filed a reply styled ''Response to Government's Motion for Summary Judgment'' (Respondent's Reply). In his Reply, the Respondent alleges that his situation is distinguishable from Agency precedent mandating revocation for lack of state authority, Resp't Reply at 4–5, because the BML's suspension of his license was ''based on the [BML's] application of an incorrect rule of law and an unconstitutional regulation.'' *Id.* at 5. In opposing the Government's requested relief, the Respondent also avers that inasmuch as he is not currently practicing medicine or prescribing controlled substances, maintenance of his DEA COR constitutes no danger to the public, and that he ''should not be penalized'' by the DEA because his underlying federal criminal charges have not yet been resolved. *Id.* at 8.

In order to revoke a registrant's DEA registration, the DEA has the burden of proving that the requirements for revocation are satisfied. 21 CFR 1301.44(e) (2015). Once the DEA has made its *prima facie* case for revocation of the registrant's DEA COR, the burden of production then shifts to the Respondent to show that, given the totality of the facts and circumstances in the record, revoking the registrant's registration would not be appropriate. *Morall* v. *DEA,* 412 F.3d 165, 174 (D.C. Cir. 2005); *Humphreys* v. *DEA,* 96 F.3d 658, 661 (3d Cir. 1996); *Shatz* v. *U.S. Dept. of Justice,* 873 F.2d 1089, 1091 (8th Cir. 1989); *Thomas E. Johnston,* 45 FR 72311 (1980).

The Controlled Substances Act (CSA) requires that, in order to maintain a DEA registration, a practitioner must be authorized to handle controlled substances in ''the jurisdiction in which he practices.'' *See* 21 U.S.C. 802(21) (2012) (''[t]he term 'practitioner' means a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice''); *see also* 21 U.S.C. 823(f) (2012) (''The Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State

in which he practices.''). DEA has long held that possession of authority under state law to dispense controlled substances is an essential condition for obtaining and maintaining a DEA registration. *Serenity Café,* 77 FR 35027, 35028 (2012); *David W. Wang,* 72 FR 54297, 54298 (2007); *Sheran Arden Yeates,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988). Because ''possessing authority under state law to handle controlled substances is an essential condition for holding a DEA registration,'' this Agency has consistently held that ''the CSA requires the revocation of a registration issued to a practitioner who lacks [such authority].'' *Roy Chi Lung, M.D.,* 74 FR 20346, 20347 (2009); *see also Scott Sandarg, D.M.D.,* 74 FR 17528, 174529 (2009); *John B. Freitas, D.O.,* 74 FR 17524, 17525 (2009); *Roger A. Rodriguez, M.D.,* 70 FR 33206, 33207 (2005); *Stephen J. Graham, M.D.,* 69 FR 11661 (2004); *Abraham A. Chaplan, M.D.,* 57 FR 55280 (1992); *see also Harrell E. Robinson, M.D.,* 74 FR 61370, 61375 (2009).[1] ''[R]evocation is warranted even where a practitioner's state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State's action at which he may ultimately prevail.'' *Kamal Tiwari, M.D.,* 76 FR 71604, 71606, (2011); *see also Bourne Pharmacy, Inc.,* 72 FR 18273, 18274 (2007); *Anne Lazar Thorn, M.D.,* 62 FR 12847 (1997). Additionally, Agency precedent has established that the existence of other proceedings in which the Respondent is involved is not a basis upon which to justify a stay of DEA administrative enforcement proceedings. *Grider Drug #1 & Grider Drug #2,* 77 FR 44069, 44104 n.97 (2012).

Congress does not intend for administrative agencies to perform meaningless tasks. *See Philip E. Kirk, M.D.,* 48 FR 32887 (1983), *aff'd sub nom. Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *see also Puerto Rico Aqueduct & Sewer Auth.* v. *EPA,* 35 F.3d 600, 605 (1st Cir. 1994); *NLRB* v. *Int'l Assoc. of Bridge, Structural & Ornamental Ironworkers, AFL–CIO,* 549 F.2d 634 (9th Cir. 1977); *United States* v. *Consol. Mines & Smelting Co.,* 455 F.2d 432, 453 (9th Cir. 1971). Thus, it is well-settled that, where no genuine question of fact is involved or when the material facts are agreed upon, a plenary, adversarial administrative proceeding is not required. *See Jesus R. Juarez, M.D.,* 62 FR 14945 (1997); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993). Here, the supplied BML Order establishes, and the Respondent does not contest, that the Respondent is currently without authorization to handle controlled substances in Kentucky, the jurisdiction where the Respondent holds the DEA COR that is the subject of this litigation.

Summary disposition of an administrative case is warranted where, as here, ''there is no factual dispute of substance.'' *See Veg-Mix, Inc.,* 832 F.2d 601, 607 (D.C. Cir. 1987) (''an agency may ordinarily dispense with a hearing when no genuine dispute exists'').[2] While not unsympathetic to the procedural issues raised by the Respondent in his state administrative proceedings, under current Agency precedent, the disposition of the Government's motion is wholly dependent upon a single issue: whether he continues to possess authority under state law to handle controlled substances—which he does not.

At this juncture, no genuine dispute exists over the fact that the Respondent lacks state authority to handle controlled substances in the state of Kentucky. Because the Respondent lacks such state authority, both the plain language of applicable federal statutory provisions and Agency interpretive precedent dictate that he is not entitled to maintain his DEA registration. Simply put, there is no contested factual matter adducible at a hearing that would provide DEA with the authority to allow the Respondent to continue to hold his COR.

Accordingly, I hereby

GRANT the Government's Motion for Summary Disposition; and further

RECOMMEND that the Respondent's DEA registration be REVOKED forthwith[3] and any pending applications for renewal be DENIED.

Dated: July 23, 2015.

John J. Mulrooney II,

Chief Administrative Law Judge.

[FR Doc. 2015–24128 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

[1] *But see* 21 U.S.C. 824(a)(3) (2012) (''A registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance *may* be suspended or revoked by the Attorney General upon a finding that the registrant . . . has had his State license or registration suspended, revoked, or denied by competent State authority . . . .'') (emphasis added). Thus, notwithstanding the Agency's extensive body of internal precedent to the contrary, the plain language of section 824(a)(3) provides that loss of state authority constitutes a discretionary—not mandatory—basis for revocation. However, inasmuch as the Agency precedent is clear on the matter, I am without authority or inclination to render a contrary interpretation.

[2] Even assuming, *arguendo,* the possibility that the Respondent's state controlled substances privileges could be reinstated, summary disposition would still be warranted because under Agency precedent ''revocation is also appropriate when a state license has been suspended, but with the possibility of future reinstatement,'' *Rodriguez,* 70 FR 33207 (citations omitted), and even where there is a judicial challenge to the state medical board action actively pending in the state courts. *Michael G. Dolin, M.D.,* 65 FR 5661, 5662 (2000).

[3] While Agency precedent has held that a stay of DEA administrative proceedings is unlikely ever to be justified by the existence of ancillary proceedings (*Grider Drug #1 & Grider Drug,* #2, 77 FR 44069, 44104 n.97 (2012)), the Agency recently held revocation proceedings in abeyance at the post-hearing adjudication level for a lengthy period pending the resolution of criminal fraud charges and ''pending resolution of [a state] Board proceeding.'' *Odette L. Campbell, M.D.,* 80 FR 41062, 41064 (2015). However, inasmuch as no stay was sought by the Respondent here, and good cause does not appear to exist in any event, the Government's motion will be granted and the case forwarded for a final order.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 15–23]

Brown's Discount Apothecary, BC, Inc., and Bolling Apothecary, Inc.

On May 18, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Brown's Discount Apothecary, BC, Inc. (holder of DEA Certificate of Registration FB3717153), of Jasper, Alabama and Bolling Apothecary, Inc., (holder of DEA Certificate of Registration AB9375456), of Fayette, Alabama. Show Cause Order, at 1. The Show Cause Order proposed the revocation of each pharmacy's DEA Certificate of Registration, on the ground that on April 7, 2015, the Alabama State Board of Pharmacy issued an Emergency Suspension Order suspending each pharmacy's Alabama Controlled Substances Permit, and that therefore, each pharmacy is ''without authority to handle controlled substances in Alabama, the [S]tate in which each is registered with the DEA.'' *Id.* at 1–2.

On May 20, 2015, a Diversion Investigator from the Birmingham District Office personally served the Order to Show Cause on Bolling Apothecary, Inc. Notice of Service of Order to Show Cause, at 1. According to the Government, on June 2, 2015, an attorney ''accepted service by email of the Order to Show Cause on behalf of Brown's Discount Apothecary and its owner George Bolling, Jr. *Id.*

On June 1, 2015, George R. Bolling, Sr., owner of Respondent Bolling Apothecary, Inc., filed a request for a hearing on behalf of the pharmacy with the Office of Administrative Law Judges

(OALJ). Letter of Bolling Apothecary, Inc., to Hearing Clerk, OALJ (May 23, 2015). Mr. Bolling did not, however, request a hearing on behalf of Brown's Discount Apothecary, and at no point has any person filed a request for a hearing on behalf of Brown's, or in the alternative, filed a written statement in lieu of a hearing. *See* 21 CFR 1301.43(c) & (d).

Both matters were nonetheless placed on the docket of the OALJ and assigned to Administrative Law Judge (ALJ) Christopher B. McNeil. Recommended Decision, at 2. On June 2, the ALJ issued an ''Order For Briefing On Allegations Concerning Respondents' Lack Of State Authority'' (hereinafter, Briefing Order).

Therein, the ALJ found that there was ''no request for a hearing on behalf of Brown's Discount Apothecary.'' Briefing Order, at 2. He then provided the parties with the ''opportunity to establish whether grounds exist with respect to either [pharmacy] to advance this matter to hearing, or whether the two pharmacy's [sic] DEA . . . Registration[s] should be summarily revoked and any pending application summarily denied, without a hearing.'' *Id.* The ALJ further ordered that ''the Government may provide evidence and arguments to support the allegation that Bolling Apothecary, Inc. lacks state authority to handle controlled substances,'' and ''may also provide evidence and arguments regarding the issue of whether Brown's Discount Apothecary has timely invoked the jurisdiction of the Office of Administrative Law Judges, or the issue of whether [it] lacks state authority to handle controlled substances, or both issues.'' *Id.* at 2–3. The ALJ's Order also offered Respondent the opportunity to file a response. *Id.* at 3.

Thereafter, the Government filed a Motion for Summary Disposition (hereinafter, Motion). Therein, the Government sought the revocation of each pharmacy's registration on the ground that the Alabama State Board of Pharmacy had issued an Emergency Suspension Order which suspended each pharmacy's Alabama Controlled Substances Permit. Motion, at 2. The Government supported its motion with a copy of the Emergency Suspension Order. *Id.* at Exhibit A, at 7. However, the Government did not address whether, given the failure of Brown's Discount Apothecary to file a hearing request, the ALJ had jurisdiction to adjudicate the allegations with respect to it. *See generally* Motion, at 2–4.

While Bolling Apothecary had requested a hearing, it did not file a response to the Government's motion. Nor did Brown's file a response.

On July 6, 2015, the ALJ issued his Recommended Decision. Addressing the issue of whether he had jurisdiction to rule on the matter of Brown's registration, the ALJ explained that he had given ''the Government the option of providing evidence and arguments regarding the issue of whether Brown's . . . has timely invoked the jurisdiction of this office or whether Brown's lacks state authority to handle controlled substances.'' R.D. at 2 n2. The ALJ then noted that ''the Government elected to present evidence that Brown's . . . is currently without state authority to handle and dispense controlled substances.'' *Id.* The ALJ then proceeded to exercise jurisdiction over the matters involving both Brown's and Bolling, but provided no explanation as to why he was doing so with respect to Brown's. Moreover, the ALJ did not make the requisite finding as to the registration status of either Brown's or Bolling. *See Sharad C. Patel*, 80 FR 28,693, 28,694 n.3 (2015).

While the ALJ noted that neither Brown's nor Bolling had filed a response to the Government's motion, he addressed the arguments raised by Bolling Pharmacy in its Hearing Request. R.D. at 3–4. The ALJ noted that George R. Bolling, Sr. (Bolling Apothecary's owner) had filed a renewal application with the State Board the day after he bought the store and included a copy of a warranty deed executing a transfer of the store to him from one George R. Bolling, Jr. *Id.* at 3–4. The ALJ found, however, that ''nowhere in the request for hearing does either of the Respondents provide any evidence contradicting the Government's position that both Bolling and Brown['s] lack state authority to handle and dispense controlled substances.'' R.D. at 4.[1] The ALJ thus concluded that the ''Respondents do not have authority to handle and dispense controlled substances in the State of Alabama, the jurisdiction where each is licensed by the DEA to handle and dispense such substances.'' *Id.* at 4. The ALJ then granted the Government's Motion for Summary Disposition and ''recommended that Respondents' DEA Certificate of Registration . . . be revoked and that any pending application . . . be denied.'' *Id.* at 5.

[1] The ALJ also rejected the contention of Bolling's owner that the pharmacy ''ha[d] authority'' until either his state license or his DEA registration was physically removed by a person identified only as the supervisor of a DEA Diversion Investigator. R.D. at 4 (quoting Bolling Pharmacy Request for Hearing, at 1). As the ALJ correctly explained, it is the Board of Pharmacy's Emergency Suspension Order ''and not the presence or absence of the physical license that supports the Government's motion.'' *Id.*

Neither party filed exceptions to the Recommended Decision. Thereafter, on August 3, 2015, the ALJ forwarded the record to this Office for Final Agency Action.

Having reviewed the record, I adopt the ALJ's Recommended Decision only with respect to Bolling Apothecary. With respect to Brown's, I find that the Government did not establish that it properly served the Show Cause Order. Moreover, even if the Government had established service, I would reject the ALJ's decision as to Brown's, because in the absence of a hearing request, the ALJ had no authority to rule on the issue of whether its registration should be revoked.

As for whether service was proper, 21 U.S.C. 824(c) provides that ''[b]efore taking action pursuant to this section . . . the Attorney General shall serve *upon the . . . registrant* an order to show cause why registration should not be . . . revoked[] or suspended.'' (emphasis added). According to the Government's Notice of Service, the Government did not serve the Show Cause Order ''upon the . . . [R]egistrant,'' *id.*, but rather on an attorney, who according to the Government ''accepted service by email of the Order to Show Cause on behalf of Brown's . . . and its owner George Bolling, Jr. on June 2, 2015.'' Notice of Service, at 1.

However, ''[n]umerous Federal Courts have held that '[t]he mere relationship between a defendant and his attorney does not, in itself, convey authority to accept service.' '' *Harbinson* v. *Commonwealth of Virginia*, 2010 WL 3655980, at *9 (E.D. Va. Aug. 11, 2010) (quoting *Davies* v. *Jobs & Adverts Online, Gmbh*, 94 F.Supp.2d 719, 722 (E.D. Va. 2000)). *See also United States* v. *Ziegler Bolt & Parts Co.*, 111 F.3d 878, 881 (Fed. Cir. 1997); *Grandbouche* v. *Lovell*, 913 F.2d 835, 837 (10th Cir. 1990); *Ransom* v. *Brennan*, 437 F.2d 5134, 518–19 (5th Cir. 1971). '''Rather, the party seeking to establish the agency relationship must show ''that the attorney exercised authority beyond the attorney-client relationship, including the power to accept service.'' ' '' *Harbinson*, 2010 WL 3655980, at *9 (quoting *Davies,* 94 F.Supp.2d at 722 (quoting *Ziegler*, 111 F.3d at 881)).

While an attorney's authority to act as an agent for the acceptance of process ''may be implied from surrounding circumstances indicating the intent of'' his client, *In re Focus Media Inc.*, 387 F.3d 1077, 1082 (9th Cir. 2004) (other citation and internal quotations omitted), ''an agent's authority to act cannot be established solely from the agent's actions.'' *Id.* at 1084. ''Rather,

the authority must be established *by an act of the principal.'' Id.* (citing *FDIC* v. *Oaklawn Apartments*, 959 F.2d 170, 175 (10th Cir. 1992) (emphasis added)).

With respect to Brown's, even assuming that the attorney it served with the Show Cause Order was in an attorney-client relationship with the pharmacy, the Government has produced no evidence establishing that Brown's authorized the attorney to accept service of the Order on its behalf. *See David M. Lewis*, 78 FR 36591, 36591 (2013) (holding service on attorney was improper where only evidence offered by Government was that ''the attorney requested to take possession of the Order'') (citing *Focus Media*, 387 F.3d at 1084)). Accordingly, I find that the Government did not accomplish service on Brown's.

Even if I concluded otherwise, under the Agency's regulations, a hearing request must be submitted by the applicant/registrant to vest jurisdiction over the matter in the Office of Administrative Law Judges. *See* 21 CFR 1301.42 (''If requested by a person entitled to a hearing, the Administrator shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial, revocation or suspension of any registration.''); *id.* § 1301.43(a) (''Any person entitled to a hearing . . . and desiring a hearing shall, within 30 days after the date of receipt of the order to show cause . . . file with the Administrator a written request for a hearing in the form prescribed . . . .''); *id.* § 1301.43(d) (''If any person entitled to a hearing . . . fails to file a request for a hearing . . . such person shall be deemed to have waived the opportunity for a hearing . . . unless such person shows good cause for such failure.''). Because in contrast to Bolling, Brown's never filed a hearing request, the ALJ had no authority to offer ''the Government the option of providing evidence and arguments regarding the issue of . . . whether Brown's lacks state authority to handle controlled substances,'' R.D. 2, at n.2; and he had no authority to rule on the issue.[2]

As for Bolling Discount Apothecary, its owner attached a copy of its registration with his Request for Hearing, which shows that his registration does not expire until July 31, 2017, thus rendering a remand to establish jurisdiction unnecessary. Having reviewed the Board's Emergency Suspension Order, I adopt the ALJ's finding that the pharmacy does not have authority to dispense controlled substances in Alabama, the State in which it is registered with DEA, and that therefore, it no longer meets the statutory definition of a practitioner. *See* 21 U.S.C. 802(21) (''The term 'practitioner' means a . . . pharmacy . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which [it] practices . . . to . . . dispense . . . a controlled substance in the course of professional practice[.]''). *See also* 21 U.S.C. 823(f). Accordingly, I will order that Respondent Bolling Discount Pharmacy's registration be revoked and that any pending application to renew or modify its registration be denied. *See* 21 U.S.C. 824(a)(3); *see also* R.D. at 4 n.10 (collecting cases).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) and 28 CFR 0.100(b), I order that DEA Certificate of Registration AB9375456 issued to Bolling Apothecary be, and it hereby is, revoked. I further order that any application of Bolling Apothecary to renew or modify its registration be, and it hereby is, denied. This Order is effective immediately.[3]

Dated: September 15, 2015.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2015–24126 Filed 9–22–15; 8:45 am]

BILLING CODE 4410–09–P

[2] According to the Show Cause Order, Brown's registration was due to expire on July 31, 2015, and the registration records of the Agency, of which I take Official Notice, *see* 5 U.S.C. 556(e), show that Brown's allowed its registration to expire on July 31, 2015 (before the ALJ forwarded the record) and has not filed a renewal application. *See Patel*, 80 FR at 28,694 n.3. In any event, because the Government did not serve Brown's, the matter of its registration is not before me.

[3] For the same reasons that led the Board to order the emergency suspension of Respondent's pharmacy license (*i.e.*, the extensive allegations that it was diverting controlled substances), I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Underground Retorts

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Underground Retorts,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 23, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201507-1219-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Underground Retorts information collection. Regulations 30 CFR 57.22401 sets forth the safety requirements for using a retort to extract oil from shale in an underground metal or nonmetal I–A and I–B mine that operates in a combustible ore and either liberates methane or has the potential to liberate methane based on the history of the mine or the geological area in which the mine is located. This presently applies only to underground oil shale mines. The standard requires that, prior to ignition of an underground retort, the mine operator must submit a written ignition operation plan to the

appropriate MSHA District Manager. The plan must contain site-specific safeguards and safety procedures for any underground area of the mine that is affected by the retort. Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) authorize this information collection. *See* 30 U.S.C. 811(a); 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0096.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on September 30. 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 28, 2015 (80 FR 30494).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0096. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Underground Retorts.

OMB Control Number: 1219–0096.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Time Burden: 160 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: September 17, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–24180 Filed 9–22–15; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0030]

Proposed Extension of Information Collection; Main Fan Operation and Inspection (I–A, II–A, III, and V–A Mines)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Main Fan Operation and Inspection (I–A, II–A, III, and V–A Mines).

DATES: All comments must be received on or before November 23, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0018.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Potentially gassy (explosive) conditions in underground metal and nonmetal mines are largely controlled by the main mine fans. When accumulations of explosive gases, such as methane, are not swept from the mine by the main fans, they may reasonably be expected to contact an ignition source. The results of such contacts are usually disastrous, and multiple fatalities may be reasonably expected to occur. 30 CFR 57.22204, which only applies to metal and nonmetal underground mines that are categorized as gassy, requires main fans to have pressure-recording systems. This standard also requires main fans to be inspected daily while operating if persons are underground and certification made of such inspections by signature and date. Certifications and pressure recordings are to be retained for one year and made available to authorized representatives of the Secretary. This information collection addresses the recordkeeping associated with 30 CFR 57.22204.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Main Fan Operation and Inspection (I–A, II–A, III, and V–A Mines). MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information has practical utility;

• Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the FOR FURTHER INFORMATION section of this notice.

III. Current Actions

This request for collection of information contains provisions for Main Fan Operation and Inspection (I–A, II–A, III, and V–A Mines). MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0030.

Affected Public: Business or other for-profit.

Number of Respondents: 6.

Frequency: On occasion.

Number of Responses: 5,940.

Annual Burden Hours: 2,046 hours.

Annual Respondent or Recordkeeper Cost: $2,400.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–24077 Filed 9–22–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0083]

Proposed Extension of Information Collection; Daily Inspection of Surface Coal Mines; Certified Person; Reports of Inspection (Pertains to Surface Coal Mines)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Daily Inspection of Surface Coal Mines; Certified Person; Reports of Inspection (Pertains to Surface Coal Mines).

DATES: All comments must be received on or before November 23, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

• *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0027.

• *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.

• *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

A number of potential hazards can exist at surface coal mines and facilities. Highwalls, mining equipment, travelways, and the handling of mining materials each present potentially hazardous conditions.

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further Section 101(a) of the Mine Act 30 U.S.C. 811 authorizes the Secretary to develop, promulgate, and revise as may be appropriate, improved mandatory health and safety for the protection of life and prevention of injuries in coal or other mines. 30 U.S.C. 811(a).

Section 77.1713, Title 30 of the Code of Federal Regulations requires coal mine operators to conduct examinations of each active working area of surface mines, active surface installations at these mines, facilities and preparation plants not associated with underground coal mines for hazardous conditions during each shift. A report of hazardous conditions detected must be entered into a record book along with a description of any corrective actions taken. By conducting an on shift examination for hazardous conditions, mine operators can better ensure a safe working environment for the miners and a reduction in accidents.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Daily Inspection of Surface Coal Mines; Certified Person; Reports of Inspection (Pertains to Surface Coal Mines). MSHA is particularly interested in comments that:

• Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

• Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Daily Inspection of Surface Coal Mines; Certified Person; Reports of Inspection (Pertains to Surface Coal Mines). MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0083.

Affected Public: Business or other for-profit.

Number of Respondents: 1,100.

Frequency: On occasion.

Number of Responses: 343,200.

Annual Burden Hours: 514,800 hours.

Annual Respondent or Recordkeeper Cost: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–24076 Filed 9–22–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0078]

Proposed Extension of Information Collection; Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation of Injured Persons

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation of Injured Persons.

DATES: All comments must be received on or before November 23, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

• *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0029.

• *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.

• *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 115(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires the Secretary of Labor to publish regulations which provide that mine rescue teams be available for rescue and recovery work to each underground mine in the event of an emergency. In addition, the costs of making advance arrangements for such teams are to be borne by the operator of each such mine.

Under 30 CFR part 49 Subpart A, Mine Rescue Teams for Underground Metal and Nonmetal Mines, requires every operator of an underground mine to assure the availability of mine rescue capability for purposes of emergency rescue and recovery. This collection of information relates to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for team members and alternates; and experience and training requirements for team members and alternates.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation of Injured Persons. MSHA is particularly interested in comments that:

• Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;

• Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation of Injured Persons. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0078.

Affected Public: Business or other for-profit.

Number of Respondents: 215.

Frequency: On occasion.

Number of Responses: 20,041.

Annual Burden Hours: 10,109 hours.

Annual Respondent or Recordkeeper Cost: $309,067.

MSHA Forms: MSHA Form 5000–3, Certificate of Physical Qualification for Mine Rescue Work.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–24075 Filed 9–22–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0150]

Proposed Extension of Information Collection; Pattern of Violations

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Pattern of Violations.

DATES: All comments must be received on or before November 23, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0028.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL—Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk in Suite 4E401 on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

On January 23, 2013, the Mine Safety and Health Administration (MSHA) published Pattern of Violations (POV) final rule (78 FR 5056). Under the Mine Act, MSHA is required to issue a pattern of violations notice to any mine operator that demonstrates a disregard for the health and safety of miners through a pattern of significant and substantial violations. A significant and substantial violation is one that contributes to a safety or health hazard that is reasonably likely to result in a reasonably serious injury or illness. The pattern of violations provision helps to ensure that mine operators manage health and safety conditions at mines and find and fix the root causes of significant and substantial violations before they become a hazard to miners. The final rule simplified the pattern of violations criteria, to improve consistency in applying the criteria, and increase the efficiency and effectiveness in issuance of a pattern of violations notice, which will result in a closure order for areas of a mine where a significant and substantial violation occurs. This collection encourages chronic violators to comply with the Mine Act and MSHA's safety and health standards. Paragraph 30 CFR 104.2(a)(8) provides that MSHA will consider mitigating circumstances in determining whether to issue a pattern of violations notice. Among the items MSHA could consider is an approved corrective action program to reduce significant and substantial violations accompanied by positive results.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Pattern of Violations. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions

the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *http://www.regulations.gov* and *http://www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk in Suite 4E401 on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Pattern of Violations. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0150.

Affected Public: Business or other for-profit.

Number of Respondents: 100.

Frequency: On occasion.

Number of Responses: 100.

Annual Burden Hours: 13,600 hours.

Annual Respondent or Recordkeeper Cost: $10,000.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–24073 Filed 9–22–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0039]

Proposed Extension of Information Collection; Gamma Radiation Surveys

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Gamma Radiation Surveys.

DATES: All comments must be received on or before November 23, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-RulemakingPortal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0033.
- *Regular Mail: Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.*
- *Hand Delivery: USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.*

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Gamma radiation occurs where radioactive materials are present. It has been associated with lung cancer and other debilitating occupational diseases. Natural sources include rocks, soils, and ground water. Gamma radiation hazards may be found near radiation sources at surface operations using X-ray machines, weightometers, nuclear and diffraction units. Nuclear gauges mounted outside tanks, pipes, bins, hoppers or other types of vessels; gamma rays are used to sense the level and density of liquids, slurries or solids. Gamma rays penetrate the body and can kill or damage cells in their path that can affect many of the body's organs. The adverse health effects from exposure to gamma radiation can vary depending upon the type of cell affected and the extent of damage.

Under Section 103(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), the Mine Safety and Health Administration (MSHA) is required to ''* * * issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this Act.'' In addition, 30 CFR 57.5047(a) requires that gamma radiation surveys be conducted annually in all underground mines where radioactive ores are mined. 30 CFR 57.5047(c) requires that gamma radiation dosimeters be provided for all persons exposed to average gamma radiation measurements in excess of 2.0 milliroentgens per hour in the working place. This paragraph also requires the operator keep records of cumulative individual gamma radiation exposures.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Gamma Radiation Surveys. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201

12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Gamma Radiation Surveys. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0039.

Affected Public: Business or other for-profit.

Number of Respondents: 3.

Frequency: On occasion.

Number of Responses: 3.

Annual Burden Hours: 6 hours.

Annual Respondent or Recordkeeper Cost: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–24074 Filed 9–22–15; 8:45 am]

BILLING CODE 4510–43–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 15–02]

Notice of Entering Into a Compact With the Republic of Benin

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (22 U.S.C. 7701–7718) as amended (the Act), and the heading ''Millennium Challenge Corporation'' of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015, the Millennium Challenge Corporation (MCC) is publishing a summary of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Republic of Benin. Representatives of the United States Government and Benin executed the Compact documents on September 9, 2015. The complete text of the Compact has been posted at *https://assets.mcc.gov/documents/compact-benin-power.pdf.*

Dated: September 18, 2015.

Maame Ewusi-Mensah Frimpong,

Vice President and General Counsel, Millennium Challenge Corporation.

Summary of Millennium Challenge Compact With the Republic of Benin

Explanation of the Millennium Challenge Compact With Benin (Compact)

The Millennium Challenge Corporation (''MCC'') has entered into a five-year, $375 million compact with the Republic of Benin aimed at reducing poverty and accelerating economic growth (the ''Compact''). The Compact identifies a program that the MCC will fund consisting of the following four projects: (a) The Policy Reform and Institutional Strengthening Project will support key reforms needed to ensure the sustainability of Benin's electric power sector, including professional regulation, stronger utility operations, and private sector participation in power generation; (b) the Electricity Generation Project will increase Benin's domestic generation capacity by up to 78 megawatts while decreasing the country's dependence on unreliable external energy sources through investments in a combination of solar, thermal, and hydroelectric power sources; (c) the Electricity Distribution Project will improve the nationwide grid by building a modern distribution dispatch and control center, as well as the grid in Cotonou, Benin's largest city and load center and selected regional networks as a complement to the solar investments; and (d) the Off-Grid Electricity Access Project will support policy and institutional reforms as well as infrastructure financing for off-grid electricity.

The Compact articulates the terms and conditions, responsibilities, and obligations of each of the United States, acting through MCC, and Benin, acting through its government. MCC will oversee the implementation of the Compact on behalf of the United States. MCA-Benin II, a legal entity to be established by the Government of Benin (GoB), will manage the implementation of the Compact, while the GoB retains ultimate overall responsibility.

Background Information on Negotiations

In December 2011, MCC's Board of Directors selected Benin as eligible for second Compact assistance. Benin was also deemed eligible for Compact assistance in fiscal years 2013 and 2015. MCC notified Congress pursuant to Section 610(a) of the Millennium Challenge Act of 2003, as amended (Act) on April 9, 2015, of its intent to commence negotiations with Benin, following a 15-day Congressional consultation period. Based on MCC's evaluation of the proposed projects and related documents, and subsequent discussions and negotiations, MCC and the GoB finalized the terms of a Compact, which the MCC Board of Directors approved. The Compact was signed on September 9, 2015, by MCC Chief Executive Officer Dana J. Hyde, for the United States of America, and Komi Koutché, Minister of State in charge of Economy, Finance and Denationalization Programs, for the GoB.

Effect of Compact

The Compact provides the basis for a grant of funds to the GoB for implementation of a program designed to reduce poverty in Benin through economic growth. The specific objective of the program is to expand business production and productivity, generate greater economic opportunities for households, and improve the capacity to provide public and social services by improving the quantity and quality of the supply of electricity in Benin.

Legal Authority

Sections 605, 609(a) and 609(g) of the Act.

Entry Into Force

The Compact will enter into force on the date of the letter from MCC to the GoB in an exchange of letters confirming that the GoB has completed its domestic requirements for entry into force of the Compact and that the conditions precedent to entry into force in Section 7.2 of the Compact have been met.

Duration of the Agreement

The Compact shall remain in force for five years from entry into force, unless earlier terminated.

Point of Contact

General Counsel—(202) 521–3600.

[FR Doc. 2015–24182 Filed 9–22–15; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTUICS AND SPACE ADMINISTRATION

[Notice (15–079)]

Notice of Intent To Grant a Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent To Grant Partially Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Non-Provisional Patent Application Serial No. 13/178,661, titled ''Automatic Dependent Surveillance Broadcast (ADS–B) System For Ownership and Traffic Situational Awareness,'' NASA Case No. DRC–011–012, and any, divisional applications, continuation-in-part applications, or issued patents resulting therefrom, to Vigilant Aerospace Systems Inc., having its principal place of business in Oklahoma City, Oklahoma. Certain patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR. 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, NASA Management Office, 4800 Oak Grove Drive, M/S 180–200, Pasadena, CA 91109; (818) 354–7770 (phone), (818) 393–3160 (fax).

FOR FURTHER INFORMATION CONTACT: Mark Homer, Patent Counsel, Office of Chief Counsel, NASA Management Office, 4800 Oak Grove Drive, M/S 180–200, Pasadena, CA 91109; (818) 354–7770 (phone), (818) 393–3160 (fax). Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2015–24147 Filed 9–22–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Inder the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at title 45 part 671 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 23, 2015. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details:

Permit Application: 2016–008

1. *Applicant* David Rootes, Environmental Manager. Antarctic Logistics and Expeditions LLC. 3478 South Main Street, Salt Lake City UT 84115.

Activity for Which Permit Is Requested

Waste Permit; ALE plans to operate a remote camp at Union Glacier, Antarctica, and provide logistical support services for scientific and other expeditions, film crews, and tourists. These activities include aircraft support, cache positioning, camp and field support, resupply, search and rescue, medevac, medical support and logistic support for some National Operators. The camp can accommodate up to 100 people and is adjacent to a blue-ice runway. The blue-ice runway is a natural feature that requires limited amount of preparation and upkeep for aircraft use. There are standard programs offered on a regular basis including: climbing trips to Vinson Massif, the Ellsworth Mountains and the Transantarctic Mountains; ski trips to the Ellsworth Mountains and the Geographic South Pole; ice marathons and sky diving at Union Glacier; and flights to the Geographic South Pole and the emperor penguin colony at the Dawson Lambton Glacier. Several aircraft will be operated by ALE throughout the Antarctic and may consist of the following: Ilyushin ILTD–76, Boeing 757–200ER, Douglas DC3–TP67, and De Havilland DHC–6 Twin Otter. ALE plans to allow clients to fly Unmanned Aerial Vehicles (UAV) provided their plan meets certain requirements, including ALE's standard operating procedures, IATTO UAV policy (2015), and civil aviation authority regulations (ICAO, FAA, CAA).

Location

Centered around Union Glacier, in the general area of the Ellsworth Mountains including Vinson Massif; the sector to the South Pole; the Filchner-Ronnie Ice Shelf including Berkner Island; the coast of Coats Land; and the Ross Ice Shelf and the general route from Ross Island to the South Pole.

Dates

October 16, 2015 through February 28, 2020.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2015–24175 Filed 9–22–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 23, 2015. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details:

Permit Application: 2016–009

1. *Applicant* Tehnuka Ilanko. Department of Earth and Planetary Sciences. University of New Mexico, Albuquerque NM.

Activity for Which Permit Is Requested

ASPA entry; The applicant desires to access Tramway Ridge, on Mt. Erebus, Ross Island, which is protected by ASPA 175 High Altitude Geothermal Sites of the Ross Sea Region. Applicant wishes to conduct gas sampling of gases emitted from vents in order to characterize the subsurface conditions and gas emissions of Tramway Ridge to better understand processes behind flank degassing and possible interactions between magmatic and hydrothermal systems. Samples will be collected in glass bottles via a sterilized hollow stainless steel rod inserted into a degassing vent, with a pump used to extract the gases into an accumulation chamber.

Location

ASPA 175, High Altitude Geothermal Sites of the Ross Sea Region: Tramway Ridge, Mt. Erebus, Ross Island.

Dates

November 1, 2015 to January 31, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2015–24176 Filed 9–22–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at title 45 part 671 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 23, 2015. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details:

Permit Application: 2016–007

1. *Applicant* John McKeon, President, Polar Latitudes, Inc., 857 Post Road, #366, Fairfield, CT 06825.

Activity for Which Permit is Requested

Type, description of activity

Location

Waste Permit;

For Coastal Camping: The applicant seeks permission for no more than 30 campers and two expedition staff to camp overnight at select locations for a maximum of 10 hours ashore. Camping would be away from vegetated sites and >150m from wildlife concentrations or lakes, protected areas, historical sites, and scientific stations. Tents would be pitched on snow, ice, or bare smooth rock, at least 15m from the high water line. No food would be brought onshore and all wastes, including human waste, would be collected and returned to the ship for proper disposal. The applicant is seeking a Waste Permit to cover any accidental releases that may result from camping. For UAV Filming: The applicant wishes to fly small, battery operated, remotely controlled copters equipped with a cameras to take scenic photos and film of the Antarctic. The UAVs would not be flown over concentrations of birds or mammals or over Antarctic Specially Protected Areas. The UAVs would only be flown by operators with extensive experience (>20 hours), who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the UAV including painting the them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life; having prop guards on propeller tips, a flotation device if operated over water, and a ''go home'' feature in case of loss of control link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and UAV does not exceed an operational range of 500 meters. The applicant is seeking a Waste Permit to cover any accidental releases that may result from flying a UAV.

Location

Camping: Possible locations include Damoy Point/Dorian Bay, Danco Island, Rongé Island, the Errera Channel, Paradise Bay (including Almirante Brown/Base Brown or Skontorp Cove), the Argentine Islands, Andvord Bay, Pleneau Island, the Argentine Islands, Hovgaard Island, Orne Harbour, Leith Cove, Prospect Point and Portal Point.

UAV filming: Western Antarctic Peninsula region

Dates

October 30, 2015 to March 19, 2016.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2015–24177 Filed 9–22–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of Public Forum

On Wednesday, October 14, 2015, the National Transportation Safety Board (NTSB) will convene a forum titled *Humans and Hardware: Preventing Inflight Loss of Control in General Aviation.* The forum will begin at 9:00 a.m. and is open to all. Attendance is free, and no registration is required. NTSB Board Member Earl F. Weener will serve as the presiding officer of the forum. Invited panelists will include representatives from the Federal Aviation Administration, researchers, and industry and advocacy groups.

Below is the preliminary agenda.

Wednesday, October 14, 2015 (9:00 a.m. to 5:00 p.m.)

1. Opening Statement by Member Weener
2. Staff Presentation on Loss of Control Statistics
3. Presentations on *Industry and Government Perspectives and Actions*
4. Questions from Member Weener and the Technical Panel
5. Presentations on *Human Performance and Medical Issues*
6. Questions from Member Weener and the Technical Panel
7. Presentations on *Pilot Training Solutions*
8. Questions from Member Weener and the Technical Panel
9. Presentations on *Equipment and Technology Solutions*
10. Questions from Member Weener and the Technical Panel
11. Open Discussion
12. Closing Statement by Member Weener

Unless otherwise noted, the forum will be held in the NTSB Board Room and Conference Center, located at 429 L'Enfant Plaza SW., Washington, DC. The public can view the forum in person or via live webcast at *www.ntsb.gov.* Webcast archives are generally available by the end of the day after the forum, and webcasts are archived for 3 months after the date of the event.

Individuals requiring reasonable accommodation and/or wheelchair access directions should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Wednesday, October 7, 2015.

NTSB Media Contact: Peter *Knudson-peter.knudson@ntsb.gov*.

NTSB Forum Manager: Dr. Kristi *Dunks-kristi.dunks@ntsb.gov*.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2015–24143 Filed 9–22–15; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

Sunshine Act Meeting Notice

DATE: September 21, 2015.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public

Week of September 21, 2015

Thursday, September 24, 2015

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting); (Contact: Donna Williams: 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

ADDITIONAL INFORMATION

The meeting on Strategic Programmatic Overview of the New Reactors Business Line scheduled for 9:30 a.m. on Thursday, September 24, 2015 has been changed to begin at 10:00 a.m.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at 301–415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: September 21, 2015.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015–24298 Filed 9–21–15; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting

October 20–21, 2015—The U.S. Nuclear Waste Technical Review Board will hold an international technical workshop on the potential deep borehole disposal of high-level radioactive waste.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, and in accordance with its mandate to review the technical and scientific validity of U.S. Department of Energy (DOE) activities related to implementing the Nuclear Waste Policy Act of 1982 (NWPA), the U.S. Nuclear Waste Technical Review Board will hold an international technical workshop on Tuesday, October 20, and Wednesday, October 21, 2015, to evaluate technical and scientific issues associated with the potential use of deep boreholes to dispose of some radioactive wastes. The workshop is open to the public and there is no charge for attendance.

In June 2015, the Board issued a report: *Evaluation of Technical Issues*

Associated with the Development of a Separate Repository for U.S. Department of Energy-Managed High-Level Radioactive Waste and Spent Nuclear Fuel. In its report, the Board reviewed two DOE reports, one of which was released in October 2014 and the other in March 2015. The DOE reports recommended implementing a strategy for disposal of some DOE-managed high-level radioactive waste (HLW), and possibly some DOE-managed spent nuclear fuel (SNF), in a separate geologic repository rather than commingling the DOE wastes in a single repository with commercial HLW and SNF. The October 2014 report also recommended that DOE retain the flexibility to consider options for disposal of smaller DOE-managed waste forms in deep boreholes rather than in a mined, geologic repository. DOE identified cesium and strontium capsules as candidates for disposal in deep boreholes.

The Board's October workshop will look at issues associated with the design and implementation of a program for deep borehole disposal of solid radioactive wastes. In particular, the objective of the workshop will be to identify the technical and scientific issues associated with DOE's research and development program to assess the viability of the deep borehole disposal concept and, more broadly, to identify issues associated with implementation of deep borehole disposal.

The workshop will be held at the Embassy Suites Hotel, 1250 22nd Street NW., Washington, DC 20037; (Tel) 202–857–3388, (Fax) 202–293–3173. A block of sleeping rooms has been reserved at the hotel for meeting attendees. To make a reservation, attendees may call 1 800–445–8667. The group code name for the workshop is ''NUC.'' Reservations also may be made on the hotel Web site: *http://embassysuites.hilton.com/en/es/groups/personalized/W/WASDNES–NUC–20151019/index.jhtml.* Reservations must be made by Monday, September 28, 2015, to receive the group rate.

The first day of the workshop will begin at 8:00 a.m. and is scheduled to wind up at about 5:30 p.m. The agenda on Tuesday will begin with presentations by DOE managers and experts on DOE's plans for studying deep borehole disposal, including a field test program being planned by DOE to provide information on the geoscience of the deep borehole disposal concept and the technical issues associated with its implementation. Following the DOE presentations, panels of experts from this and other countries will discuss issues such as:

- Expected hydrogeological and geochemical conditions at the proposed disposal depth and their associated characterization methods;
- Waste forms to be disposed of, durability of waste-disposal canister and overpack materials, and effectiveness of borehole seals;
- Challenges to deep drilling in crystalline rocks and to operations related to emplacing the waste canisters in boreholes;
- Regulatory framework for deep borehole disposal of solid radioactive wastes;
- Advantages and disadvantages of deep borehole disposal compared with other disposal concepts.

There will be a lunchtime presentation on Tuesday titled ''International Perspective on Deep Borehole Disposal.'' Those who wish to attend the lunchtime presentation should send an email no later than October 15 to *October2015Workshop@nwtrb.gov* with the words ''Working Lunch RSVP'' in the subject line. Information on arrangements for the lunch will be provided in response to the email.

The panel discussions will resume at 8:00 a.m. on Wednesday and continue throughout the day until the conclusion of the workshop at approximately 5:00 p.m.

Opportunities for public comment will be provided on both days before the lunch break and at the end of the day. It may be necessary to set a time limit on individual remarks in order to maintain the schedule, but written comments of any length may be submitted during and after the workshop and will be entered into the record of the meeting posted on the Board's Web site. The meeting will also be webcast through a link that will be posted on the Board's Web site.

The workshop agenda will be available on the Board's Web site (*www.nwtrb.gov*) approximately one week before the meeting. The transcript of the workshop discussions, the presentation materials, and any comments and other documents submitted for the record will be available on the Board's Web site after November 20, 2015. The Webcast recording also will be available on the Board's Web site for a period of one year after the workshop.

The Board was established in the 1987 Nuclear Waste Policy Amendments Act as an independent federal agency in the Executive branch to perform an ongoing objective evaluation of the technical and scientific validity of activities undertaken by DOE related to implementing the NWPA. Board members are experts in their fields and are appointed by the President from a list of candidates submitted by the National Academy of Sciences. The Board reports its findings, conclusions, and recommendations to Congress and the Secretary of Energy. Board reports, correspondence, congressional testimony, and meeting transcripts and materials are posted on the Board's Web site.

For information on the workshop, contact Bret Leslie at *leslie@nwtrb.gov,* Roberto Pabalan at *pabalan@nwtrb.gov,* or Karyn Severson at *severson@nwtrb.gov.* For information on meeting logistics, contact Linda Coultry at *coultry@nwtrb.gov.* They can be reached by phone at 703–235–4473.

Dated: September 17, 2015.

Nigel Mote,

Executive Director, U.S. Nuclear Waste Technical Review Board.

[FR Doc. 2015–24043 Filed 9–22–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Friday, September 25, 2015 at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: September 18, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–24217 Filed 9–21–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75942; File No. SR–Phlx–2015–49]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend and Correct Rule 1080.07

September 17, 2015.

I. Introduction

On June 5, 2015, NASDAQ OMX PHLX LLC (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend and correct several provisions in Phlx Rule 1080.07, ''Complex Orders on Phlx XL,'' which governs the trading of Complex Orders on the Phlx's Complex Order System (''System''). The proposed rule change was published for comment in the **Federal Register** on June 23, 2015.[3] On July 30, 2015, the Commission extended the time period for Commission action to September 21, 2015.[4] The Commission received no comments regarding the proposal. This order institutes proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to disapprove the proposed rule change.

II. Description of the Proposal

The Phlx proposes to make a number of changes to Phlx Rule 1080.07 to amend and correct inconsistencies in the rule and provide additional clarity regarding the trading of Complex Orders on the Exchange. The Phlx's System for trading Complex Orders includes a Complex Order Opening Process (''COOP''); the Complex Order Live Auction (''COLA''), an automated auction for seeking liquidity and price improvement for Complex Orders; and a Complex Limit Order Book (''CBOOK''). According to the Phlx, among other things, the proposal would revise Phlx Rule 1080.07 to: (i) Accurately describe the operation of the COOP and the execution of orders at the opening, including the treatment of Immediate-or-Cancel (''IOC'') orders and Do Not Auction (''DNA'') orders at the opening; (ii) add definitions of ''COOP Sweep'' and ''COLA Sweep,'' and correct existing rule text to indicate that only Phlx XL market makers may submit COLA Sweeps; (iii) delete rule text that incorrectly states that a specialist could be entitled to receive 40% of the remainder of a COLA-eligible order, as well as rule text indicating that only a specialist's interest at the cPBBO is aggregated for purposes of determining the specialist's entitlement in the COLA, so that the revised rule will provide that the specialist is entitled to receive the greater of (a) the proportion of the aggregate size associated with the specialist's COLA Sweep, SQT and RSQT COLA Sweeps, and non-SQT ROT Complex Orders on the CBOOK, or (b) the Enhanced Specialist Participation as described in Phlx Rule 1014(g)(ii); (iv) delete rule text indicating that, for allocation purposes, the size of a COLA Sweep or responsive Complex Order will be limited to the size of the COLA-eligible order, thereby clarifying that the size of a COLA Sweep or responsive Complex Order that exceeds the size of the COLA-eligible order may trade against remaining interest after the COLA-eligible order has been executed to the fullest extent possible; (v) revise rule text to indicate that other interest in a COLA may trade after a COLA-eligible order has been executed to the fullest extent possible, rather than in its entirety, and to correct the description of the execution of crossing interest after a COLA-eligible order has been executed; (vi) provide that the System will place a Complex Order received during a configurable period of time prior to the end of a trading session on the CBOOK after any marketable portion of the order has been executed; and (vii) describe the handling of all-or-none Complex Orders.

In addition to these changes, the Phlx proposes to amend Phlx Rule 1080.07 to add a definition of ''Firm.'' [6] Specifically, the Phlx proposes to define a ''Firm'' to mean ''a broker-dealer trading for its own (proprietary) account that is: A member of The Options Clearing Corporation (''OCC'') or maintains a Joint Back Office (''JBO'') arrangement with an OCC member.[7] The Phlx also proposes to revise Phlx Rule 1080.07 to provide that orders from Firms, like orders from market makers, would not trigger a COLA.[8] In addition, the Phlx proposes to treat Firms like market makers for purposes of determining the allocations and execution price that their trading interest will receive at the conclusion of a COLA.[9]

The Phlx proposes to treat Firm orders like non-Phlx market makers for purposes of these rules because the Phlx believes that the trading style and needs of Firms are more like market makers.[10] The Phlx states that Firms are large, well-capitalized broker-dealers that trade for their own accounts and generally submit large orders, including orders that facilitate their clients' orders or offset large positions taken to accommodate their customers.[11] According to the Phlx, Firms must have the financial wherewithal that this role necessitates.[12] Thus, the Phlx states that Firms, in general, are commonly viewed as liquidity providers, much like market makers.[13] The Phlx states that Firms do not expect or need their Complex Orders to trigger a COLA, nor do they need or expect to submit Good Til Cancelled Orders, because these are features commonly associated with customers rather than liquidity providers who function to accommodate trading interest.[14] The Phlx notes that both of these features involve a temporal component, and that both a delay and long-lasting interest are inconsistent

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75189 (June 17, 2015), 80 FR 35997 (''Notice'').

[4] *See* Securities Exchange Act Release No. 75570, 80 FR 46619 (August 5, 2015).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Phlx Rule 1080.07(a)(x).

[7] *Id.* Unless otherwise specified, Firms are included in the category of non-market-maker off-floor broker-dealer. *Id.*

[8] *See* Phlx Rule 1080.07(e)(i)(B)(1). Orders from non-market maker off-floor broker-dealers that are not Firms would be COLA-eligible. *See* Phlx Rule 1080.07(e)(i)(B)(1) and Notice, 80 FR at 36003.

[9] *See* Phlx Rule 1080.07(e)(viii)(C)(2) and Notice, 80 FR at 36003. Orders of non-market maker off-floor broker-dealers that are not Firms would be executed along with the orders of non-broker-dealer customers at the conclusion of the COLA. *See* Phlx Rule 1080.07(e)(viii)(C)(1) and Notice, 80 FR at 36003. At the same price, non-broker-dealer customer orders would be executed in time priority, while non-market-maker off-floor broker-dealer orders would be executed on a pro rata basis at each price level. *See* Phlx Rule 1080.07(e)(viii)(C)(1)(d).

[10] *See* Notice, 80 FR at 36003.

[11] *See* Notice, 80 FR at 36003–36004.

[12] *See* Notice, 80 FR at 36004. In addition, Firms that are OCC clearing members must comply with OCC rules regarding, among other things, net capital, risk management procedures, and margin. *See id.*

[13] *See id.*

[14] *See* Notice, 80 FR at 36005.

with the sort of accommodation that Firms provide.[15] The Phlx believes that by tailoring its offerings to the needs and trading style of Firms, Firms are more likely to send orders to the Exchange.[16]

III. Proceedings To Determine Whether To Approve or Disapprove SR–Phlx–2015–49 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[17] to determine whether the proposed rule change should be disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[18] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the consistency of the proposed rule change with Section 6(b)(5) of the Act,[19] which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In addition, under the Commission's rules of procedure, a self-regulatory organization that proposes to amend its rules bears the burden of demonstrating that its proposal is consistent with the Act.[20] In this regard:

The description of the proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with the applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding. Any failure of the self-regulatory organization to provide the information elicited by Form 19b–4 may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder that are applicable to the self-regulation organization.[21]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any others they may have identified with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[22]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by October 14, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 28, 2015. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission asks that commenters address the sufficiency of the Exchange's statements, which are set forth in the Notice,[23] in support of its proposal to prevent Firms' orders from triggering a COLA, in addition to any other comments they may wish to submit about the proposed rule change. The Commission notes that the Phlx states that Firms, like market makers, are liquidity providers that function to accommodate the trading interest of their clients, and that Firms do not expect or need their orders to trigger a COLA. With respect to this conclusion, the Commission seeks comment on whether there are circumstances in which a Firm might want its order to trigger a COLA, and the potential impact of permitting or prohibiting Firms' orders from triggering a COLA.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR-Phlx-2015–49.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–Phlx–*

[15] *See id.*

[16] *See id.*

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding.

[19] 15 U.S.C. 78f(b)(5).

[20] Rule 700(b)(3), 17 CFR 201.700(b)(3).

[21] *Id.*

[22] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[23] *See supra* note 3.

2015–49 and should be submitted by October 14, 2015. Rebuttal comments should be submitted by October 28, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Brent J. Fields,

Secretary.

[FR Doc. 2015–24062 Filed 9–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75937; File Nos. SR–NYSE–2015–31; SR–NYSEMKT–2015–56]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Order Instituting Proceedings To Determine Whether To Disapprove the Proposed Rule Changes Amending the NYSE Trades Market Data and NYSE MKT Trades Market Data Product Offerings

September 17, 2015.

I. Introduction

On July 16, 2015, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'') (collectively, the ''Exchanges'') separately filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule changes to amend, respectively, the NYSE Trades market data product offering and the NYSE MKT Trades market data product offering. The proposed rule changes were published for comment in the **Federal Register** on August 5, 2015.[3] The Commission has received two comments on the proposals.[4] This order institutes proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to disapprove the proposed rule changes.

II. Description of the Proposals

NYSE and NYSE MKT propose to modify the data content of their respective proprietary market data feeds: NYSE Trades and NYSE MKT Trades (collectively, the ''Trades Feeds'').[6]

The Trades Feeds currently provides subscribers and users on a real-time basis with the same last-sale information that each Exchange reports to the Consolidated Tape Association (''CTA'') for inclusion in the CTA Plan's consolidated data streams. Specifically, each Exchange's Trades Feeds includes, for each security traded on that Exchange, the real-time last-sale price, time and size information, bid/ask quotations, and a stock summary message. The stock summary message updates every minute and includes the offering Exchange's opening price, high price, low price, closing price, and cumulative volume for the security.[7]

Each Exchange currently reports to the CTA and distributes on a real-time basis via the Trades Feeds its market's last-sale information based on the completed execution of an arriving order. For example, currently, if an arriving order of 1,000 shares trades with five resting orders of 200 shares on NYSE, NYSE would bundle the executions and report a single completed trade of 1,000 shares both to the CTA and through NYSE Trades. NYSE MKT Trades operates in the same way.

Each Exchange now proposes to distribute its last-sale information on its respective Trades Feed in a different manner than it distributes last-sale information to the CTA. Each Exchange would continue to distribute last-sale information to the CTA as described above, but last-sale information distributed via the Exchange's Trades Feed would be based on the individual resting orders that are executed in the total completed trade and would not be bundled for reporting purposes. In the example above, NYSE would distribute via NYSE Trades the real-time NYSE last-sale information of five executions of 200 shares each,[8] but would report to CTA a single completed trade of 1,000 shares.

The Exchanges have represented that they would continue to make their last-sale information available through their Trades Feeds immediately after providing the last-sale information to the processor under the CTA Plan. The Exchanges have argued that reporting last-sale information in an unbundled format, based on execution of the individual resting orders, rather than in an bundled format based on the completed execution of an incoming order would remove impediments to and perfect the mechanism of a free and open market by providing more granular trade information to vendors and subscribers who desire it, thus promoting competition and innovation.

Each Exchanges has also proposed to remove the bid/ask data from its Trades Feed. Each Exchange currently has a data feed—the NYSE BBO data feed and the NYSE MKT BBO data feed—that includes the same bid/ask data currently included in the Exchange's Trades Feed, and each Exchange has represented that its respective BBO feed would continue to include the best bids and offers for all securities that are traded on its facilities and for which it reports quotes to the Consolidated Quotation Association (''CQA'') under the Consolidated Quotation (''CQ'') Plan for inclusion in the CQ Plan's consolidated quotation information data stream.[9] Each Exchange has stated that removing the bid/ask data from its Trades Feeds would streamline its products and would align them with last-sale data feeds offered by other exchanges that offer last-sale data products, which do not include bid and offer information.[10]

Each Exchange has stated that it expects to offer both the current Trades Feed and the proposed Trades Feed for a limited transition period, after which it would stop offering the current Trades Feed and offer only the Trades Feed proposed in its filing. Each Exchange has stated that it would announce the transition dates in advance. Each Exchange has also stated that there would be no change to the fees for the Trades Feed in connection with the proposed changes.

III. Comment Letters

The Commission has received two comment letters on the proposals.[11] Both commenters are opposed to the proposals. The commenters note that the NYSE and its affiliated exchanges are the only national securities exchanges that report their last-sale information to the securities information processor (''SIP'') in a

[24] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 75556 (July 30, 2015), 80 FR 46628 (SR–NYSE–2015–31) and 75559 (July 30, 2015), 80 FR 46642 (SR–NYSEMKT–2015–56) (''Notices'').

[4] *See* Letter from Eric S. Hunsader, Nanex, LLC, dated August 14, 2015 (''Nanex Letter''); Letter from John Ramsay, Chief Market Policy Officer, IEX Group, Inc., to Brent J. Fields, Secretary, Commission, dated August 20, 2015 (''IEX Letter'').

[5] 15 U.S.C. 78s(b)(2)(B).

[6] NYSE Trades is an NYSE-only last-sale market data feed and NYSE MKT Trades is a NYSE MKT-only last-sale market data feed.

[7] *See* Securities Exchange Act Release Nos. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex–2010–35), 70065 (July 30, 2013), 78 FR 47450 (Aug. 5, 2013) (SR–NYSEMKT–2013–64) and 69273 (April 2, 2013), 78 FR 20969 (April 8, 2013) (SR–NYSEMKT–2013–30).

[8] Each Exchange has proposed that the five transactions in such an example would have the same time stamp.

[9] *See, e.g.*, Securities Exchange Act Release No. 72326 (June 5, 2014), 79 FR 33605 (June 11, 2014) (SR–NYSEMKT–2014–49).

[10] As examples, the Exchanges cited to the last-sale data products offered by The Nasdaq Stock Market, LLC and BATS, Inc. *See* NASDAQ Rule 7039 (Nasdaq Last Sale) and BATS Rule 11.22(g) (BATS Last Sale).

[11] *See supra* note 4.

bundled format and that all the other national securities exchanges report the last-sale information for each individual trade to the SIP.

Both commenters argue that the proposals would be contrary to Regulation NMS. One commenter states that the proposals go against a core principle of Regulation NMS, namely, the prohibition of providing core data in a private feed before it sends it to the SIP. The commenter states that, in this case, the delay is not a few microseconds, but rather forever.[12] The commenter also notes that the proposals put investors in the position of having to subscribe to the Exchanges' feeds to get the very same data that every other non-NYSE- affiliated exchange already sends to the SIP, which the commenter contends is a ''preposterous proposition.'' [13]

The other commenter believes that the proposals would be unreasonably discriminatory in the dissemination of market data in violation of Rule 603(a)(2).[14] This commenter states that exchanges should not be allowed to provide an inferior view of core market data to the general public, compared to an enhanced view offered to subscribers who are willing to pay a premium for it, where the enhanced view could be provided through CTA or another SIP. The commenter notes that the Exchanges are the exclusive source of the individual trade data and that no one else can compete in the delivery of that specific information. The commenter states that preventing investors and market participants from receiving consolidated trade data that accurately reflects the sequence and size of individual transactions unless they pay a premium necessarily discriminates in the dissemination of data that the Commission has found to be a keystone element of the national market system. The commenter argues that, in terms of advancing national market system goals, the result of the proposals would be no more ''fair and reasonable,'' and no less ''unreasonably discriminatory,'' than the practices providing timeliness advantages to proprietary data over consolidated data that the Commission has found to violate regulatory standards.[15] The commenter also contends that, while the Exchanges have stated that the proposals are a means to disseminate the same trade information but with more granularity with regards to the individual trades, such granularity is only of additional value because of the Exchanges' peculiar practice of aggregating the trade information for the CTA.

Both commenters also argue that the Exchanges' current practice of sending bundled transaction information to the SIP has presented some problems and that the Exchanges should report each individual trade to the SIP. One commenter states the bundled transaction information has presented problems in the course of investigating questionable trades.[16] The other commenter states reporting the individual trade information to the SIP would provide market participants the transparency they need to easily identify, based on price, size, and time stamp data, and circumstances where a large incoming order is able to match with multiple resting orders.[17]

IV. Proceedings To Determine Whether To Disapprove SR–NYSE–2015–31 and NYSEMKT–2015–56 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [18] to determine whether the proposals should be disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposals. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposals.

Pursuant to Section 19(b)(2)(B),[19] the Commission is providing notice of the grounds for disapproval under consideration. The Exchanges' proposals, if approved, would allow a national securities exchange to offer different last-sale information through its proprietary market data products than it reports to the CTA.[20] Under Regulation NMS, last-sale transaction information is considered ''core data.'' All broker-dealers are required to purchase core data from the SIPs,[21] and all of the national securities exchanges share in the revenues received from the sale of this data. Regulation NMS permits the national securities exchanges to provide the same core data that is reported to the SIP on their own data feeds, subject to the condition that such data be provided on terms that are fair and reasonable and not unreasonably discriminatory. The Commission believes that permitting exchanges to provide different information about trade executions through their own proprietary feeds than they report to the SIP presents a novel issue that implicates the Regulation NMS requirements regarding ''core data'' and warrants further consideration.

Accordingly, the Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with Section 6(b)(5) of the Act, Section 11A of the Act, and Rule 603(a) of Regulation NMS. Section 6(b)(5) provides that the rules of an exchange must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market system, and in general to protect investors and the public interest. Section 11A prohibits a self-regulatory organization from collecting, processing, distributing, publishing, or preparing for distribution any information with respect to quotations for or transactions in any security other than an exempted security, in contravention of such rules and regulations that the Commission shall prescribe furtherance of the purposes of this title to, among other things, assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information and assure that all securities information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions in such securities as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity. Rule 603(a) provides that any exclusive processor that distributes information with respect to quotations or transactions in an NMS stock to a securities information processor do so on terms that are fair

[12] *See* Nanex Letter.

[13] *Id.*

[14] *See* IEX Letter at 5.

[15] *See* IEX Letter at 6.

[16] *See* Nanex Letter.

[17] *See* IEX Letter at 4.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] *See id.*

[20] The CTA is the SIP for last-sale transaction information for equities trades from all national securities exchanges, and, under CTA Plan, collects and distributes this last-sale transaction information. The CQA is the SIP for best bid and offer quotation information for equities quoted on all national securities exchanges, and, under CQ Plan, collects and distributes this last-sale transaction information.

[21] *See* Exchange Act Rule 603(c)(1).

and reasonable and any national securities exchange that distributes such information do so on terms that are not unreasonably discriminatory.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above or any others they may have with the proposed rule changes. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule changes are inconsistent with Sections 11A and 6(b)(5) of the Act or any other provision of the Act, and Rule 603 thereunder or any other rules and regulation thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[22]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule changes should be approved or disapproved by October 14, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 28, 2015.

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 Numbers SR–NYSE–2015–31 or NYSEMKT–2015–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Numbers SR–NYSE–2015–31, NYSEMKT–2015–56, or both. These file numbers 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. 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 publicly available. All submissions should refer to File Numbers SR–NYSE–2015–31, NYSEMKT–2015–56, or both and should be submitted on or before October 14, 2015. Rebuttal comments should be submitted by October 28, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Brent J. Fields,

Secretary.

[FR Doc. 2015–24061 Filed 9–22–15; 8:45 am]

BILLING CODE 8011–01–P

[22] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[23] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75934; File No. SR–MSRB–2015–10]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Effective Date of New Rule G–18, on Best Execution of Transactions in Municipal Securities, and Amendments to Rule G–48, on Transactions With Sophisticated Municipal Market Professionals, and Rule D–15, on the Definition of Sophisticated Municipal Market Professional

September 17, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 3, 2015, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') 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 MSRB. 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 MSRB filed with the Commission a proposed rule change to revise the effective date of new Rule G–18, on best execution of transactions in municipal securities, and amendments to Rule G–48, on transactions with sophisticated municipal market professionals (''SMMPs''), and Rule D–15, on the definition of SMMP (''proposed rule change'').[3] The MSRB has designated the proposed rule change for immediate effectiveness. The new effective date of Rule G–18 and the related amendments to Rules G–48 and D–15 (''related amendments'') will be 120 days from the date of publication by the MSRB of implementation guidance on those rules, but no later than April 29, 2016. Upon publication of the implementation

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved new Rule G–18 and amendments to Rule G–48 and Rule D–15 on December 5, 2014, which were previously scheduled to become effective on December 7, 2015. *See* Exchange Act Release No. 73764 (Dec. 5, 2014), 79 FR 73658 (Dec. 11, 2014) (SR–MSRB–2014–07) (''SEC Approval Order'').

guidance, the MSRB will announce the resulting specific effective date.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2015-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The MSRB proposes to revise the effective date of Rule G–18 and the related amendments. On December 5, 2014, the Commission approved Rule G–18 and the related amendments with an effective date of one year after Commission approval, which is December 7, 2015.[4] The core provision of Rule G–18 generally will require dealers, in any transaction for or with a customer or a customer of another dealer, to use reasonable diligence to ascertain the best market for the subject security and to buy or sell in that market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.

In its 2012 Report on the Municipal Securities Market,[5] the Commission recommended that the MSRB consider buttressing existing fair-pricing standards by establishing a best-execution obligation and providing guidance to dealers on how best-execution concepts would be applied to municipal securities transactions. After the final terms of the new obligation were established through the Commission's approval of Rule G–18 and the related amendments on December 5, 2014, the MSRB began an initiative to develop implementation guidance consistent with the Commission's additional recommendation. As previously indicated during the rulemaking process, the MSRB has planned to publish the implementation guidance prior to Rule G–18 and the related amendments becoming effective[6] and to coordinate with the Financial Industry Regulatory Authority (''FINRA'') with the aim to establish consistent guidance, as appropriate, on the application of best-execution standards in both the municipal securities and corporate debt markets.[7] Also as publicly announced, the Commission committed to work closely with the MSRB and FINRA as they work together to provide guidance on best-execution obligations under their respective rules.[8] Throughout the initiative to develop implementation guidance, the MSRB has coordinated with the Commission and FINRA and, currently, this process continues.

The MSRB has intended, in part based on dialogue with market participants, to publish the implementation guidance approximately four months in advance of the effective date to provide dealers sufficient time to review the guidance and utilize it, for example, in their development or revision of policies and procedures necessary to comply with Rule G–18 and the related amendments. Accordingly, the MSRB submits this proposed rule change to revise the effective date of Rule G–18 and the related amendments to be 120 days from the date the implementation guidance is published by the MSRB, but no later than April 29, 2016. The proposed rule change is designed to afford dealers four months with the use of the published implementation guidance to prepare to comply with the requirements of Rule G–18 and the related amendments, as the MSRB has intended and believes to be sufficient.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[9] which provides that the MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change does not alter any rule language but revises the effective date of Rule G–18 and the related amendments, which were previously approved by the Commission. By providing a period of four months from the date the implementation guidance is published by the MSRB (ending no later than April 29, 2016), the MSRB believes the proposed rule change will promote compliance with the new best-execution rule and will further the stated purposes of Rule G–18 and the related amendments to promote just and equitable principles of trade, facilitate transactions in municipal securities, remove impediments to and perfect the mechanism of a free and open market in municipal securities and protect investors. In addition, by generally making the effective date a function of the publication of the implementation guidance by the MSRB, the revision provides the municipal securities industry with greater certainty regarding the length and adequacy of the implementation period.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act[10] requires that MSRB rules be designed not to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the Act. The proposed rule change will not alter any rule language and will, instead, only revise the effective date of Rule G–18 and the

[4] *Id.*

[5] SEC Report on the Municipal Securities Markets (July 31, 2012), 149–50, *available at http://www.sec.gov/news/studies/2012/munireport073112.pdf.*

[6] *See* the MSRB's proposed rule change, *available at http://www.msrb.org/~/media/Files/SEC-Filings/2014/MSRB–2014-07.ashx?la=en;* Exchange Act Release No. 72956 (September 2, 2014), 79 FR 53236, 53245 (September 8, 2014) (SR–MSRB–2014–07), available at *http://www.msrb.org/~/media/Files/SEC-Filings/2014/MSRB-2014-07-Fed-Reg-Notice.ashx?la=en;* MSRB response to comments, *available at http://www.sec.gov/comments/sr-msrb-2014–07/msrb201407–8.pdf;* SEC Approval Order at 73662; MSRB Notice 2014–22, *available at http://www.msrb.org/~/media/Files/Regulatory-Notices/Announcements/2014-22.ashx?n=1 (''Approval Notice'').*

[7] *See* MSRB response to comments (SR–MSRB–2014–07), SEC Approval Order, and Approval Notice.

[8] *See* Mary Jo White, Chair, Securities and Exchange Commission, Intermediation in the Modern Securities Markets: Putting Technology and Competition to Work for Investors (June 20, 2014) (''[T]o assure that brokers are subject to meaningful obligations to achieve the best executions for investors in both corporate and municipal bond transactions, we will be working closely with . . . FINRA and the MSRB as they work together to provide practical guidance on how brokers might effectively achieve best execution.'').

[9] 15 U.S.C. 78*o*–4(b)(2)(C).

[10] *Id.*

related amendments to be 120 days after the publication of the implementation guidance by the MSRB, but no later than April 29, 2016.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(6)[12] thereunder, the MSRB has designated the proposed rule change as one that effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate. A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative until 30 days after the date of filing.[13] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[14] The MSRB has requested that the Commission designate the proposed rule change operative upon filing, as specified in Rule 19b–4(f)(6)(iii), which would make the proposed rule change operative on September 3, 2015.[15]

According to the MSRB, the proposed rule change is designed to afford dealers four months with the use of the published implementation guidance to prepare to comply with the requirements of new Rule G–18 and the related amendments. The MSRB believes the proposed rule change provides dealers with sufficient time to review such guidance and utilize it, for example, in their development or revision of policies and procedures necessary to comply with new Rule G–18 and the related amendments. The MSRB also stated that the proposed rule change provides the municipal securities industry with greater certainty regarding the length and adequacy of the implementation period. The Commission believes the proposed rule change is consistent with the protection of investors and the public interest because it will help promote consistent and accurate compliance and further the stated purposes of new Rule G–18 and the related amendments. In addition, the proposed rule change does not alter any rule language and will, instead, only revise the effective date of new Rule G–18 and the related amendments, which were previously approved by the Commission. Therefore, the Commission hereby designates the proposed rule change operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2015–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2015–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2015–10 and should be submitted on or before October 14, 2015.

For the Commission, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–24059 Filed 9–22–15; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *Id.*

[14] In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change, along with a brief description and text of such proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Commission has designated a shorter time for delivery of such written notice.

[15] *See* SR–MSRB–2015–10 (September 3, 2015).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75943; File No. SR–CBOE–2015–078]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

September 17, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 8, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule to codify an existing fee related to catastrophic error reviews.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fees Schedule to codify an existing fee related to catastrophic error reviews. By way of background, Rule 6.25 (Nullification and Adjustment of Options Transactions including Obvious Errors) governs the adjustment and nullification of erroneous options transactions, including for ''Catastrophic Errors.'' Pursuant to Exchange Rule 6.25, the Catastrophic Error provisions provide market participants with a notification period under which they may file a request for review with the Exchange of a potential Catastrophic Error. In addition, Exchange Rule 6.25(d)(3) currently provides that if it is determined by an Official [3] that a Catastrophic Error has not occurred, the Trading Permit Holder will be subject to a charge of $5,000. The Exchange notes that while this charge is explicitly provided for in the Exchange Rules (*i.e.,* Rule 6.25), it is not codified in the Exchange's Fees Schedule. The Exchange proposes to add the existing $5,000 charge to the Fees Schedule to alleviate any potential confusion regarding the existence and applicability of the fee.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') [*sic*] and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that codifying an existing fee in the Fees Schedule (in addition to the Exchange's Rules, where it is currently provided for), will alleviate potential confusion and maintain clarity in the Fees Schedule, which serves to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to codify in the Fees Schedule a fee that currently is referenced only in the Exchange's Rules is not intended for competitive reasons and only applies to CBOE. The Exchange also notes that no rights or obligations of Trading Permit Holders are affected by the change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [6] and paragraph (f) of Rule 19b–4 [7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–078 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–078. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[3] Rule 6.25 defines ''Official'' as an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of this rule. *See* Rule 6.25(a)(3).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CBOE–2015–078 and should be submitted on or before October 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2015–24063 Filed 9–22–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75936; File No. SR–NASDAQ–2015–085])

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of the Shares of the PowerShares High Income Downside Hedged Portfolio, a Series of the PowerShares Actively Managed Exchange-Traded Fund Trust

September 17, 2015.

I. Introduction

On July 28, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade common shares of beneficial interest (''Shares'') of the PowerShares High Income Downside Hedged Portfolio (''Fund''), under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on August 5, 2015.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares of the Fund under Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Fund, which will be an actively managed exchange-traded fund (''ETF'') and a series of the PowerShares Actively Managed Exchange-Traded Fund Trust (''Trust''). The Trust was established as a Delaware statutory trust on November 6, 2007.[4] Invesco PowerShares Capital Management LLC will serve as the investment adviser to the Fund (''Adviser'').[5] Invesco Distributors, Inc. will serve as the principal underwriter and distributor of the Fund's Shares (''Distributor''). The Bank of New York Mellon will act as the administrator, accounting agent, custodian, and transfer agent for the Fund. The Exchange has made the following representations and statements in describing the Fund and its investment strategy, including the Fund's portfolio holdings and investment restrictions.[6]

A. The Exchange's Description of the Fund's Investment Objective

According to the Exchange, the Fund will be an actively managed ETF that will seek to achieve high income and positive total returns. The Fund will seek to achieve its investment objective by using a quantitative, rules-based investment methodology designed to provide returns that exceed the performance of the S&P High Income VEQTOR Index (''Benchmark''). The Fund will seek to gain exposure to the securities contained in the equity component of the Benchmark and CBOE Volatility Index (''VIX Index'') related instruments (''VIX Index Related Instruments'').[7]

The Exchange represents that the Benchmark is composed of two types of components: An equity component, represented by the constituents of the S&P High Income Equity Composite Index (''Equity Component Index''), and a volatility component, represented by the S&P 500 VIX Short Term Futures Index (''VIX Futures Index''). The Benchmark allocates its constituents between the two components in any given amount from time to time based on the level of volatility in the market.

The Exchange represents that the Equity Component Index is composed of 150 high-yield securities that meet certain size, liquidity, and listing exchange criteria as determined by S&P. This component comprises the following four sub-components: (i) Preferred stocks; (ii) units of master limited partnerships (''MLPs''); (iii) real estate investment trusts (''REITs''); and (iv) a portfolio of global securities engaged in the real estate industry (''global property securities'') and global securities that pay high dividends (''global dividend securities,'' and together with global property securities, collectively ''Global Equities'').

The Exchange states that the VIX Index is a theoretical calculation and cannot be traded. The VIX Index is a benchmark index designed to measure the market price of volatility in large cap U.S. stocks over 30 days in the future, and is calculated based on the prices of certain put and call options on the S&P 500® Index. The VIX Index measures the premium paid by investors for certain options linked to the S&P 500® Index. During periods of market instability, the implied level of volatility of the S&P 500® Index typically increases, and, consequently, the prices of options linked to the S&P 500® Index typically increase (assuming all other relevant factors remain constant or have negligible changes). This, in turn, causes the level of the VIX Index to increase. The VIX Index historically has had negative correlations to the S&P 500® Index.

The VIX Futures Index utilizes the prices of the first- and second-month futures contracts based on the VIX

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75555 (Jul. 30, 2015), 80 FR 46631 (''Notice'').

[4] The Trust is registered with the Commission as an open-end management investment company and has filed a post-effective amendment to its registration statement on Form N–1A (''Registration Statement'') with the Commission to register the Fund and its Shares under the Investment Company Act of 1940 (''1940 Act'') and the Securities Act of 1933. *See* Registration Statement for the Trust, filed on April 13, 2015 (File Nos. 333–147622 and 811–22148). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28171 (Feb. 27, 2008) (File No. 812–13386).

[5] The Exchange represents that the Adviser is itself not a broker-dealer, but it is affiliated with the Distributor, which is a broker-dealer. The Adviser has therefore implemented a fire wall between itself and the Distributor with respect to access to information concerning the composition of or changes to the Fund's portfolio. The Exchange further represents that in the event (a) the Adviser becomes newly affiliated with a different broker-dealer (or becomes a registered broker-dealer), or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the Advisor will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the portfolio. The Exchange states that the Fund does not currently intend to use a sub-adviser.

[6] The Commission notes that additional information regarding the Fund, the Trust, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, calculation of net asset value (''NAV''), distributions, and taxes, among other things, can be found in the Notice and the Registration Statement, as applicable. *See* Notice and Registration Statement, *supra* notes 3 and 4, respectively.

[7] The Exchange defines ''VIX Index Related Instruments'' as ETFs and exchange-traded notes (''ETNs'') that provide exposure to the VIX Index, as well as VIX Index futures contracts and options on those futures contracts.

Index, replicating a position that rolls the nearest-month VIX futures contracts to the next-month VIX futures contracts on a daily basis in equal fractional amounts. The Benchmark's allocation to its volatility component serves as an implied volatility hedge, as volatility historically tends to correlate negatively to the performance of the equity markets (*i.e.*, rapid declines in the performance of the equity markets generally are associated with particularly high volatility in those markets).

On any day the New York Stock Exchange (''NYSE'') is open for business (''Business Day''), the Benchmark allocates its equity and volatility components based on a combination of realized volatility and implied volatility trend decision variables. The allocation to the VIX Futures Index generally increases when realized volatility and implied volatility are higher, and decreases when realized volatility and implied volatility are lower. While allocations are reviewed daily, they may change on a less frequent basis.

B. The Exchange's Description of the Fund's Principal Investments

According to the Exchange, the Fund's investment strategy is similar to the rules-based allocation methodology of its Benchmark. Therefore, the allocation among the Fund's investments generally will tend to approximate the allocation between the equity and volatility components of the Benchmark. However, the Fund seeks returns that exceed the returns of the Benchmark; accordingly, the Fund can have a higher or lower exposure to either component (or any respective sub-component) of the Benchmark at any time.[8]

The Exchange represents that, in pursuing its investment objective, under normal market conditions,[9] the Fund will invest substantially all of its assets in (i) an equity sleeve that generally corresponds to the Equity Component Index, represented by a combination of 150 high-yield securities that includes preferred stocks, MLPs, REITs, and Global Equities, each of which will be listed either on a U.S. securities exchange or a member exchange of the Intermarket Surveillance Group (''ISG''); [10] and (ii) a volatility sleeve, represented by the VIX Index Related Instruments. During periods of low volatility, a greater portion of the Fund's assets will be invested in equity securities, and during periods of increased volatility, a greater portion of the Fund's assets will be invested in VIX Index Related Instruments. Any U.S. security invested by the Fund must be listed on a national securities exchange, and any non-U.S. security must be listed on a member exchange of the ISG.

Further, in addition to the ETFs and ETNs that provide exposure to the VIX Index, the Fund may invest in ETFs and ETNs that are listed on U.S. securities exchanges that provide exposure to the components of the Equity Component Index.

B. The Exchange's Description of the Fund's Other Investments

According to the Exchange, the Fund may invest its remaining assets in U.S. government securities, high-quality money market instruments, cash, and cash equivalents to provide liquidity and to collateralize its investments in derivative instruments. These instruments in which the Fund may invest include: (i) Short-term obligations issued by the U.S. Government; [11] (ii) short-term negotiable obligations of commercial banks, fixed time deposits, and bankers' acceptances of U.S. and foreign banks and similar institutions; [12] (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by S&P or, if unrated, of comparable quality, as the Adviser of the Fund determines; and (iv) money market mutual funds, including affiliated money market funds.

The Fund also may enter into repurchase agreements. These agreements may be made with respect to any of the portfolio securities in which the Fund is authorized to invest. Repurchase agreements may be characterized as loans secured by the underlying securities. The Fund may enter into repurchase agreements with (i) member banks of the Federal Reserve System having total assets in excess of $500 million, and (ii) securities dealers (''Qualified Institutions''). The Adviser will monitor the continued creditworthiness of Qualified Institutions.

In addition, the Fund may enter into reverse repurchase agreements, which involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date, and interest payment and have the characteristics of borrowing. The securities purchased with the funds obtained from the agreement and securities collateralizing the agreement will have maturity dates no later than the repayment date.

The Fund may purchase exchange-listed warrants. The Fund does not expect to enter into swap agreements, including credit default swaps, but may do so if such investments are in the best interests of the Fund's shareholders.

C. The Exchange's Description of the Fund's Investment Restrictions

According to the Exchange, the Fund may not concentrate its investments (*i.e.*, invest more than 25% of the value of its net assets) in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government or its agencies or instrumentalities. The Fund's investment in securities of other investment companies (including money market funds) may exceed the limits permitted under the 1940 Act, in accordance with certain terms and conditions set forth in a Commission exemptive order issued to the Trust pursuant to Section 12(d)(1)(J) of the 1940 Act.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment), including Rule 144A securities. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in

[8] The Fund will be ''non-diversified'' under the 1940 Act and therefore may invest more of its assets in fewer issuers than ''diversified'' funds. The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[9] The term ''under normal market conditions'' as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance. In periods of extreme market disturbance, the Fund may take temporary defensive positions, by overweighting its portfolio in cash or cash-like instruments; however, to the extent possible, the Adviser would continue to seek to achieve the Fund's investment objective.

[10] For a list of the current members of ISG, *see http://www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio (as defined herein) for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[11] The Fund may invest in U.S. government obligations. Obligations issued or guaranteed by the U.S. Government or its agencies or instrumentalities include bills, notes, and bonds issued by the U.S. Treasury, as well as ''stripped'' or ''zero coupon'' U.S. Treasury obligations representing future interest or principal payments on U.S. Treasury notes or bonds.

[12] Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Banker's acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets. Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund intends to qualify for and to elect to be treated as a regulated investment company under Subchapter M of the Internal Revenue Code.

As a result of the instruments that the Fund will hold, the Fund will be subject to regulation by the Commodity Futures Trading Commission and the National Futures Association (''NFA'') as a commodity pool, and thus must comply with additional disclosure, reporting, and recordkeeping rules imposed upon commodity pools.[13]

The Exchange represents that the Fund's investments will be consistent with the Fund's investment objective. Additionally, the Fund may engage in frequent and active trading of portfolio securities to achieve its investment objective. The Fund may utilize instruments or investment techniques that have a leveraging effect on the Fund. This effective leverage occurs when the Fund's market exposure exceeds the amounts actually invested. Any instance of effective leverage will be covered in accordance with guidance promulgated by the Commission and its staff. The Exchange represents that the Fund does not currently intend to engage in any form of borrowing for investment purposes, and will not be operated as a ''leveraged ETF,'' *i.e.*, it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

The Exchange represents that the Fund will not use futures for speculative purposes, nor will the Fund invest in OTC equities or enter into futures contracts that are not traded on a U.S. exchange.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[15] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[16] which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. In addition, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Market Session. On each Business Day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the ''Disclosed Portfolio'' of the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[17] In addition, to the extent the Fund permits full or partial creations in-kind, a basket composition file, which will include the security names and share quantities to deliver (along with requisite cash in lieu) in exchange for Shares, together with estimates and actual Cash Components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC and at *www.pstrader.net.* The basket will represent the equity component of the Shares of the Fund.

The Fund's administrator will calculate the Fund's NAV per Share as of the close of regular trading (normally 4:00 p.m., Eastern time (''E.T.'')) on each Business Day.[18] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers. The Exchange represents that quotation and last-sale information for any U.S. exchange-traded instruments will be available via the quote and trade service of their respective primary exchanges, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans. Quotation and last-sale information for any non-U.S. exchange-listed securities will be available from the foreign exchanges on which those securities trade as well as from major market data vendors. Pricing information for any futures contracts or options will be available via the quote

[13] The Exchange represents that the Adviser has previously registered as a commodity pool operator and commodity trading advisor and also is a member of the NFA.

[14] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[17] In addition to disclosing the identities and quantities of the portfolio of securities and other assets in the Disclosed Portfolio, the Fund also will disclose on a daily basis on its Web site the following information, as applicable to the type of holding: Ticker symbol, CUSIP number, or other identifier, if any; a description of the holding (including the type of holding) and the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value, or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

[18] The NAV per Share will be calculated for the Fund by deducting all of the Fund's liabilities from the total value of its assets and dividing the result by the number of Shares outstanding, rounding to the nearest cent. According to the Exchange, securities and other assets for which market quotations are readily available will be valued at market value. Securities listed or traded on an exchange (including high yield Global Equities, preferred stocks, MLPs, REITs and warrants) will be valued at the last sale price or official closing price that day as of the close of the exchange on which those securities primarily trade. Shares of open-end registered investment companies (*i.e.*, mutual funds) will be valued at net asset value; shares of exchange-traded investment companies (*i.e.*, ETFs) and ETNs will be valued at the last sale price or official closing price on the exchange on which they primarily trade. Futures contracts are valued as of the final settlement price on the exchange on which they trade. Options will be valued at the closing price (and, if no closing price is available, at the mean of the last bid/ask quotations) from the exchange where those instruments principally trade. U.S. government securities will be valued at the mean price provided by a third party vendor. Illiquid securities, as well as cash and cash equivalents, money market funds, repurchase agreements (including reverse repurchase agreements), and other short-term obligations (including corporate commercial paper, negotiable short-term obligations of commercial banks, fixed time deposits, bankers acceptances, and similar securities) will each be valued in accordance with the Trust's valuation policies and procedures, which have been approved by the Trust's Board.

and trade service of their respective primary exchanges. Pricing information related to U.S. government securities, money market mutual funds, commercial paper, repurchase and reverse repurchase agreements, and other short-term investments held by the Fund will be available through publicly available quotation services, such as Bloomberg, Markit, and Thomson Reuters.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[19] These may include: (1) The extent to which trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange represents that it also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange represents that the Adviser is not a registered broker-dealer but is affiliated with the Distributor, a broker-dealer. The Adviser has implemented a ''fire wall'' between itself and the Distributor with respect to the access of information concerning the composition of or changes to the Fund's portfolio.[20] Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws and are adequate to properly monitor trading in the Shares in all trading sessions.[21]

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has also made the following representations:

(1) The Shares will conform to the initial and continued listing criteria applicable to Managed Fund Shares, as set forth under Rule 5735.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. Trading in the Shares will be subject to the existing trading surveillances, which are administered by both Nasdaq and FINRA, on behalf of the Exchange, and which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded securities (including the equity component securities, ETFs, ETNs, and warrants) and instruments (including futures contracts and options) held by the Fund with other markets and other entities that are members of the ISG,[22] and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded securities (including the equity component securities, ETFs, ETNs, and warrants) and instruments (including futures contracts and options) held by the Fund from those markets and entities. In addition, the Exchange may obtain information regarding trading in the Shares and other exchange-traded securities (including the equity component securities, ETFs, ETNs, and warrants) and instruments (including futures contracts and options) held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) Each component of the Fund's equity sleeve, which generally corresponds to the Equity Component Index and is represented by a combination of 150 high-yield securities that includes preferred stocks, MLPs, REITs, and Global Equities, will be listed either on a U.S. securities exchange or a member exchange of ISG. Further, with regard to the Fund's investments in futures contracts and options, those instruments shall have their principal trading market be a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement.

(5) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (ii) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (iv) the risks involved in trading the Shares during the Pre-Market and Post- Market

[19] These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[20] *See supra* note 5. The Exchange represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with the Advisers Act and Rule 204A–1 thereunder. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[21] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[22] *See supra* note 10.

Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (v) the requirement that members purchasing Shares from the Fund for resale to investors deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information. In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to those investors. The Information Circular will also discuss any exemptive, no-action, or interpretive relief granted by the Commission from any rules under the Exchange Act; will reference that the Fund is subject to various fees and expenses; and will disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares.

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 [23] under the Exchange Act.

(7) The Fund may not concentrate its investments (*i.e.*, invest more than 25% of the value of its net assets) in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government or its agencies or instrumentalities.

(8) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment), including Rule 144A securities. The Fund will not use futures for speculative purposes, nor will the Fund invest in OTC equities or enter into futures contracts that are not traded on a U.S. exchange.

(9) The Fund's investments will be consistent with the Fund's investment objective.

(10) The Fund may utilize instruments or investment techniques that have a leveraging effect on the Fund. Any instance of effective leverage will be covered in accordance with guidance promulgated by the Commission and its staff.

(11) The Fund does not presently intend to engage in any form of borrowing for investment purposes, and it will not be operated as a ''leveraged ETF''—*i.e.*, it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

(12) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [24] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[25] that the proposed rule change (SR–NASDAQ–2015–085), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Brent J. Fields,

Secretary.

[FR Doc. 2015–24060 Filed 9–22–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Southern District of New York, entered February 2, 2015, the United States Small Business Administration hereby revokes the license of WAV, L.P., a Delaware Limited Partnership, to function as a small business investment company under the Small Business Investment Company License No. 02720569 issued to WAV, L.P., on November 1, 1996, and said license is hereby declared null and void as of February 2, 2015.

United States Small Business Administration.

Dated: September 17, 2015.

Javier E. Saade,

Associate Administrator for Investment.

[FR Doc. 2015–24112 Filed 9–22–15; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2014–0080]

Social Security Acquiescence Ruling (AR) 15–1(4), Radford v. Colvin: Standard for Meeting the Listing for Disorders of the Spine With Evidence of Nerve Root Compression

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling (AR).

SUMMARY: This Social Security AR explains how we will apply a holding in a decision of the United States Court of Appeals for the Fourth Circuit that we determined conflicts with our interpretation of the section in the Listing of Impairments (the Listings) that addresses disorders of the spine with evidence of nerve root compression.

DATES: *Effective:* September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Gabriel Deadwyler, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–8775, or TTY 410–966–5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: We are publishing this Social Security AR in accordance with 20 CFR 402.35(b)(2), 404.985(a), (b), and 416.1485(a), (b) to explain how we will apply a holding in *Radford* v. *Colvin,* 734 F.3d 288 (4th Cir. 2013), regarding the standard for meeting section 1.04A of the Listings, which addresses disorders of the spine with evidence of nerve root compression.

An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the court of appeals' decision as explained in this AR to claims at all levels of administrative review within the Fourth Circuit. We will apply this AR to all determinations or decisions made on or after September 23, 2015. If we made a determination or decision on an application for benefits between October 29, 2013, the date of the court of appeals' decision, and September 23,

[23] *See* 17 CFR 240.10A–3.

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

2015, the effective date of this AR, the claimant may request that we apply the AR to the prior determination or decision. The claimant must show, pursuant to 20 CFR 404.985(b)(2) or 416.1485(b)(2), that applying the AR could change our prior determination or decision in his or her case.

When we received this precedential court of appeals' decision and determined that an AR might be required, we began to identify those claims that were pending before the agency within the circuit that might be subject to readjudication if we subsequently issued an AR. Because we have determined that an AR is required and are publishing this AR, we will send a notice to those individuals whose claims we have identified. In the notice, we will provide information about the AR and the right to request readjudication under the AR. However, a claimant does not need to receive a notice in order to request that we apply this AR to our prior determination or decision on his or her claim, as provided in 20 CFR 404.985(b)(2) and 416.1485(b)(2).

If we later rescind this AR as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided in 20 CFR 404.985(e) and 416.1485(e). If we decide to relitigate the issue covered by this AR, as provided by 20 CFR 404.985(c)and 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: April 9, 2015.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

ACQUIESCENCE RULING 15–1(4)

Radford v. Colvin, 734 F.3d 288 (4th Cir. 2013): Standard for Meeting Section 1.04A of the Listing of Impairments—Disorders of the Spine with Evidence of Nerve Root Compression—Titles II and XVI of the Social Security Act.

ISSUE: Must all of the medical criteria in section 1.04A of the Listing of Impairments be simultaneously present on examination and continue, or be expected to continue, to be simultaneously present for at least 12 months for a disorder of the spine to meet the listing?

STATUTE/REGULATION/RULING CITATION: Sections 205(b), 223(d)(1)(A); 223(d)(2)(A); 223(d)(5)(A); 1614(a)(3)(A); 1614(a)(3)(B); 1614(a)(3)(H)(i) of the Social Security Act (42 U.S.C. 423(d)(1)(A); 423(d)(2)(A); 423(d)(5)(A); 1382c(a)(3)(A); 1382c(a)(3)(B); 1382c(a)(3)(H)(i)); 20 CFR 404.1509, 404.1520(a)(4)(iii), 404.1520(d), 404.1525, 416.909, 416.920(a)(4)(iii), 416.920(d); 416.925; 20 CFR part 404, subpart P, Appendix 1, 1.04A.

CIRCUIT: Fourth (Maryland, North Carolina, South Carolina, Virginia, and West Virginia).

APPLICABILITY OF RULING: This ruling applies to determinations or decisions made in the Fourth Circuit at all levels of administrative review.

DESCRIPTION OF CASE: Jimmy Radford injured his back at work in December 2002 and underwent decompression and fusion surgery in August 2007. The administrative record included reports of examinations by various physicians and other medical sources. These reports over a five-year period showed the presence of all the medical criteria listed in listing 1.04A (20 CFR part 404, subpart P, Appendix 1, 1.04A), but did not show them simultaneously for a 12-month period. Mr. Radford applied for disability insurance benefits in June 2007. After a hearing, an administrative law judge (ALJ) found that Mr. Radford's impairments did not meet or medically equal any listed impairment, including listing 1.04. The ALJ noted that the State agency physicians who evaluated Mr. Radford's claim initially and on reconsideration had also concluded that Mr. Radford's impairments did not meet or equal the requirements of a listing. The ALJ found that Mr. Radford was not disabled at the fifth step of our sequential evaluation process at any time from his alleged onset date in December 2002 through his date last insured of December 31, 2007.

Mr. Radford sought judicial review in the United States District Court for the Eastern District of North Carolina. The district court found that listing 1.04A required only that his spinal stenosis be ''characterized by'' certain clinical signs and symptoms and held that the listing did not require that all of the clinical signs or symptoms be documented as present simultaneously. The district court found that Mr. Radford had shown evidence of each of the required criteria and that the ALJ did not correctly apply the regulations. The district court further held that the evidence compelled the conclusion that Mr. Radford's impairment met listing 1.04A and ordered an award of benefits.

The Commissioner appealed the district court's decision to the United States Court of Appeals for the Fourth Circuit. The court of appeals held that the district court did not err in interpreting listing 1.04A, but it vacated the district court's judgment because the decision to direct an award of benefits was an abuse of discretion. The court found that the text of listing 1.04A required evidence of nerve root compression ''characterized by'' the listed medical criteria and that the use of the word ''and'' to connect them meant that they all must be present in the claimant. The court stated that the text of the regulation did not specify when the medical criteria must be present and did not say that they must be present at the same time or that they must be present within a certain proximity of one another. Thus, the court held that the regulatory structure did not require the simultaneous presence of all of the listed criteria over a 12-month period. Rather, the listing required a ''more free-form, contextual inquiry that makes 12 months the relevant metric for assessment of the claimant's duration of disability.'' 734 F.3d at 293. Accordingly, the court of appeals held that ''Listing 1.04A requires a claimant to show only . . . that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from nerve root compression continuously for at least 12 months.'' *Id.* at 294. The court further held that a ''claimant need not show that each symptom was present at precisely the same time—*i.e.,* simultaneously—in order to establish the chronic nature of his condition. Nor need a claimant show that the symptoms were present in the claimant in particularly close proximity.'' *Id.*

Although the court of appeals held that the Commissioner's interpretation of listing 1.04A was not correct, the court nevertheless vacated the district court's judgment because the court should have remanded the case with instructions for the ALJ to clarify why Mr. Radford's impairment did not satisfy listing 1.04A.

STATEMENT AS TO HOW *RADFORD* DIFFERS FROM THE AGENCY'S POLICY: At step three of the sequential evaluation process, we will find a claimant disabled if the claimant has an impairment that meets or equals one of the listed impairments and meets the duration requirement. 20 CFR 404.1520(a)(4)(iii), 404.1525(c)(3), 416.920(a)(4)(iii), 416.925(c)(3). Thus, in considering whether an impairment meets or equals a listed impairment, we consider both the severity of the impairment, in light of the set of medical criteria in the listing, and the duration requirement.

Claimants found disabled under the listings at step three of the sequential evaluation process have impairments that we consider severe enough to prevent any gainful activity, regardless of the claimant's age, education, or work experience. Our policy is that listing 1.04A specifies a level of severity that is only met when all of the medical criteria listed in paragraph A are simultaneously present: (1) Neuro-anatomic distribution of pain, (2) limitation of motion of the spine, (3) motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss, and, (4) if there is involvement of the lower back, positive straight-leg raising test (sitting and supine). Listing 1.04A uses the conjunction ''and'' when enumerating the medical criteria in order to establish that the entire set of criteria must be present at the same time on examination. When this set of criteria is present on examination, the individual has the clinical presentation we expect from a person who suffers from nerve root compression that is so severe that it would preclude any gainful activity. 20 CFR 404.1525(a), 416.925(a).

On the other hand, when the listing criteria are scattered over time, wax and wane, or are present on one examination but absent on another, the individual's nerve root compression would not rise to the level of severity required by listing 1.04A. An individual who shows only some of the criteria on examination presents a different, less severe clinical picture than someone with the full set of criteria present simultaneously. To meet the severity required by the listing, our policy requires the simultaneous presence of all of the medical criteria in listing 1.04A.

In addition to meeting the severity requirement, in order to meet the duration requirement, the simultaneous presence of all of the medical criteria in paragraph A must continue, or be expected to continue, for a continuous period of at least 12 months. 20 CFR 404.1525(c)(4), 416.925(c)(4). The ''duration'' requirement follows from two provisions in the Social Security Act. First, sections 223(d)(1)(A) and 1614(a)(3)(A) of the Act define ''disability'' as an inability ''to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.'' Second, sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act state that ''[a]n individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. . . .'' Thus, an impairment that lasts or is expected to last 12 months is not sufficient to establish disability. The impairment must also be severe enough to prevent the claimant from engaging in substantial gainful work. As the Supreme Court of the United States explained in *Barnhart* v. *Walton,* 535 U.S. 212, 218 (2002): ''In other words, the statute, in the two provisions, specifies that the 'impairment' must last 12 months and also be severe enough to prevent the claimant from engaging in any 'substantial gainful work.' ''

Accordingly, our policy requires that for a disorder of the spine to meet listing 1.04A at step three in the sequential evaluation process, the claimant must establish the simultaneous presence of all the medical criteria in paragraph A. Once this level of severity is established, the claimant must also show that this level of severity continued, or is expected to continue, for a continuous period of at least 12 months.

The court of appeals' decision differs from our policy because it held that listing 1.04A required a claimant to show only ''that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from nerve root compression continuously for at least 12 months.'' 734 F.3d at 294. Contrary to our policy that the requisite level of severity requires the simultaneous presence of all the medical criteria in paragraph A, the court of appeals held that a claimant need not show that each criterion was present simultaneously or in particularly close proximity. Accordingly, this holding is inconsistent with our interpretation of listing 1.04A and of the severity and durational requirements at step three of the sequential evaluation process.

EXPLANATION OF HOW WE WILL APPLY *RADFORD* WITHIN THE CIRCUIT: This Ruling applies only to claims in which the claimant resides in Maryland, North Carolina, South Carolina, Virginia, or West Virginia at the time of the determination or decision at any level of administrative review.

In these States, in deciding whether a claimant's severe medically determinable disorder of the spine meets listing 1.04A, adjudicators will not require that all of the medical criteria in paragraph A appear simultaneously or in particularly close proximity. Rather, adjudicators will engage in what the court of appeals described as ''a more free-form, contextual inquiry that makes 12 months the relevant metric for the assessment of the claimant's duration of disability.''

Adjudicators will decide whether the evidence shows that all of the medical criteria in paragraph A are present within a continuous 12-month period (or, if there is less than 12 months of evidence in the record, that all the medical criteria are present and are expected to continue to be present). If all of the medical criteria are not present within a continuous 12-month period, adjudicators will determine that the disorder of the spine did not meet the listing.

If all of the medical criteria in paragraph A are present within a continuous 12-month period (or are expected to be present), adjudicators will then determine whether the evidence shows—as a whole—that the claimant's disorder of the spine caused, or is expected to cause, nerve root compression continuously for at least 12 months. In considering the severity of the nerve root compression, the medical criteria in paragraph A need not all be present simultaneously, nor in particularly close proximity. The nerve root compression must be severe enough, however, that the adjudicator can fairly conclude that it is still characterized by all of the medical criteria in paragraph A.

[FR Doc. 2015–24204 Filed 9–22–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9281]

Defense Trade Advisory Group; Notice of Open Meeting

SUMMARY: The Defense Trade Advisory Group (DTAG) will meet in open session from 1 p.m. until 5 p.m. on Thursday, October 29, 2015 at 1777 F Street, NW., Washington, DC Entry and registration will begin at 12:30 p.m. The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The purpose of the meeting will be to discuss current defense trade issues and topics for further study.

The following agenda topics will be discussed: (1) Trade Compliance Process. Review of the current Voluntary Disclosure (VD) process and recommendations for possible improvements or changes (including analysis of how to address ''administrative'' VDs as distinguished from other VDs) while ensuring that foreign policy and national security interests are met; (2) Cyber Products. Review of ''cyber products'' and recommendations for which products, if any, should be included on the U.S. Munitions List, and potential impact on cyber products resulting from such export controls; (3) DTAG Structure and Operations. Examination of whether DTAG could function similar to the Commerce Department's Technical Advisory Committees (TACs), how DTAG could interface with such TACs, and whether State, Commerce and the Department of Defense should establish an interagency defense trade advisory group; and (4) Export Control Reform (ECR) status. Report on US industry views regarding licensing flexibilities and efficiencies (including availability of license exception, Strategic Trade Authorization), unintended consequences, and areas of potential improvements, resulting from the transfer of certain items from the jurisdiction of the International Traffic in Arms Regulations (US Munitions List) to the jurisdiction of the Export Administration Regulations (Commerce Control List).

Members of the public may attend this open session and will be permitted to participate in the discussion in accordance with the Chair's instructions. Members of the public may, if they wish, submit a brief statement to the committee in writing.

As seating is limited to 125 persons, those wishing to attend the meeting must notify the DTAG Alternate Designated Federal Officer (DFO) by COB Monday, October 19, 2015. Members of the public requesting reasonable accommodation must also notify the DTAG Alternate DFO by that date. If notified after this date, the Department will be unable to accommodate requests due to requirements at the meeting location.

Each non-member observer or DTAG member that wishes to attend this plenary session should provide: His/her name and identifying data such as driver's license number, U.S. Government ID, or U.S. Military ID, to the DTAG Alternate DFO, Lisa Aguirre, via email at *DTAG@state.gov.* One of the following forms of valid photo identification will be required for admission to the meeting: U.S. driver's license, passport, U.S. Government ID or other valid photo ID.

For additional information, contact Ms. Glennis Gross-Peyton, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112; telephone (202) 663–2862; FAX (202) 261–8199; or email *DTAG@state.gov.*

Dated: September 9, 2015.

Lisa V. Aguirre,

Alternate Designated Federal Officer, Defense Trade Advisory Group, Department of State.

[FR Doc. 2015–24194 Filed 9–22–15; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between the County of Palm Beach and the Federal Aviation Administration for the Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release approximately 0.21 acres at the Palm Beach International Airport, West Palm Beach, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the County of Palm Beach, dated March 22, 1961. The release of property will allow the County of Palm Beach to dispose of the property for other than aeronautical purposes. The property is located along Florida Mango and Belvedere Road. The parcels are currently designated as non-aeronautical use. The property will be released of its federal obligations to grant an easement for right-of-way and stormwater retention. The fair market value of the right-of-way parcel and stormwater retention parcel has been determined to be $83,860 and $74,320, respectively. Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Palm Beach County Department of Airports at Palm Beach International Airport and the FAA Airports District Office.

DATES: Comments are due on or before October 23, 2015.

ADDRESSES: Documents are available for review at the Palm Beach County Department of Airports at Palm Beach International Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Marisol C. Elliott, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

Issued in Orlando, Florida on September 14, 2015.

Bart Vernace,

Manager, Orlando Airports District Office, Southern Region.Revision Date 11/22/00

[FR Doc. 2015–24158 Filed 9–22–15; 8:45 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Research, Engineering and Development Advisory Committee meeting.

DATES: The meeting will be held on October 7, 2015—9:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue SW., Round Room (10th Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Chinita A. Roundtree-Coleman at (609) 485–7149 or Web site at *chinita.roundtree-coleman@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Research, Engineering and Development (RE&D) Advisory Committee. The meeting agenda will include receiving from the

Committee guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. Attendance is open to the interested public but seating is limited. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to attend the meeting, present statements, or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on September 9, 2015.

Chinita A. Roundtree-Coleman,

Computer Specialist.

[FR Doc. 2015–24207 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for Los Angeles International Airport, Chicago O'Hare International Airport, San Francisco International Airport, John F. Kennedy International Airport, and Newark Liberty International Airport for the Summer 2016 Scheduling Season

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

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, the FAA announces the submission deadline of October 8, 2015, for summer 2016 flight schedules at Los Angeles International Airport (LAX), Chicago O'Hare International Airport (ORD), San Francisco International Airport (SFO), John F. Kennedy International Airport (JFK), and Newark Liberty International Airport (EWR) in accordance with the International Air Transport Association (IATA) Worldwide Slot Guidelines. The deadline coincides with the schedule submission deadline for the IATA Slot Conference for the summer 2016 scheduling season.

DATES: Schedules must be submitted no later than October 8, 2015.

ADDRESSES: Schedules may be submitted by mail to the Slot Administration Office, AGC–200, Office of the Chief Counsel, 800 Independence Avenue SW., Washington, DC 20591; facsimile: 202–267–7277; or by email to: *7-AWA-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Pfingstler, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone number: 202–267–6462; email: *susan.pfingstler@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has designated LAX, ORD, and SFO as IATA Level 2 airports and JFK and EWR as IATA Level 3 airports. The FAA currently limits scheduled operations at JFK and EWR by Order until a final Slot Management and Transparency Rule for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (RIN 2120–AJ89) becomes effective but not later than October 29, 2016.[1]

The FAA is primarily concerned about scheduled and other regularly conducted commercial operations during peak hours, but carriers may submit schedule plans for the entire day. At ORD, the peak hours are 0700 to 2100 Central Time (1200 to 0200 UTC), at LAX and SFO from 0600 to 2300 Pacific Time (1300 to 0600 UTC), and at EWR and JFK from 0600 to 2300 Eastern Time (1000 to 0300 UTC). Carriers should submit schedule information in sufficient detail including, at minimum, the operating carrier, flight number, scheduled time of operation, frequency, and effective dates. IATA standard schedule information format and data elements (Standard Schedules Information Manual or SSIM, Chapter 6) may be used.

The U.S. summer scheduling season for these airports is from March 27 through October 29, 2016, in recognition of the IATA northern summer period. The FAA understands there may be differences in slot times due to different U.S. daylight saving time dates and will accommodate these differences to the extent possible.

Issued in Washington, DC, on September 16, 2015.

David Foyle,

Director, System Operations.

[FR Doc. 2015–24167 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–13–P

[1] Operating Limitations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008) as amended 79 FR 16854 (March 26, 2014); Operating Limitations at Newark Liberty International Airport, 73 FR 29550 (May 21, 2008) as amended 79 FR 16857 (March 26, 2014).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Revised Notice of Intent To Prepare a Tier 1 Environmental Impact Statement With: Dane and Columbia Counties, Wisconsin

AGENCY: Federal Highway Administration (FHWA), Wisconsin Department of Transportation (WisDOT).

ACTION: Revised Notice of Intent to Prepare a Tier 1 Environmental Impact Statement.

SUMMARY: The purpose of this NOI is to update the notice that was issued in the **Federal Register** Vol. 79 No. 224, Thursday, November 20, 2014, Notices. The FHWA is issuing this revised notice to advise the public that FHWA and WisDOT will be preparing a Tier 1 Environmental Impact Statement (EIS) for proposed transportation improvements along the Interstate (I)-39/90/94 corridor, from the United States Highway (US) 12/18 Interchange to the I–39/Wisconsin State Highway (WIS) 78 interchange in Dane and Columbia Counties in south-central Wisconsin. A more detailed analysis will be prepared for a 6.6 mile portion of the corridor from Columbia County Highway CS to the I–39/WIS 78 interchange (south of Portage). This analysis could be completed within the Tier 1 EIS, as a separate Tier 2 NEPA document, or with an environmental document outside the tiered process. The NOI is being updated to reflect the current status of the environmental study since the previous NOI was issued in November 2014.

FOR FURTHER INFORMATION CONTACT: Andrew Brinkerhoff, Major Projects Engineer, Federal Highway Administration, 525 Junction Road, Suite 8000, Madison, Wisconsin, 53717–2157, Telephone: (608) 829–7523. You may also contact Pat Trainer, Acting Director, Bureau of Technical Services, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965, Telephone: (608) 264–7330.

SUPPLEMENTARY INFORMATION:

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare a Tier 1 Environmental Impact Statement (EIS) on proposed improvements in the I–39/90/94 corridor and adjacent local road systems from the US 12/18 interchange (Madison Beltline interchange) to the I–39/WIS 78 interchange (south of

Portage), approximately 35 miles. The project limits also include WIS 30 from East Washington Avenue to I–39/90/94, I–94 from I–39/90 to Dane County N, US 151 from I–39/90/94 to Main Street in Sun Prairie, and the I–39/90/94, US 51 & WIS 19 ''triangle'' in DeForest, including operational areas of influence at each interchange. The preliminary purpose of this project identified by FHWA and WisDOT is to address infrastructure needs; highway safety issues and design deficiencies; accommodate existing and projected traffic volumes; and improve the transportation system's ability to support local and regional tourism economies. There will be opportunities for public and agency involvement in further defining the Purpose and Need of the project.

FHWA's decision to prepare an EIS is based on the initial environmental investigation that indicates the proposed action is likely to have significant impacts on the environment, including wetlands. The study began preparing a Draft Environmental Impact Statement (DEIS) for the corridor, but due to project complexity and funding limitations, FHWA and WisDOT have decided to prepare a Tiered EIS instead of a traditional EIS. The Tier 1 EIS will analyze the project on a broad scale and identify a preferred corridor location for potential future improvements. The Tier 1 EIS will evaluate the social, economic, and environmental impacts for a range of alternatives within the existing I–39/90/94 corridor and improvements along other corridors.

More detailed analysis will be prepared for a 6.6 mile portion of the corridor from Columbia County Highway CS to the I–39/WIS 78 interchange. The purpose of the more detailed analysis is to address bridge structural needs at the Wisconsin River crossing due to the limited remaining operational life. The analysis would examine the impacts of construction and identify a preferred alternative; this analysis would ensure that bridge replacement could occur within the necessary time frame (by 2025).

Subsequent Tier 2 environmental documents will be prepared with a greater degree of engineering detail for specific improvements in the remainder of the corridor. The alternative analysis in the Tier 2 documents will include, but is not limited to, the alternatives that have been developed as part of the previous EIS study.

The Tier 1 EIS will be prepared in accordance with 23 U.S.C. 139, 23 CFR 771 and 40 CFR parts 1500–1508. Completion of the Tier 1 EIS and the Record of Decision (ROD) is expected in 2018.

Public involvement is a critical component of the National Environmental Policy Act (NEPA) and will occur throughout the development of the draft and final Tier 1 EIS. All environmental documents will be made available for review by federal and state resource agencies and the public. Specific efforts to encourage involvement by, and solicit comments from, minority and low-income populations in the project study area will be made, with public involvement meetings held throughout the environmental document process. Public notice will be given as to the time and place of public involvement meetings. A public hearing will be held after the completion of the Draft Tier 1 EIS.

Inquiries about the EIS can be sent to *robert.knorr@dot.wi.gov.* A public Web site will be maintained throughout the study to provide information about the project and allow for on-line public comment (*http://wisconsindot.gov/Pages/projects/by-region/sw/399094/default.aspx*). To ensure the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and this notice should be directed to the FHWA address provided above.

Projects receiving Federal funds must comply with Title VI of the Civil Rights Act, and Executive Order 12898 ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this project. It is also Federal policy to identify and address any disproportionately high and adverse effects of federal projects on the health or environment of minority and low income populations to the greatest extent practicable and permitted by law.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: September 14, 2015.

Andrew Brinkerhoff,

Major Projects Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 2015–24116 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2015–0014]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized in the **SUPPLEMENTARY INFORMATION** section. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 23, 2015.

ADDRESSES: You may submit comments identified by DOT Docket ID 2015–0014 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: 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. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Cliff Pearson, 202–366–9488, *clifford.pearson@dot.gov;* Office of Real Estate Services, Federal Highway Administration, Department of Transportation, New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Fixed Residential Moving Cost Schedule

Background: Relocation assistance payments to owners and tenants who move personal property for a Federal or federally-assisted program or project is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). 49 Code of Federal Regulations (CFR), part 24, is the implementing regulation for the Uniform Act. 49 CFR 24.301 addresses payments for actual and reasonable moving and related expenses. The fixed residential moving cost schedule is an administrative alternative to reimbursement of actual moving costs. This option provides flexibility for the agency and affected property owners and tenants. The FHWA requests the State Departments of Transportation (State DOTs) to analyze moving cost data periodically to assure that the fixed residential moving cost schedules accurately reflect reasonable moving and related expenses. The regulation allows State DOTs flexibility in determining how to collect the cost data in order to reduce the burden of government regulation. Updated State fixed residential moving costs are submitted to the FHWA electronically.

Respondents: State Departments of Transportation (52, including the District of Columbia and Puerto Rico).

Frequency: Once every 3 years.

Estimated Average Burden per Response: 24 hours per respondent.

Estimated Total Annual Burden Hours: 24 hours for each of the 52 State Departments of Transportation. The total is 1,248 burden hours, once every 3 years, or 416 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 18, 2015.

Michael Howell,

Information Collection Officer.

[FR Doc. 2015–24206 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2125–0025; OMB control Number 2125–0586]

Agency Information Collection Activities: Request for Comments for a Revision of a Currently Approved Collection; State Right-of-Way Manuals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a revision of a currently approved collection, which is summarized in the **SUPPLEMENTARY INFORMATION** section. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 23, 2015.

ADDRESSES: You may submit comments identified by DOT Docket ID 2125–0025 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: 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. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Rosemary Jones, 202–366–2042, Office of Real Estate Services, Federal Highway Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: State Right-of-Way Operations Manuals.

Background: It is the responsibility of each State Department of Transportation (State) to acquire, manage and dispose of real property in compliance with the legal requirements of State and Federal laws and regulations. Part of providing assurance of compliance is to describe in a right-of-way procedural (operations) manual the organization, policies and procedures of the State to such an extent that these guide State employees, local acquiring agencies, and contractors who acquire and manage real property that is used for a federally funded transportation project. Procedural manuals assure the FHWA that the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) will be met. The State responsibility to prepare and maintain an up-to-date, right-of-way procedural manual is set out in 23 CFR 710.201(c). The regulation allows States flexibility in determining how to meet the manual requirement. This flexibility allows States to prepare manuals in the format of their choosing, to the level of detail necessitated by State complexities. Each State decides how it will provide service to individuals and businesses affected by Federal or federally-assisted projects, while at the same time reducing the burden of government regulation. States are required to update manuals to reflect changes in Federal requirements for programs administered under Title 23 U.S.C. In addition to the annual updates, further lengthy updates of each manual will be required due to the amending of 23 CFR part 710 and 49 CFR part 24 regulations, as prompted by the enactment of the Moving Ahead for Progress in the 21st Century Act (MAP–21). The updated State manuals may be submitted to FHWA electronically or made available by posting on the State Web site.

Respondents:

Regular update of manual—52 State Departments of Transportation, including the District of Columbia and Puerto Rico (52 respondents)

23 CFR part 710 regulatory revisions—52 State Departments of Transportation, including District of Columbia and Puerto Rico (52 respondents)

49 CFR part 24 regulatory revisions—two additional DOT Modes with 50 large grantees each (100 respondents) & 12 additional agencies with 12 grantees (12 respondents) 112 respondents

Frequency:

Regular update of manual—Annual basis and certify every 5 years.

23 CFR part 710 regulatory revisions—a one-time collection.

49 CFR part 24 regulatory revisions—a one-time collection.

Estimated Average Burden per Response:

Regular update of manual—15 hours.

23 CFR part 710 regulatory revisions—225 hours.

49 CFR part 24 regulatory revisions—225 hours.

Estimated Total Annual Burden Hours:

Regular update of manual: 52 respondents × 15 hours = 780 burden hours.

23 CFR part 710 regulatory revisions: 52 respondents × 225 hours = 11,700 burden hours.

49 CFR part 24 regulatory revisions: 112 respondents × 225 hours = 25,200 burden hours.

Total: 780 hrs. + 11,700 hrs. + 25,200 hrs. = *37,680* total burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 18, 2015.

Michael Howell,

Information Collection Coordinator.

[FR Doc. 2015–24190 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2015–0007–N–25]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requests (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than November 23, 2015.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Regulatory Safety Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–_____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov*, or to Ms. Toone at *Kim.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Regulatory Safety Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding: (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of the currently approved ICRs that FRA will submit for clearance by OMB as required under the PRA:

Title: State Safety Participation Regulations and Remedial Actions.

OMB Control Number: 2130–0509.

Abstract: The collection of information is set forth under 49 CFR part 212, and requires qualified state inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning state investigative, inspection, and surveillance activities regarding railroad compliance with Federal railroad safety laws and regulations. Additionally, railroads are required to report to FRA actions taken to remedy certain alleged violations of law.

Form Number(s): FRA F 6180.33/61/67/96/96A/109/110/111/112/144.

Affected Public: Businesses.

Respondent Universe: States and Railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
Application For Participation	15 States	15 updates	2.5 hours	38 hours.
State Railroad Technical Training Funding Agreement.	30 States	30 agreements	1 hour	30 hours.
Inspector Travel Planning and Reimbursement.	30 States	300 vouchers	1 hour	300 hours.
Annual Work Plan	30 States	30 reports	5 hours	150 hours.
Inspection Form (FRA F 6180.96)	30 States	16,000 forms	15 minutes	4,000 hours.
Violation Report—Motive, Power, and Equipment Regulations (Form FRA F 6180.109).	17 States	150 reports	4 hours	600 hours.
Violation Report—Operating Practices Regulations (Form FRA F 6180.67).	16 States	200 reports	4 hours	800 hours.
Violation Report—Hazardous Materials Regulations (Form FRA F 6180.110).	15 States	150 reports	4 hours	600 hours.
Violation Report—Hours of Service Law (F 6180.33).	16 States	15 reports	4 hours	60 hours.
Violation Report—Accident/Incident Reporting Rules (Form FRA F 6180.61).	16 States	15 reports	4 hours	60 hours.
Violation Report—Track Safety Regulations (Form FRA F 6180.111).	25 States	60 reports	4 hours	240 hours.
Violation Report—Signal and Train Control Regulations (Form FRA F 6180.112).	14 States	20 reports	4 hours	80 hours.
Remedial Actions Reports	563 Railroads	4,200 reports	15 minutes	1,050 hours.
Violation Report Challenge	563 Railroads	840 challenge	1 hours	840 hours.
Delayed Reports	573 Railroads	420 reports	30 minutes	210 hours.

Total Responses: 22,445.

Estimated Total Annual Burden: 9,058 hours.

Type of Request: Extension of a currently approved collection.

Title: Use of Locomotive Horns at Highway-Rail Grade Crossings.

OMB Control Number: 2130–0560.

Abstract: Under title 49 part 222 of the Code of Federal Regulations, FRA seeks to collect information from railroads and public authorities in order to increase safety at highway-rail grade crossings nationwide by requiring that locomotive horns be sounded when trains approach and pass through these crossings or by ensuring that a safety level at least equivalent to that provided by blowing locomotive horns exists for corridors in which horns are silenced. FRA reviews applications by public authorities intending to establish new or, in some cases, continue pre-rule quiet zones to ensure the necessary level of safety is achieved.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: 728 railroads/340 Public Authorities.

Frequency of Submission: On occasion.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
222.11—Penalties—Falsified Report	779 Railroads/340 Public Authorities.	1 report/record	2 hours	2 hours.
222.15—Waiver Petitions	779 Railroads/340 Public Authorities.	8 petitions	4 hours	32 hours.
222.39—Applications to Establish Quiet Zone.	340 Public Authorities	15 applications	80 hours	1,200 hours.
—Diagnostic Team Rev	340 Public Authorities	3 team reviews	16 hours	48 hours
—Updated Crossing Inventory Forms	340 Public Authorities	75 updated forms	1 hour	75 hours
—Copies of Quiet Zone Application	340 Public Authorities	90 copies	10 minutes	15 hours.
—Comments to FRA on Quiet Zone Application.	715 Railroads/State Agencies.	30 comments	1.5 hours	45 hours.
222.43—Written Notice of Public Authority Intent to Create New Quiet Zone and Notification to Required Parties.	216 Communities/ Public Authorities.	60 notices + 180 notifications.	40 hours + 10 minutes	2,430 hours.
—Updated Crossing Inventory Forms Comments on proposed Quiet Zone.	216 Communities	300 updated forms	1 hour	300 hours.
—Notice of Quiet Zone Establishment +	715 Railroads/State Agencies.	120 comments	4 hours	480 hours.
—Notification to Required Parties	316 Public Authorities	60 notices + 360 notifications.	40 hours + 10 minutes	2,460 hours.
—Updated Crossing Inventory Forms	316 Public Authorities	300 updated forms	1 hour	300 hours.
—Certification by CEO of Public Authority Regarding Accuracy of Information.	216 Public Authorities	60 certifications	5 minutes	5 hours.
222.47—Periodic Updates: Written Affirmation that Supplementary Safety Measures Implemented w/in Quiet Zone Conform to Rule or Terms of Approval.	200 Public Authorities	62 written affirmations + 972 copies (to required parties).	30 minutes + 2 minutes.	113 hours.
—Updated Crossing Inventory Forms	200 Public Authorities	810 updated forms	1 hour	810 hours.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
222.51—Written Commitment to Lower Risk to Traveling Public in Quiet Zones Exceeding Nationwide Significant Risk Threshold.	9 Public Authorities	5 written commitments	5 hours	25 hours.
—Comments Upon FRA Review of Quiet Zone Status.	3 Public Authorities	4 comments	30 minutes	2 hours.
222.55—Request for FRA Approval of New Supplementary Safety Measures or Alternative Safety Measures (ASMs) for Quiet Zone.	265 Interested Parties	1 letter	30 minutes	1 hour.
—Comments on New SSMs or ASMs	265 Interested Parties/ General Public.	5 comments	30 minutes	3 hours.
—Request for SSM/ASM Approval –Demo.	265 Interested Parties	1 letter	30 minutes	1 hour.
222.57—Petition for FRA Review of Decision Granting or Denying a New SSM or ASM; Petition Copies to Relevant Parties.	265 Public Authorities/ Interested Parties.	1 petition + 5 petition copies.	60 minutes + 2 minutes.	1 hour.
—Request for FRA Reconsideration of Disapproval of Quiet Zone + Party Copies.	200 Public Authorities	1 letter + 6 letter copies.	5 hours + 2 minutes ..	5 hours.
—Additional Documents to FRA as Follow-up to Petition for Reconsideration.	200 Public Authorities	1 additional document/ set of materials.	2 hours	2 hours.
—Letter Requesting FRA Informal Hearing.	200 Public Authorities	1 letter	30 minutes	1 hour.
222.59—Written Notice of Use of Wayside Horn at Grade Crossing within Quiet Zone + Party Copies.	200 Public Authorities	5 notices + 30 notice copies.	2.5 hours + 10 minutes.	18 hours.
—Notice of Wayside Horn Outside Q. Zone.	200 Public Authorities	5 notices + 30 notice copies.	2.5 hours + 10 minutes.	18 hours.
Appendix B—Public Authority Record Relating to Monitoring and Sampling Efforts at Grade Crossing in Quiet Zone with Programmed Enforcement.	200 Public Authorities	1 record	500 hours	500 hours.
—Public Authority Record Relating to Monitoring and Sampling Efforts at Grade Crossing in Quiet Zone with Photo Enforcement.	200 Public Authorities	1 record	9 hours	9 hours.
222.129—Written Reports/Records of Locomotive Horn Testing.	779 Railroads	650 reports/records	60 minutes	650 hours.

Total Estimated Responses: 4,359.

Total Estimated Annual Burden: 9,551 hours.

Status: Regular Review.

Title: Safety Appliance Concern Recommendation Report; Safety Appliance Standards Guidance Checklist Forms.

OMB Control Number: 2130–0565.

Type of Request: Revision of a previously approved information collection.

Abstract: Sample car/locomotive inspections are performed as a courtesy to the car manufacturers to ensure that the equipment is built in accordance with all applicable Federal regulations and requirements. Car builders that desire to have FRA review their equipment for compliance with safety standards are to submit their safety appliance arrangement drawings, prints, etc., to the FRA Office of Safety Assurance and Compliance for review at least 60 days prior to construction. The sample car inspection program is designed to provide assurance that rolling stock equipment is compliant within the Code of Federal Regulations for use on the general railroad system. Although a sample car inspection is not required, most builders today request FRA to perform the inspection. The goal of the sample car inspection program is to reduce risk to railroad employees and improve passenger safety for the general public by ensuring rolling stock is fully compliant with all applicable regulations.

In an ongoing effort to conduct more thorough and more effective inspections of freight railroad equipment and to further enhance safe rail operations, FRA has developed a safety concern recommendation report form and a group of guidance checklist forms that facilitate railroad, rail car owner, and rail equipment manufacturer compliance with agency Railroad Safety Appliance Standards regulations. FRA will be obsoleting Forms FRA F 6180.4(a)–(q) and requesting OMB discontinue its current approval for these forms. FRA will be replacing these forms with new Forms FRA F 6180.161(a)–(k). The reason for the discontinuance of the previously approved forms and request for OMB approval of the new forms is due to the fact that 49 CFR part 231 is being supplemented and expanded to cover new types of cars. For these new types of cars, FRA will be following the Standard established by the Association of American Railroads (AAR) Standard 2044 or S–2044.

When a request for sample car inspection incoming letter is provided by the customer, an abundant of amount of information is submitted to FRA for review that may require a formal on-site inspection. The information contained in the letter includes several paragraphs to explain the cited Code of Federal Regulations that the customer believes related to the construction of the car. Since many cars today are considered a car of special construction, the type of car to be reviewed, many times the amount of details of information are supplied to support why the customer believes the car submitted is the nearest car to construction. An abundance of factors with justification to support the car type is included in the request. Some examples would be a Logo, Company Name, and signature block,

specific drawings, reflectorization, engineering information such as test or modeling of components. Also, the request may include car reporting marks, the amount of cars that would be constructed in the car series. In addition, the request would provide the location of the inspection, contact person, title, and contact information. Currently, each request is written differently, but contains most of the information to process the request to completion.

The FRA region responsible for the sample car field sample car inspection is obliged to formally inspect the car for compliance. All the information in the customer request is forwarded to the region for review. Once the inspection is completed, the assigned inspector provides his report in a memorandum to the MP&E Specialist. The MP&E Specialist reviews the documents and provides a memo to the Regional Administrator who sends a response by memorandum to FRA Headquarters of the finding from the field inspection.

FRA Headquarters is responsible for gathering all the information from the request from the customer as well as assigning and forwarding the information to the Region. All the information is reviewed by the MP&E Specialist at Headquarters. The MP&E Specialist prepares a grid letter response for the MP&E Staff Director who then offers the response letter to the Director, Office of Safety Assurance and Compliance. The formal response letter is then sent to the customer through the Control Correspondence Management (CCM) system.

Form Number(s): New Forms FRA F 6180.1614(a)–(k).

Affected Public: Businesses.

Respondent Universe: FRA Customers/State Inspectors.

Frequency of Submission: Annually.

Reporting Burden:

Form	Respondent universe	Total annual responses (forms)	Average time per response (minutes)	Total annual burden hours
New Form FRA F 6180.161a (S–2044, Appendix A)	FRA Customers/State Inspectors.	20	60	20
New Form FRA F 6180.161b S–2044, Appendix B–1)	FRA Customers/State Inspectors.	7	60	7
New Form FRA F 6180.161c S–2044, Appendix C–1)	FRA Customers/State Inspectors.	15	60	15
New Form FRA F 6180.161d S–2044, Appendix D–2)	FRA Customers/State Inspectors.	15	60	15
New Form FRA F 6180.161e S–2044, Appendix D–3)	FRA Customers/State Inspectors.	15	60	15
New Form FRA F 6180.161f S–2044, Appendix D–4)	FRA Customers/State Inspectors.	10	60	10
New Form FRA F 6180.161g S–2044, Appendix E–1)	FRA Customers/State Inspectors.	3	60	3
New Form FRA F 6180.161h S–2044, Appendix E–2)	FRA Customers/State Inspectors.	3	60	3
New Form FRA F 6180.161j S–2044, Appendix F–2)	FRA Customers/State Inspectors.	3	60	3
New Form FRA F 6180.161k S–2044, Appendix G–1)	FRA Customers/State Inspectors.	10	60	10

Total Estimated Annual Responses: 121.

Total Estimated Total Annual Burden: 121 hours.

Status: Revision of a Currently Approved Collection.

Title: FRA Safety Advisory 2015–03, Operational and Signal Modifications for Compliance with Maximum Authorized Passenger Train Speeds and Other Restrictions.

OMB Control Number: 2130–0613.

Type of Request: Regular Clearance of a Previously Approved Emergency Clearance.

Affected Public: 28 Railroads.

Abstract: FRA issued Safety Advisory 2015–03 on June 12, 2015 (*see* 80 FR 33585) to stress to passenger railroads and railroads that host passenger service and their employees the importance of compliance with Federal regulations and applicable railroad rules governing applicable passenger train speed limits. This safety advisory makes recommendations to these railroads to ensure that compliance with applicable passenger train speed limits is addressed by appropriate railroad operating policies and procedures and signal systems.

Reporting Burden:

Safety advisory 2015–03	Respondent universe (railroads)	Total annual responses	Average time per response	Total annual burden hours
(1) RR Review of Circumstances of the Fatal May 12, 2015, Philadelphia Derailment with their Operating Employees.	28	28 RR Bulletins	8 hours	224
(2) RR Survey of their Entire Systems or the Portions on Which Passenger Service is Operated and Identification of Main Track Locations where there is a Reduction of More than 20 mph from the Approach Speed to a Curve or Bridge and the Maximum Authorized Operating Speed for Passenger Trains at the Identified Location.	28	28 Surveys/Lists	40 hours	1,120
(3) Communications between Locomotive Engineer and a Second Qualified Crew Member in the Body of the Train at Identified Locations.	28	2,800 Messages/Communications.	2 minutes	93

Safety advisory 2015–03	Respondent universe (railroads)	Total annual responses	Average time per response	Total annual burden hours
(4) RR Installation of Additional Wayside Signs throughout Its System or Portions on Which Passenger Service is Operated, with Special Emphasis at Identified Locations.	28	3,024 Wayside Signs	15.4839 minutes	780

Form Number(s): N/A.

Frequency of Submission: One-time; on occasion.

Total Estimated Annual Responses: 5,880.

Total Estimated Annual Burden: 2,217 hours.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Corey Hill,

Executive Officer.

[FR Doc. 2015–24181 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0081]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated August 12, 2015, Metro-North Railroad (MNCW) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 213. FRA assigned the petition Docket Number FRA–2015–0081.

MNCW requests relief from 49 CFR 213.233(c), which specifies the required track inspection frequency. MNCW's request concerns the twice-weekly inspection requirement that applies to MNCW tracks. The regulation specifies that if a track carries passenger trains, it must be inspected twice weekly. FRA has interpreted that 1 week is defined as a period of 7 days, Sunday through Saturday. MNCW states that it is more cost effective for its operations to satisfy the twice-weekly inspection requirement using a calendar week beginning on Monday, and requests a waiver to conduct track inspections on this schedule.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov* . Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 9, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on September 16, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–24053 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0093]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated August 19, 2015, the Delaware Lackawanna Railroad Company (DLR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11—*Requirements for existing locomotives.* FRA assigned the petition Docket Number FRA–2015–0093.

DLR has petitioned FRA to grant a waiver of compliance from 49 CFR part 223–Safety Glazing Standards, for a 100 ton, 600 horsepower diesel-electric locomotive, Number DL&W 426. This locomotive was built in 1934 by Electromotive Corporation for DLR for use in yard switching. DLR is a Class III railroad. DL&W 426 would be used in yard and terminal switching service at the former Delaware Lackawanna and Western yards in Scranton, PA, and occasional historic passenger moves within Steamtown National Historic Site. The locomotive would operate at speeds not exceeding 15 mph. The locomotive is currently equipped with unblemished laminate safety glass and is serviced and maintained by DLR, in Scranton, PA. The waiver is being sought because of the limited operation of the locomotive and the low risk of

safety of continuing to operate with the current glazing.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 9, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on September 16, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–24054 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0097]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with part 235 of Title 49 Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated June 23, 2015, CSX Transportation (CSX) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2015–0097.

Applicant: CSX Transportation, Mr. David B. Olson, Chief Engineer, Communications & Signals, 500 Water Street, Speed Code J–350, Jacksonville, FL 32202.

CSX seeks approval of the discontinuance of Control Point Watson on the Chicago Division, Grand Rapids Terminal Subdivision, Milepost CGE0.4. Signals #2, #4, #6, and #8 and power-operated switch #3 will be removed. Existing power-operated switch #1 will be converted to a hand-operated switch.

The reason given for the proposed discontinuance is to eliminate facilities no longer needed in present-day operation.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 9, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on September 16, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–24056 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0078]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated July 24, 2015, North American Transit Services Association, a subsidiary of the American Public Transportation Association (APTA), has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain

provisions of the Federal railroad safety regulations contained at 49 CFR parts 238—Passenger Equipment Safety Standards and 229—Railroad Locomotive Safety Standards. Specifically, APTA requests relief from 49 CFR 238.105—*Train electric hardware and software safety,* which requires a written hardware and software safety program to guide the design, development, testing, integration, and verification of software and hardware that controls or monitors equipment safety functions. APTA also requests relief from 49 CFR 238.107—*Inspection, testing and maintenance plan;* 238.109—*Training, qualification and designation program;* 238.311—*Single car test;* 229.315—*Operations and maintenance manual;* 229.317—*Training and qualification program;* and 229.319—*Operating personnel training.* FRA assigned the petition Docket Number FRA–2015–0078.

APTA and its industry partners with support from Amtrak, leveraged standards developed for freight electronically controlled pneumatic brakes (*see* 49 CFR part 232, subpart G–Electronically Controlled Pneumatic (ECP) Braking Systems) and have completed major efforts toward introduction of ECP brake technology for use in revenue passenger train service. Standards and regulations do not yet exist for ECP brake systems applied to passenger trains; however, in support of the development of standards and regulations, APTA and industry have completed the following major activities:

1. Written a draft standard based on Association of American Railroads S–4200 series standards used for freight ECP applications, and incorporated by reference in 49 CFR part 232, subpart G.

2. Conducted a detailed preliminary Failure Mode Effects and Criticality Analysis to support the development of an eventual train electric software and safety program in compliance with 49 CFR 238.105.

3. Successfully installed and completed static testing of (2) New York Air Brake and (2) Wabtec ECP control valves on four Amtrak Amfleet-1 coach cars.

4. Successfully operated these cars in revenue trains consisting of ECP cars operating in emulation mode with traditional 26–C control valve-fitted coaches.

5. Established a test committee to monitor the development process and peer review all aspects of testing and provide assurance of safe operating practices.

6. Drafted a test plan for full ECP operation in accordance with 49 CFR 238.111—*Pre-revenue service acceptance testing plan.* Further details of this plan will be developed by the test committee prior to finalizing the test plan and the conduct of any testing.

At this stage in development, dynamic tests of the full ECP brake system are needed to verify performance and to aid in developing industry standards and regulations for ECP design, operation and maintenance for use on passenger trains. To conduct these tests, APTA requests a test waiver that addresses the specified areas in accordance with the provisions of 49 CFR 238.111. During this testing, while approved specifications and standards are being defined based on test results to comply with the requirement of 49 CFR 238.105, it is requested that an interim passenger train hardware and software design process, documentation, testing, and monitoring process be used based on Amtrak test procedures, specific test plans outlined by the test committee, and by brake supplier ECP performance information. To provide alternate compliance with 49 CFR 238.107, 238.109, 229.315, 229.317, and 229.319, it is requested that an interim Amtrak operations and training manual be used. Development of compliant operations training and maintenance practices will be finalized after completion of ECP brake testing, as these will evolve based on experience from on-track pre-revenue and revenue testing. Amtrak will develop draft operating guidelines to permit safe operation of closely monitored ECP brake testing to be approved by the test committee. Amtrak will provide amended operating rules to govern safe train handling procedures related to ECP brake systems and related equipment for the specific route in which testing will occur in accordance with 49 CFR 238.107, and Amtrak will submit a list of locations on its system where ECP brake system repairs may be performed in accordance with 49 CFR 238.111. A passenger train equipped with ECP brake system must be inspected before being released from a shop or repair facility to ensure proper and safe condition.

APTA also requests that an interim single car brake test for ECP be used during this testing while specifications, standards, and regulations are being further defined based on test results. The single car brake test incorporated by reference at 49 CFR 238.311 (APTA SS–M–005–98 Rev. 2.1, Section 14.5) permits brake suppliers to define specific testing procedures for electro-pneumatic controlled brakes. In preparation of pre-revenue and revenue testing of full ECP brake systems, each brake supplier will develop specific single car brake test procedures to ensure safe operation of the ECP units. The test procedures, based on the current standard, will be reviewed by the test committee. Further development may be needed to codify a unifying specific APTA standard for single car brake testing, updating APTA SS–M–005–98 Rev 2.1.

A copy of the petition and all attachments, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 9, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including

any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on September 16, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–24052 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0095]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated August 25, 2015, the Illinois Central Railroad Company; Wisconsin Central Ltd.; Grand Trunk Western Railroad Company; Chicago, Central and Pacific Railroad Company; Cedar River Railroad Company; Sault Ste. Marie Bridge Company; Bessemer and Lake Erie Railroad Company; and Pittsburgh and Conneaut Dock Company (collectively, ''CN'') have petitioned the Federal Railroad Administration (FRA) for a waiver from certain provisions of 49 CFR 240.111 regarding motor vehicle operation safety conduct data required for the initial certification and recertification of locomotive engineers. The request was assigned Docket Number FRA–2015–0095.

The waiver requested would permit CN to initially certify or recertify locomotive engineers for a period of 60 days, and would conform to current provisions under 49 CFR 242.111(c) and (d) for the initial certification and recertification of conductors. CN believes there is no railroad safety basis that exists for not extending this same provision to locomotive engineer certification.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays. Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within November 9, 2015 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on September 16, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–24055 Filed 9–22–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 519 (Sub-No. 5)]

Renewal of National Grain Car Council

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of intent to renew charter.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C., app. 2 (FACA), notice is hereby given that the Surface Transportation Board intends to renew the charter of the National Grain Car Council (NGCC).

ADDRESSES: A copy of the charter is available at the Library of the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, and on the Board's Web site at *http://www.stb.dot.gov/stb/rail/graincar_council.html.*

FOR FURTHER INFORMATION CONTACT: Fred Forstall, Designated Federal Officer, at (202) 245–0241. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339].

SUPPLEMENTARY INFORMATION: The NGCC functions as a continuing working group to facilitate private-sector solutions and recommendations to the STB on matters affecting grain transportation. The NGCC functions solely as an advisory body, and complies with the provisions of FACA.

The NGCC consists of approximately 40 members, excluding the governmental representatives. Members comprise a balanced representation of executives knowledgeable in the transportation of grain, including no fewer than 14 members from the Class I railroads (one marketing and one car management representative from each Class I), 7 representatives from Class II and III carriers, 14 representatives from grain shippers and receivers, and 5 representatives from private car owners and car manufacturers. STB Board Members are *ex officio* (non-voting) members of the NGCC.

The NGCC meets at least annually, and meetings are open to the public, consistent with the Government in the Sunshine Act, Public Law 94–409.

Further information about the NGCC is available on the Board's Web site and at the GSA's FACA Database—*http://facasms.fido.gov/.*

Decided: September 18, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–24187 Filed 9–22–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 670 (Sub–No. 3)]

Renewal of Rail Energy Transportation Advisory Committee

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of intent to renew charter.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2 (FACA), notice is hereby given that the Surface Transportation Board (Board) intends to renew the charter of the Rail Energy Transportation Advisory Committee (RETAC).

ADDRESSES: A copy of the charter is available at the Library of the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, and on the Board's Web site at *http://www.stb.dot.gov/stb/rail/retac.html.*

FOR FURTHER INFORMATION CONTACT: Michael Higgins, Designated Federal Officer, at (202) 245–0284. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339].

SUPPLEMENTARY INFORMATION: RETAC was established by the Board on September 24, 2007, to provide advice and guidance to the Board, on a continuing basis, and to provide a forum for the discussion of emerging issues and concerns regarding the transportation by rail of energy resources, including, but not necessarily limited to, coal and biofuels (such as ethanol), and petroleum. RETAC functions solely as an advisory body and complies with the provisions of FACA and its implementing regulations.

RETAC consists of up to 25 voting members, excluding the governmental representatives. The membership comprises a balanced representation of individuals experienced in issues affecting the transportation of energy resources, including no fewer than: 5 representatives from the Class I railroads; 3 representatives from Class II and III railroads; 3 representatives from coal producers; 5 Representatives from electric utilities (including at least one rural electric cooperative and one state-or municipally-owned utility); 4 representatives from biofuel feedstock growers or providers, and biofuel refiners, processors, and distributors; 2 representatives from private car owners, car lessors, or car manufacturers; and, 1 representative from the petroleum shipping industry. The Committee may also include up to 2 members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. All voting members of the Committee serve in a representative capacity on behalf of their respective industry or stakeholder group. STB Board Members are *ex officio* (non-voting) members of RETAC. Representatives from the U.S. Departments of Agriculture, Energy, and Transportation; and the Federal Energy Regulatory Commission may be invited to serve on the Committee in an advisory capacity as *ex officio* (non-voting) members.

RETAC meets at least twice a year, and meetings are open to the public, consistent with the Government in the Sunshine Act, Public Law 94–409.

Further information about RETAC is available on the Board's Web site and at the GSA's FACA Database—*http://facasms.fido.gov/.*

Decided: September 18, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–24188 Filed 9–22–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of five entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designations by the Acting Director of OFAC of the five entities identified in this notice pursuant to section 805(b) of the Kingpin Act are effective on September 17, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On September 17, 2015, the Acting Director of OFAC designated the following five entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Entities

1. J & P ADVERTISING, S.A. DE C.V. (a.k.a. J AND P ADVERTISING, S.A. DE C.V.), Calle Alberta No. 2166, Col. Los

Colomos, Guadalajara, Jalisco C.P. 44660, Mexico; Antioquia 2123–B, Col. Los Colomos, Guadalajara, Jalisco, Mexico; Web site *www.jp-adv.com;* R.F.C. JAP090911D37 (Mexico) [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of CARTEL DE JALISCO NUEVA GENERACION, and/or being controlled or directed by, or acting for or on behalf of, CARTEL DE JALISCO NUEVA GENERACION and therefore meets the statutory criteria for designation as a SDNT pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. §§ 1904(b)(2) and/or (3).

2. JJGON, S.P.R. DE R.L. DE C.V., Guadalajara, Jalisco, Mexico; Folio Mercantil No. 61698–1 (Mexico) [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of CARTEL DE JALISCO NUEVA GENERACION, and/or being controlled or directed by, or acting for or on behalf of, CARTEL DE JALISCO NUEVA GENERACION and therefore meets the statutory criteria for designation as a SDNT pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. §§ 1904(b)(2) and/or (3).

3. LAS FLORES CABANAS (a.k.a. CABANAS LAS FLORES), Km 5.4 Carretera Tapalpa—San Gabriel, Tapalpa, Jalisco 49340, Mexico; Web site *www.cabanaslasflores.com* [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of CARTEL DE JALISCO NUEVA GENERACION, and/or being controlled or directed by, or acting for or on behalf of, CARTEL DE JALISCO NUEVA GENERACION and therefore meets the statutory criteria for designation as a SDNT pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. §§ 1904(b)(2) and/or (3).

4. MIZU SUSHI LOUNGE, Av. Francisco Villa 1329 Planta Alta, Residencial Fluvial Vallarta, Puerto Vallarta, Jalisco, Mexico; Av. Gral. Eulogio Parra 3200 Esq. Aztecas, Plaza Entorno Margarita L. 22 Piso 2, Col. Monraz, Guadalajara, Jalisco, Mexico; Web site *www.mizusushi.mx* [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of CARTEL DE JALISCO NUEVA GENERACION, and/or being controlled or directed by, or acting for or on behalf of, CARTEL DE JALISCO NUEVA GENERACION and therefore meets the statutory criteria for designation as a SDNT pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. §§ 1904(b)(2) and/or (3).

5. ONZE BLACK (a.k.a. TEQUILA ONZE BLACK), Antioquia # 2123–B, Col. Los Colomos, Guadalajara, Jalisco 44660, Mexico; Web site *www.tequilaonze.com* [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of CARTEL DE JALISCO NUEVA GENERACION, and/or being controlled or directed by, or acting for or on behalf of, CARTEL DE JALISCO NUEVA GENERACION and therefore meets the statutory criteria for designation as a SDNT pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. §§ 1904(b)(2) and/or (3).

Dated: September 17, 2015.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–24068 Filed 9–22–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Tribal Consultation Policy

AGENCY: Department of the Treasury.

ACTION: Notice of Tribal Consultation Policy.

SUMMARY: This notice announces a policy outlining the guiding principles for all Treasury bureaus and offices engaging with Tribal Governments on matters with Tribal implications. The policy will be updated periodically and refined as needed to reflect ongoing engagement and collaboration with Tribal partners.

DATES: *Effective date:* September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine Buckberg, Department of the Treasury Deputy Assistant Secretary for Policy Coordination, Office of Economic Policy and Point of Contact for Tribal Consultation, at 202–622–2200 or by email at *TRIBAL.CONSULT@treasury.gov.*

SUPPLEMENTARY INFORMATION: On December 3, 2014, the Department of the Treasury (Treasury) released an interim tribal consultation policy outlining the guiding principles for all Treasury bureaus and offices engaging with Tribal Governments on matters with Tribal Implications (''Tribal Consultation Policy; Notice of Interim Tribal Policy,'' 79 FR 71816). In releasing the interim policy, Treasury solicited comments from tribes. While the policy was being reviewed and finalized, Treasury has operated under the interim consultation policy. In response, Treasury received over 25 comments from Indian tribal governments and tribal organizations. The written comments and other feedback received via ongoing tribal consultation were very helpful in developing Treasury's final tribal consultation policy. We appreciate the commenters' interest in working with Treasury to develop a consultation policy that satisfies the concerns of Indian tribal governments and their leaders while enabling Treasury to continue to develop and implement policy in a timely and efficient manner.

The final policy includes a number of changes suggested in these comments, including the following:

- The policy no longer includes the phrase ''endeavor to consult,'' and now simply states that Treasury will consult with tribes on policy matters with tribal implications, under the procedures set forth in the policy.

- The final policy now provides for consultation with tribes on policy matters of ''general applicability that may have an impact on Indian Tribes or their members.''

- While a timely response to consultation requests has always been Treasury's goal, the final policy now formally requires the POCTC to acknowledge requests for consultation ''within a reasonable period.''

While we incorporated a number of comments, we have retained the language of the interim policy with respect to consultation on actions to enforce requirements administered by the agency (Section III.A.). After further consideration, it remains our view that consultation on such matters would present a number of legal and practical challenges, and is not within the purview of Executive Order 13175. Our guidance on the General Welfare Exclusion, the Per Capita Act, minor trusts, and other important matters, shows that a robust tribal consultation process can address tribes' concerns about enforcement actions or penalties when it is appropriate to do so.

The consultation policy will be updated periodically and refined as needed to reflect ongoing engagement and collaboration with Tribal partners.

Department of the Treasury Tribal Consultation Policy

In furtherance of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' 65 FR 67249, issued by President Clinton on November 6, 2000, and the Presidential Memorandum for the Heads of Executive Departments and Agencies on Tribal Consultation, 74 FR 57881, signed by President Obama on November 5, 2009, the U.S. Department of the Treasury (Treasury) establishes this Tribal Consultation Policy (Policy). The Policy outlines the guiding principles for all Treasury bureaus and offices engaging with Tribal Governments on matters with Tribal Implications.

I. Definitions

A. ''Indian Tribe'' refers to an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

B. ''Tribal Government'' refers to the governing body of an Indian Tribe.

C. ''Tribal Consultation'' (or ''Consultation'') involves the direct, timely, and interactive process of receiving input from Indian Tribes regarding proposed Treasury actions on Policies that have Tribal Implications.

D. ''Policies that have Tribal Implications'' has the same meaning as used in Executive Order 13175, and refers to Treasury regulations, published guidance, or other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes. It does not include policy matters of general applicability that may have an impact on Indian Tribes or their members; however, Treasury may consider Consultation on such matters under the circumstances described in Section III.A.

E. ''Tribal Official'' refers to an elected, appointed, or designated official or employee of the governing body of an Indian Tribe, or an authorized inter-tribal organization.

II. Guiding Principles

A. The United States recognizes the right of Indian Tribes to self-government, and their inherent sovereign powers over their members and territories. The principle of consultation has its roots in the unique relationship between the federal government and the governments of Indian Tribes. This government-to-government relationship has a more than 200-year history, and is built on the foundation of the U.S. Constitution, treaties, legislation, executive action, and judicial rulings. Most recently, consultation was recognized in Executive Order 13175 and in the November 5, 2009 Presidential Memorandum on Tribal Consultation.

B. Treasury is committed to strengthening the government-to-government relationships between the United States and Indian Tribes. Treasury recognizes that agency policies, programs, and services may affect Indian Tribes and is committed to consulting with Tribal Officials with regard to Treasury Policies that have Tribal Implications. This policy will complement, not supersede, any existing laws, rules, or regulations that guide existing consultation processes with Indian Tribes.

C. Tribal Consultation will inform Treasury's development of regulations, published guidance, and other policy statements or actions, as it will enhance Treasury's understanding of the potential impacts of these activities on Indian Tribes.

D. Treasury is committed to developing and issuing regulations and guidance in a timely manner.

III. Consultation Policy

A. Statement of Policy

Treasury will consult with Tribal Officials prior to implementing Policies that have Tribal Implications. While not required by this Policy or EO 13175, when specifically requested, Treasury also may consult with Tribal Officials regarding policy matters of general applicability that may have an impact on Indian Tribes or their members. Treasury may also conduct listening sessions, meetings with individual Tribes, and informal discussions with Tribal Officials on matters of concern.

The Tribal Consultation process should achieve the following core objectives: (1) Timely identification of policy matters that may warrant Tribal Consultation; (2) implementation of a process that is accessible and convenient to Tribal participants; and (3) development of meaningful, transparent, and accountable dialogue involving the appropriate participants.

Consistent with EO 13175, Tribal Consultation is not required for actions to enforce requirements administered by the agency or actions to penalize violations of these requirements, even if the actions impact multiple Indian Tribes or members of multiple Indian Tribes. Actions that do not require Tribal Consultation include, but are not limited to:

- Administrative orders or practices involving penalties or equitable or similar relief to ameliorate the effects of prior violations or ensure compliance;
- Administrative orders that impose specialized requirements of limited duration;
- Audits, examinations, collections, litigation, or investigations; and
- Internal agency guidelines with respect to such matters.

B. Role of the POCTC

The Treasury Point of Contact for Tribal Consultation (POCTC) is the Deputy Assistant Secretary for Policy Coordination in the Office of Economic Policy, or another official as designated by the Secretary or the Deputy Secretary. Treasury bureaus and policy offices, as well as the Office of the General Counsel (OGC) and the Executive Secretariat, may assist the POCTC in identifying policy matters that may require Tribal Consultation.

The POCTC is available to assist Treasury bureaus and offices in the identification of policy matters that may be appropriate for Tribal Consultation. OGC is also available to assist in resolving internal questions related to Tribal Consultation matters.

C. Procedures for Evaluating and Initiating Consultation

1. Treasury bureaus and offices should conduct Tribal Consultation with respect to Policies that have Tribal Implications, including early outreach to solicit comments from appropriate Tribal Officials who may be substantially affected by changes in Treasury regulations, published guidance, or other policies under consideration. Program staff and legal counsel should assist in the identification of policy matters that are likely to require Tribal Consultation. Generally, every effort should be made to provide sufficient notice prior to scheduling Consultation, and the POCTC or Treasury office or bureau conducting a Consultation should inform Tribal Officials as soon as practicable if exceptional circumstances, such as legislative or regulatory deadlines or other factors beyond Treasury's control, warrant an abbreviated period of advance notice.

2. Tribal Consultation will be conducted by Treasury officials who are knowledgeable about the matters at hand and authorized to speak for the Department.

3. A phased approach to Tribal Consultation may be appropriate in some matters, in which a plan for more extensive Tribal Consultation is identified and a commitment is made to consult within a specified time frame.

4. Treasury bureaus and offices should notify the POCTC in advance of final actions on policies that may have Tribal Implications. The POCTC may advise on the potential need for Tribal Consultation with respect to such matters.

5. With respect to regulations and published guidance on matters that have Tribal Implications, to the extent practicable and permitted by law, Treasury will consult with Tribal Officials early in the process of developing such regulations or guidance. These Consultations should seek comment on compliance costs as appropriate to the nature of the regulation or guidance under development. The timing, nature, detail, and extent of Consultation will depend on the regulation or guidance involved.

D. Methods of Consultation

Tribal Consultation may include, but is not limited to, one or more of the following:

• **Federal Register** *(FR) notices or other published guidance soliciting comments.* Tribal Consultation opportunities may be announced in FR notices and other published guidance, including guidance published in the Internal Revenue Bulletin. FR notices and other published guidance requesting comments from Tribal Officials should be published as soon as practicable after Treasury determines that Tribal Consultation is appropriate. When practicable, a comment period of 60 to 120 days will be provided, to allow sufficient time for Tribal Officials to consult with their members and legal counsel on any matters of concern.

• *Meetings, written correspondence, conference calls, videoconferences, and workshops to encourage an exchange of views.* Tribal Consultation may also be conducted through email, regular mail, telephone calls (including conference calls), video conferences, and in-person meetings or conferences, as schedules and resources permit. Where appropriate, intra- and inter-agency meetings also may be utilized to address areas of concern, conserve resources, and ensure comprehensive coverage of an issue. Disparities in time zones and travel costs, including those of Alaskan Native tribes, will be taken into account when scheduling phone calls and conferences.

• *Targeted outreach.* Treasury officials or the POCTC may also directly contact Tribal Officials to discuss Policies that have Tribal Implications. In addition, as resources and schedules permit, Treasury officials may attend conferences sponsored by inter-tribal organizations to participate in agency listening sessions and/or to present on issues of concern to Indian Tribes.

E. Process for Tribal Officials To Request Consultation

Tribal Officials are encouraged to contact directly the appropriate Treasury officials, on a government-to-government basis, to seek Consultation on Policies that have Tribal Implications. Consultation requests may also be addressed to the POCTC, who may direct the matter to additional Treasury officials, as appropriate. Consultation requests to the POCTC will be acknowledged within a reasonable period. The POCTC also may be contacted with general concerns or requests for information, and may refer specific policy matters to the Treasury bureaus or offices with direct jurisdiction, as appropriate. The POCTC can be reached at *Tribal.Consult@treasury.gov.*

IV. Judicial Review

This Policy is intended only to improve the internal management of Treasury, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against Treasury or any person.

David R. Pearl,

Executive Secretary.

[FR Doc. 2015–24150 Filed 9–22–15; 8:45 am]

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Part II

Department of Energy

10 CFR Part 431
Energy Conservation Program: Energy Conservation Standards for Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2012–BT–STD–0041]

RIN 1904–AC85

Energy Conservation Program: Energy Conservation Standards for Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including single package vertical air conditioner (SPVAC) and single package vertical heat pump (SPVHP) equipment (collectively referred to as single package vertical units or SPVUs). EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent standards for SPVACs and SPVHPs would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE is adopting standards equivalent to the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)/Illuminating Engineering Society (IES) Standard 90.1–2013 levels for four SPVU equipment classes, and adopting amended energy conservation standards for two other equipment classes of single package vertical units more stringent than the SPVU standards in ASHRAE Standard 90.1–2013. DOE has determined that the amended energy conservation standards for this equipment are technologically feasible and economically justified, and would result in the significant conservation of energy.

DATES: The effective date of this rule is November 23, 2015. Compliance with the amended standards established for SPVACs and SPVHPs <65,000 Btu/h cooling capacity is required on September 23, 2019; for SPVACs and SPVHPs ≥65,000 and <135,000 Btu/h cooling capacity, compliance is required on October 9, 2015; and for SPVACs and SPVHPs ≥135,000 and <240,000 Btu/h cooling capacity, compliance is required on October 9, 2016.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at 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-2012-BT-STD-0029*. This Web page contains a link to the docket for this document on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *SPVAC@ee.doe.gov*.

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

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I. Synopsis of the Final Rule

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6311 *et seq.*), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency.[2] This equipment includes single package vertical air conditioners (SPVACs) and single package vertical heat pumps (SPVHPs), the subjects of this final rule (collectively referred to as single package vertical units or SPVUs). Pursuant to EPCA, not later than 3 years after the date of enactment of the Energy Independence and Security Act of 2007 (EISA 2007), DOE must review ASHRAE Standard 90.1, ''*Energy Standard for Buildings Except Low-Rise Residential Buildings,*'' with respect to single package vertical air conditioners and single package vertical heat pumps in accordance with the procedures established in 42 U.S.C. 6313(a)(6). (42 U.S.C. 6313(a)(10)(B))

In addition, EPCA requires that DOE conduct a rulemaking to consider amended energy conservation standards for SPVACs and SPVHPs each time ASHRAE Standard 90.1 is updated with respect to such equipment. (42 U.S.C. 6313(a)(6)(A))

At the time DOE commenced this rulemaking, energy conservation standards for SPVUs had been set by EISA 2007. The levels promulgated in EISA 2007 correspond to the levels contained in ASHRAE 90.1–2004. Because ASHRAE did not revise its SPVU standard levels until 2013, the Department did not explicitly consider adoption of the then-current ASHRAE Standard 90.1–2010 levels as part of its analytical baseline (as is typically the case under 42 U.S.C. 6313(a)(6)). Energy conservation standards for SPVUs at the time already corresponded to the ASHRAE Standard 90.1–2010 levels. However, on October 9, 2013, ASHRAE adopted ASHRAE Standard 90.1–2013, and this revision did contain amended standard levels for SPVUs, thereby triggering DOE's statutory obligation to promulgate an amended uniform national standard at those levels, unless DOE determines that clear and convincing evidence supports the adoption of more-stringent energy conservation standards than the ASHRAE levels. The test for adoption of more-stringent standards is whether such standards would result in significant additional conservation of energy and would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii) (II)) As a step toward meeting DOE's statutory obligations under both 42 U.S.C. 6313(a)(6) and (a)(10)(B), DOE published a notice of proposed rulemaking (NOPR) on December 30, 2014. 79 FR 78614. In the NOPR, DOE proposed amended standards for two equipment classes of SPVUs that are more stringent than those set forth in ASHRAE Standard 90.1–2013, and adoption of the ASHRAE Standard 90.1–2013 levels for all other SPVU equipment classes. 79 FR 78614 at 78667.

In this final rule, in accordance with these and other statutory provisions discussed in this document, DOE is adopting amended energy conservation standards for SPVUs. For four of the six SPVU equipment classes, DOE is adopting the levels specified in ASHRAE Standard 90.1–2013. For the remaining two equipment classes, DOE has concluded that there is clear and convincing evidence to support more-stringent standards than the levels in ASHRAE Standard 90.1–2013. Accordingly, DOE is amending energy conservation standards for all classes of SPVUs from their existing levels consistent with ASHRAE Standard 90.1–2010. The amended standards are expressed in terms of (1) energy efficiency ratio (EER), which is the ratio of the produced cooling effect of an air conditioner or heat pump to its total work input (in Btu/watt-hour); and (2) coefficient of performance (COP), which is the ratio of produced heating effect to total work input (this metric is unitless and applicable only to heat pump units). The amended standards are shown in Table I.1. These standards apply to all products listed in Table I.1 and manufactured in, or imported into, the United States on and after the compliance date listed in the table.

The standards listed in Table I.1 that are more stringent than those contained in ASHRAE Standard 90.1–2013 apply to such equipment manufactured in, or imported into, the United States, excluding equipment that is manufactured for export, on and after a date 4 years after publication of this final rule. The standards listed in Table I.1 that are set at the levels contained in ASHRAE Standard 90.1–2013 apply to such equipment manufactured in, or imported into, the United States, excluding equipment that is manufactured for export, on and after the date 2 or 3 years after the effective date of the requirements in ASHRAE Standard 90.1–2013, depending on equipment size (*i.e.,* October 9, 2015 or October 9, 2016).

[1] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (Apr. 30, 2015).

TABLE I.1—AMENDED ENERGY CONSERVATION STANDARDS FOR SPVUS

Equipment class	Cooling capacity Btu/h	Efficiency level	Standard level	Compliance date
Single Package Vertical Air Conditioner	<65,000 Btu/h	EER = 11.0	More Stringent than ASHRAE.	September 23, 2019.
Single Package Vertical Air Conditioner	≥65,000 Btu/h and <135,000 Btu/h.	EER = 10.0	ASHRAE	October 9, 2015.
Single Package Vertical Air Conditioner	≥135,000 Btu/h and <240,000 Btu/h.	EER = 10.0	ASHRAE	October 9, 2016.
Single Package Vertical Heat Pump	<65,000 Btu/h	EER = 11.0 COP = 3.3	More Stringent than ASHRAE.	September 23, 2019.
Single Package Vertical Heat Pump	≥65,000 Btu/h and <135,000 Btu/h.	EER = 10.0 COP = 3.0	ASHRAE	October 9, 2015.
Single Package Vertical Heat Pump	≥135,000 Btu/h and <240,000 Btu/h.	EER = 10.0 COP = 3,0	ASHRAE	October 9, 2016.

A. Benefits and Costs to Consumers

Table I.2 presents DOE's evaluation of the economic impacts of the adopted standards on consumers of single package vertical units, as measured by the average life-cycle cost (LCC) savings and the median payback period (PBP).[3] In order to adopt levels above the levels specified in ASHRAE Standard 90.1, DOE must determine that any more-stringent standards would result in significant additional conservation of energy (relative to the efficiency levels specified in ASHRAE Standard 90.1) and that they would be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II)) In compliance with this statutory requirement, DOE based its determination to adopt more-stringent standards for two classes of SPVUs on an analysis comparing these proposed standards with ASHRAE 90.1–2013 (Table I.2). Thus, economic impacts of this determination are calculated as compared to the ASHRAE 90.1–2013 level because DOE is required by statute to, at a minimum, adopt that standard.[4]

The Office of Management and Budget's (OMB's) Circular A–4 [5] provides guidance on establishing the baseline for regulatory impact analyses as follows:

> In some cases, substantial portions of a rule may simply restate statutory requirements that would be self-implementing, even in the absence of the regulatory action. In these cases, you should use a pre-statute baseline. If you are able to separate out those areas where the agency has discretion, you may also use a post-statute baseline to evaluate the discretionary elements of the action.

Accordingly, in this section, DOE presents consumer, manufacturer, and economic costs and benefits for the amended SPVU standards as compared to the current Federal (EPCA) minimum that are currently in effect (pre-statute baseline). In addition, as required by statute, when proposing a standard more stringent than ASHRAE 90.1, and recommended by OMB Circular A–4, DOE also provides these same analyses relative to the post-statute (ASHRAE 90.1–2013) baseline. As noted above, it is these latter analyses that DOE has used as the basis for its determination to adopt more-stringent standards for two classes of SPVUs. DOE has used the same analytic methodologies in both baselines. Key analyses (using both baselines) are summarized in Table I.2: Impacts of Amended Energy Conservation Standards on Consumers of SPVUs; Table I.3: Summary of National Economic Benefits and Costs of Amended SPVU Energy Conservation Standards; and Table I.4 and Table I.5: Annualized Benefits and Costs of Amended Energy Conservation Standards for SPVUs. Additional analyses are presented in section V.C of this preamble, and in the final rule technical support document (TSD). Note that not all analyses were conducted using both baselines; rather, DOE used the baseline(s) most appropriate to the purpose of the analysis (showing economic impacts relative to the pre-statute status quo and/or determining whether to adopt standards more stringent than ASHRAE 90.1–2013). In all cases, the baseline(s) used are indicated in the analyses.

The average LCC savings are positive for the equipment classes for which standards higher than the levels in ASHRAE 90.1–2013 are being adopted, and the PBP is less than the average lifetime of single package vertical units, which is estimated to be 15 years (see section IV.F.2.g). DOE did not evaluate economic impacts to the consumers of SPVACs ≥65,000 Btu/h and <135,000 Btu/h for the ASHRAE baseline, as the ASHRAE level is equal to max-tech. However, the economic impacts for this equipment class using the EPCA baseline can be found in Table I.2 and in appendix 8B of the final rule TSD. DOE also presents results for the parallel class of SPVHPs ≥65,000 Btu/h and <135,000 Btu/h using the EPCA baseline.[6] DOE did not evaluate economic impacts for the SPVAC and SPVHP ≥135,000 Btu/h and <240,000 Btu/h equipment classes because there are no models on the market, and, therefore, no consumers.[7]

[3] The average LCC savings are measured relative to the efficiency distribution in the ASHRAE base case, which depicts the market in the compliance year should DOE adopt the standards set forth in ASHRAE 90.1–2013, as minimally required (see section IV.F). The median PBP, which is designed to compare specific SPVU efficiency levels, is measured relative to the baseline model (see section IV.C.2).

[4] *See* 42 U.S.C. 6313(a)(6)(A)(ii)(I): In general—Except as provided in subclause (II), not later than 18 months after the date of publication of the amendment to the ASHRAE Standard 90.1 for a product described in clause (i), the Secretary shall establish an amended uniform national standard for the product at the minimum level specified in the amended ASHRAE Standard 90.1.

[5] U.S. Office of Management and Budget ''Circular A–4: Regulatory Analysis'' (Sept. 17, 2003) contains guidelines regarding development of a baseline, including that ''This baseline should be the best assessment of the way the world would look absent the proposed action.'' (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*)

[6] However, there are no models available on the market for this class, and therefore these results were not carried into the national impact analysis or other downstream analyses.

[7] Equipment classes for these cooling capacities exist in ASHRAE Standard 90.1 and were established in DOE regulation through EISA 2007. Despite the lack of models and consumers, for these equipment classes DOE is proposing to adopt as federal standards the efficiency levels in ASHRAE 90.1–2013 as required under 42 U.S.C. 6313(a)(6)(A)(ii)(I).

TABLE I.2—TABLE IMPACTS OF AMENDED ENERGY CONSERVATION STANDARDS ON CONSUMERS OF SINGLE PACKAGE VERTICAL UNITS USING ASHRAE AND EPCA BASELINES

Equipment Class	Cooling capacity Btu/h	Average LCC savings *2014$*		Median payback period *years*	
		ASHRAE baseline	EPCA baseline	ASHRAE baseline	EPCA baseline
Single Package Vertical Air Conditioner ..	<65,000 Btu/h	$174	$280	9.6	10.6
Single Package Vertical Air Conditioner ..	≥65,000 Btu/h and <135,000 Btu/h.	Adopt ASHRAE	833	Adopt ASHRAE	7.3
Single Package Vertical Air Conditioner ..	≥135,000 Btu/h and <240,000 Btu/h.	Adopt ASHRAE	N/A	Adopt ASHRAE	N/A
Single Package Vertical Heat Pump	<65,000 Btu/h	435	392	5.8	9.9
Single Package Vertical Heat Pump	≥65,000 Btu/h and <135,000 Btu/h.	Adopt ASHRAE	287	Adopt ASHRAE	11.3
Single Package Vertical Heat Pump	≥135,000 Btu/h and <240,000 Btu/h.	Adopt ASHRAE	N/A	Adopt ASHRAE	N/A

DOE's analysis of the impacts of the adopted standards on consumers is described in section IV.F of this document.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2014 to 2048). Using a real discount rate of 10.4 percent,[8] DOE estimates that the INPV for manufacturers of SPVUs is $41.2 million in 2014$ using ASHRAE 90.1–2013 as a baseline. The INPV of SPVUs from the EPCA baseline can be found in chapter 12 of the final rule TSD. Under the amended standards adopted in this final rule, DOE expects that manufacturers may lose between 17.9 and 10.3 percent of their INPV, which is approximately $7.4 to $4.3 million, respectively. Total conversion costs for the industry are expected to reach $9.2 million.

DOE's analysis of the impacts of the adopted standards on manufacturers is described in section IV.I of this document.

C. National Benefits and Costs[9]

DOE's analyses indicate that the amended energy conservation standards adopted here for SPVUs would save a significant amount of energy. Relative to the case in which DOE adopts the efficiency levels in ASHRAE 90.1–2013 (the ASHRAE base case), the lifetime energy savings for SPVUs purchased in the 30-year period that begins in the anticipated year of compliance with the amended standards (2019–2048), amount to 0.15 quadrillion British thermal units (quads).[10] This represents a savings of 4 percent relative to the energy use of these products in the ASHRAE base case. Energy savings using EPCA as a baseline can be found in chapter 10 of the final rule TSD.

The cumulative net present value (NPV) of total consumer costs and savings of the standards for SPVUs ranges from $0.11 billion (at a 7-percent discount rate) to $0.38 billion (at a 3-percent discount rate) using ASHRAE as a baseline. NPV results using EPCA as a baseline can be found in chapter 10 of the final rule TSD. This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for SPVUs purchased in 2019–2048 under amended standards.

In addition, amended standards for SPVUs would have significant environmental benefits. DOE estimates that the standards would result in cumulative greenhouse gas (GHG) emission reductions using the ASHRAE baseline (over the same period as for energy savings) of 8.9 million metric tons (Mt)[11] of carbon dioxide (CO_2), 4.9 thousand tons of sulfur dioxide (SO_2), 16 tons of nitrogen oxides (NO_X), 38 thousand tons of methane (CH_4), 0.10 thousand tons of nitrous oxide (N_2O), and 0.02 tons of mercury (Hg).[12] The cumulative reduction in CO_2 emissions through 2030 amounts to 2 Mt, which is equivalent to the emissions resulting from the annual electricity use of more than 220,000 homes. Emissions results using the EPCA baseline can be found in chapter 13 of the final rule TSD, and cumulative reduction in CO_2 emissions through 2030 amounts to 3 Mt relative to the EPCA baseline.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by a recent Federal interagency process.[13] The derivation of the SCC values is discussed in section IV.K. Using discount rates appropriate for each set of SCC values, DOE estimates that the net present monetary value of the CO_2 emissions reduction using the ASHRAE baseline (not including CO_2 equivalent emissions of other gases with global warming potential) is between $0.06 billion and $0.85 billion, with a value of $0.28 billion using the central SCC case represented by $40.0/t in 2015. DOE

[8] DOE estimated draft financial metrics, including the industry discount rate, based on data in Securities and Exchange Commission (SEC) filings and on industry-reviewed values published in prior heating, ventilation, and air-conditioning (HVAC) final rules. DOE presented the draft financial metrics to manufacturers in manufacturer impact analysis (MIA) interviews. DOE adjusted those values based on feedback from manufacturers. The complete set of financial metrics and more detail about the methodology can be found in section 12.4.3 of final rule TSD chapter 12.

[9] All monetary values in this section are expressed in 2014 dollars and, where appropriate, are discounted to 2015 unless explicitly stated otherwise. Energy savings in this section refer to the full-fuel-cycle savings (see section IV.G for discussion). National benefits apply only to DOE's amended standard levels that are more stringent than the ASHRAE levels, and impacts are presented as compared to the ASHRAE 90.1–2013 level as baseline. For equipment classes where DOE is proposing the ASHRAE levels, national benefits do not accrue.

[10] A quad is equal to 10^{15} British thermal units (Btu). The quantity refers to full-fuel-cycle (FFC) energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, see section IV.G.1.a.

[11] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[12] DOE calculated emissions reductions relative to the ASHRAE base-case, which reflects key assumptions in the *Annual Energy Outlook 2015 (AEO2015)* Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2014.

[13] *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 July 2015. (Available at: *https://www.whitehouse.gov/sites/default/files/omb/inforeg/scc-tsd-final-july-2015.pdf.*)

also estimates that the net present monetary value of the NO_X emissions reduction is $0.02 billion at a 7-percent discount rate, and $0.06 billion at a 3-percent discount rate.[14] Results using the EPCA baseline can be found in chapter 14 of the final rule TSD.

Table I.3 summarizes the national economic benefits and costs expected to result from the adopted standards for SPVUs using both the ASHRAE and EPCA baselines.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF AMENDED ENERGY CONSERVATION STANDARDS FOR SPVUS USING ASHRAE AND EPCA BASELINES *

Category	Present value *billion 2014$*		Discount rate (%)
	ASHRAE baseline	EPCA baseline	
Benefits			
Consumer Operating Cost Savings	0.37	0.80	7
	0.88	1.86	3
CO_2 Reduction Value ($12.2/t case) **	0.06	0.13	5
CO_2 Reduction Value ($40.0/t case) **	0.28	0.59	3
CO_2 Reduction Value ($62.3/t case) **	0.44	0.93	2.5
CO_2 Reduction Value ($117/t case) **	0.85	1.79	3
NO_X Reduction Monetized Value †	0.02	0.05	7
	0.06	0.12	3
Total Benefits††	0.67	1.43	7
	1.21	2.56	3
Costs			
Consumer Incremental Installed Costs	0.26	0.58	7
	0.50	1.04	3
Net Benefits			
Including CO_2 and NO_X Reduction Monetized Value ††	0.41	0.86	7
	0.71	1.52	3

* This table presents the costs and benefits associated with SPVUs shipped in 2019–2048. These results include benefits to consumers that accrue after 2048 from the products purchased in 2019–2048. The costs account for the incremental variable and fixed costs incurred by manufacturers due to the amended standards, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution, calculated using a 3% discount rate. The SCC time series incorporate an escalation factor. The value for NO_X is the average of high and low values found in the literature.

† The $/ton values used for NO_X are described in section IV.K.

†† Total benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with a 3-percent discount rate ($40.0/t case).

The benefits and costs of the adopted standards, for SPVUs sold in 2019–2048, can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are the sum of (1) the national economic value of the benefits in reduced operating costs, minus (2) the increases in product purchase prices and installation costs, plus (3) the value of the benefits of CO_2 and NO_X emission reductions, all annualized.[15]

Although DOE believes that the value of operating cost savings and CO_2 emission reductions are both important, two issues are relevant. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, whereas the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of SPVUs shipped in 2019–2048. Because CO_2 emissions have a very long residence time in the atmosphere,[16] the SCC values in future years reflect future CO_2-emissions impacts that continue beyond 2100.

[14] DOE is currently investigating valuation of avoided Hg and SO_2 emissions.

[15] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2015, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2015. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates, as shown in Table I.3. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, which yields the same present value.

[16] The atmospheric lifetime of CO_2 is estimated of the order of 30–95 years. Jacobson, MZ (2005), ''Correction to 'Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming,' '' *J. Geophys. Res.* 110. pp. D14105.

Estimates of annualized benefits and costs of the adopted standards are shown in Table I.4. The results under the primary estimate using the ASHRAE baseline are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, (for which DOE used a 3-percent discount rate along with the SCC series that has a value of $40.0/t in 2015),[17] the estimated cost of the standards in this rule is $20 million per year in increased equipment costs, while the estimated annual benefits are $28 million in reduced equipment operating costs, $13 million in CO_2 reductions, and $1.6 million in reduced NO_X emissions. In this case, the net benefit amounts to $24 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series has a value of $40.0/t in 2015, the estimated cost of the standards is $24 million per year in increased equipment costs, while the estimated annual benefits are $43 million in reduced operating costs, $13 million in CO_2 reductions, and $2.7 million in reduced NO_X emissions. In this case, the net benefit amounts to $35 million per year. Results using the EPCA baseline are shown in Table I.5.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR SPVUS (ASHRAE BASELINE) *

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
		Million 2014$/year		
Benefits				
Consumer Operating Cost Savings	7%	28	26	28.
	3%	43	39	44.
CO_2 Reduction Value ($12.2/t case) **	5%	3.7	3.6	3.7.
CO_2 Reduction Value ($40.0/t case) **	3%	13	13	14.
CO_2 Reduction Value ($62.3/t case) **	2.5%	20	20	20.
CO_2 Reduction Value ($117/t case) **	3%	41	41	41.
NO_X Reduction Value †	7%	1.6	1.6	1.6.
	3%	2.7	2.7	2.7.
Total Benefits ††	7% plus CO_2 range	33 to 71	31 to 68	34 to 71.
	7%	43	41	43.
	3% plus CO_2 range	49 to 86	45 to 83	50 to 87.
	3%	59	55	60.
Costs				
Consumer Incremental Product Costs	7%	20	25	19.
	3%	24	32	24.
Net Benefits				
Total ††	7% plus CO_2 range	14 to 51	6 to 44	14 to 52.
	7%	24	16	24.
	3% plus CO_2 range	25 to 62	14 to 51	26 to 63.
	3%	35	23	36.

* This table presents the annualized costs and benefits associated with SPVUs shipped in 2019–2048. These results include benefits to consumers that accrue after 2048 from the SPVUs purchased from 2019–2048. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2015* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Benefits Estimate, and a decline in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.2.a.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor.

† The $/ton values used for NO_X are described in section IV.K.

†† Total benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with 3-percent discount rate ($40.0/t case. In the rows labeled ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

TABLE I.5—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR SPVUS (EPCA BASELINE) *

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
		Million 2014$/year		
Benefits				
Consumer Operating Cost Savings	7%	60	55	60.
	3%	90	82	92.
CO_2 Reduction Value ($12.2/t case) **	5%	7.8	7.7	7.8.
CO_2 Reduction Value ($40.0/t case) **	3%	28	28	29.

[17] DOE used a 3-percent discount rate because the SCC values for the series used in the calculation were derived using a 3-percent discount rate (see section IV.K).

TABLE I.5—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR SPVUS (EPCA BASELINE) *—Continued

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
		Million 2014$/year		
CO_2 Reduction Value ($62.3/t case) **	2.5%	42	42	43.
CO_2 Reduction Value ($117/t case) **	3%	87	86	87.
NO_X Reduction Value †	7%	3.5	3.5	3.5.
	3%	5.8	5.8	5.8.
Total Benefits ††	7% plus CO_2 range	71 to 150	66 to 144	72 to 151.
	7%	92	87	92.
	3% plus CO_2 range	104 to 183	96 to 174	106 to 185.
	3%	124	117	126.
Costs				
Consumer Incremental Product Costs	7%	43	53	43.
	3%	50	65	50.
Net Benefits				
Total ††	7% plus CO_2 range	28 to 107	13 to 92	29 to 108.
	7%	49	34	50.
	3% plus CO_2 range	53 to 132	31 to 110	56 to 135.
	3%	74	52	76.

* This table presents the annualized costs and benefits associated with SPVUs shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the SPVUs purchased from 2019–2048. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2015* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Benefits Estimate, and a decline in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.2.a.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor.

† The $/ton values used for NO_X are described in section IV.K.

†† Total benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with 3-percent discount rate ($40.0/t case. In the rows labeled ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE's analysis of the national impacts of the adopted standards is described in sections IV.G, IV.J, and IV.K of this final rule.

D. Conclusion

Based on the analyses culminating in this final rule, DOE found the benefits to the nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of this equipment). DOE has concluded that, based upon clear and convincing evidence, the amended standards adopted in this final rule represent a significant improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy.

II. Introduction

The following section briefly discusses the statutory authority underlying this final rule, as well as some of the relevant historical background related to the establishment of standards for SPVUs.

A. Authority

Title III, Part C [18] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6311 *et. seq.*), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which includes the SPVAC and SPVHP equipment that is the subject of this final rule.[19] In general, this program addresses the energy efficiency of certain types of commercial and industrial equipment. Relevant provisions of the Act include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labelling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers. (42 U.S.C. 6316)

EPCA contains mandatory energy conservation standards for commercial heating, air-conditioning, and water-heating equipment. Specifically, the statute sets standards for small, large, and very large commercial package air-conditioning and heating equipment, SPVACs and SPVHPs, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks. (42 U.S.C. 6313(a)) EPCA established Federal energy conservation standards that generally correspond to the levels in ASHRAE Standard 90.1, as in effect on October 24, 1992 (*i.e.,* ASHRAE/Illuminating Engineering Society of North America (IESNA) Standard 90.1–1989), for each type of covered equipment listed in 42 U.S.C. 6313(a). EISA 2007, Public Law 110–240, amended EPCA by adding definitions and setting minimum energy conservation standards for SPVACs and SPVHPs. (42 U.S.C. 6313(a)(10)(A)) The efficiency standards for SPVACs and SPVHPs established by EISA 2007 correspond to the levels contained in ASHRAE Standard 90.1–2004, which originated as addendum ''d'' to ASHRAE Standard 90.1–2001.

[18] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[19] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (Apr. 30, 2015).

EPCA requires that DOE conduct a rulemaking to consider amended energy conservation standards for a variety of enumerated types of commercial heating, ventilating, and air-conditioning equipment (of which SPVACs and SPVHPs are a subset) each time ASHRAE Standard 90.1 is updated with respect to such equipment. (42 U.S.C. 6313(a)(6)(A)) Such review is to be conducted in accordance with the procedures established for ASHRAE equipment under 42 U.S.C. 6313(a)(6). According to 42 U.S.C. 6313(a)(6)(A), for each type of equipment, EPCA directs that if ASHRAE Standard 90.1 is amended, DOE must publish in the **Federal Register** an analysis of the energy savings potential of amended energy efficiency standards within 180 days of the amendment of ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(A)(i)) EPCA further directs that DOE must adopt amended standards at the new efficiency level specified in ASHRAE Standard 90.1, unless clear and convincing evidence supports a determination that adoption of a more-stringent level would produce significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II)) In addition, DOE notes that pursuant to the EISA 2007 amendments to EPCA, the agency must periodically review its already-established energy conservation standards for ASHRAE equipment. (42 U.S.C. 6313(a)(6)(C)) In December 2012, this provision was further amended by the American Energy Manufacturing Technical Corrections Act (AEMTCA) to clarify that DOE's periodic review of ASHRAE equipment must occur ''[e]very six years.'' (42 U.S.C. 6313(a)(6)(C)(i))

AEMTCA also modified EPCA to specify that any amendment to the design requirements with respect to the ASHRAE equipment would trigger DOE review of the potential energy savings under U.S.C. 6313(a)(6)(A)(i). Additionally, AEMTCA amended EPCA to require that if DOE proposes an amended standard for ASHRAE equipment at levels more stringent than those in ASHRAE Standard 90.1, DOE, in deciding whether a standard is economically justified, must determine, after receiving comments on the proposed standard, whether the benefits of the standard exceed its burdens by considering, to the maximum extent practicable, the following seven factors:

(I) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(II) The savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses of the products likely to result from the standard;

(III) The total projected amount of energy savings likely to result directly from the standard;

(IV) Any lessening of the utility or the performance of the products likely to result from the standard;

(V) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(VI) The need for national energy conservation; and

(VII) Other factors the Secretary considers relevant.

(42 U.S.C. 6313(a)(6)(B)(ii))

EISA 2007 amended EPCA to provide an independent basis for a one-time review regarding SPVUs that is not tied to the conditions for initiating review specified by 42 U.S.C. 6313(a)(6)(A) or 42 U.S.C. 6313(a)(6)(C) described previously. Specifically, pursuant to 42 U.S.C. 6313(a)(10)(B), DOE must commence review of the most recently published version of ASHRAE Standard 90.1 with respect to SPVU standards in accordance with the procedures established under 42 U.S.C. 6313(a)(6) no later than 3 years after the enactment of EISA 2007. DOE notes that this provision was not tied to the trigger of ASHRAE publication of an updated version of Standard 90.1 or to a 6-year period from the issuance of the last final rule, which occurred on March 7, 2009 (74 FR 12058). DOE was simply obligated to commence its review by a specified date.

Because ASHRAE did not update its efficiency levels for SPVACs and SPVHPs in ASHRAE Standard 90.1–2010, DOE began the current rulemaking by analyzing amended standards consistent with the 6-year look-back procedures defined under 42 U.S.C. 6313(a)(6)(C). The statutory provision at 42 U.S.C. 6313(a)(6)(B)(ii), recently amended by AEMTCA, states that in deciding whether a standard is economically justified, DOE must determine, after receiving comments on the proposed standard, whether the benefits of the standard exceed its burdens by considering, to the maximum extent practicable, the seven factors stated above.

However, before DOE could finalize its rulemaking initiated by the one-time SPVU review requirement in EISA, ASHRAE acted on October 9, 2013 to adopt ASHRAE Standard 90.1–2013. This revision of ASHRAE Standard 90.1 contained amended standard levels for SPVUs, thereby triggering DOE's statutory obligation under 42 U.S.C. 6313(a)(6)(A) to promulgate an amended uniform national standard at those levels unless DOE determined that there is clear and convincing evidence supporting the adoption of more-stringent energy conservation standards than the ASHRAE levels. Consequently, DOE prepared an analysis of the energy savings potential of amended standards at the ASHRAE Standard 90.1–2013 levels (as required by 42 U.S.C. 6313(a)(6)(A)(i)), and issued a NOPR. 79 FR 78614 (Dec. 30, 2014). For this final rule, DOE updated the analyses that accompanied the NOPR in response to stakeholder comments.

DOE is adopting amended standards for two equipment classes of SPVUs that are more stringent than those set forth in ASHRAE Standard 90.1–2013, and is adopting the ASHRAE Standard 90.1–2013 levels for all other SPVU equipment classes. DOE has concluded that there is clear and convincing evidence that the amended standards more stringent than those set forth in ASHRAE Standard 90.1–2013 for two SPVU equipment classes will result in significant additional conservation of energy and be technologically feasible and economically justified, as mandated by 42 U.S.C. 6313(a)(6).

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6313(a)(6)(B)(iii)(I)) 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. 6313(a)(6)(B)(iii)(II))

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(e)(1))

Additionally, when a type or class of covered equipment, such as ASHRAE equipment, has two or more subcategories, DOE often specifies more than one standard level. DOE generally will adopt a different standard level than that which applies generally to such type or class of products for any group of covered products that have the same function or intended use if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and which justifies a higher or lower standard. (42 U.S.C. 6295(q)(1) and 6316(e)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE generally considers such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. In a rule prescribing such a standard, DOE includes an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2) and 6316(e)(1))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d)).

B. Background

1. Current Standards

As noted above, EISA 2007 amended EPCA to establish separate equipment classes and minimum energy conservation standards for SPVACs and SPVHPs. (42 U.S.C. 6313(a)(10)(A)) DOE published a final rule technical amendment in the **Federal Register** on March 23, 2009, which codified into DOE's regulations the new SPVAC and SPVHP equipment classes and energy conservation standards for this equipment as prescribed by EISA 2007. 74 FR 12058. These standards apply to all SPVUs manufactured on or after January 1, 2010. The current standards are set forth in Table II.1.

TABLE II.1—CURRENT FEDERAL ENERGY CONSERVATION STANDARDS FOR SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND HEAT PUMPS

Equipment type	Cooling capacity *Btu/h*	Efficiency level
Single Package Vertical Air Conditioner	<65,000 Btu/h	EER = 9.0
Single Package Vertical Air Conditioner	≥65,000 Btu/h and <135,000 Btu/h	EER = 8.9
Single Package Vertical Air Conditioner	≥135,000 Btu/h and <240,000 Btu/h *	EER = 8.6
Single Package Vertical Heat Pump	<65,000 Btu/h	EER = 9.0 COP = 3.0
Single Package Vertical Heat Pump	≥65,000 Btu/h and <135,000 Btu/h *	EER = 8.9 COP = 3.0
Single Package Vertical Heat Pump	≥135,000 Btu/h and <240,000 Btu/h *	EER = 8.6 COP = 2.9

* There are no models currently on the market with available efficiency data at these cooling capacities.

2. History of Standards Rulemaking for SPVACs and SPVHPs

Single package vertical units were established as a separate equipment class in ASHRAE Standard 90.1 by addendum ''d'' to ASHRAE Standard 90.1–2001. DOE subsequently evaluated the possibility of creating separate equipment classes for SPVUs, but determined that the Energy Policy Act of 2005 had revised the language in 42 U.S.C. 6313(a)(6)(A)(i) to limit DOE's authority to adopt ASHRAE amendments for small, large, and very large commercial package air-conditioning and heating equipment until after January 1, 2010, and thus, DOE could not adopt equipment classes and standards for SPVUs at that time. As explained in a March 2007 energy conservation standards final rule for various ASHRAE products, DOE determined that SPVUs fall under the definition of ''commercial package air conditioning and heating equipment'' (42 U.S.C. 6311(8)(A)), and that any SPVUs with cooling capacities less than 760,000 Btu/h would fit within the commercial package air conditioning and heating equipment categories listed in EPCA and be subjected to their respective energy efficiency standards. 72 FR 10038, 10046–10047 (March 7, 2007).

Subsequently, EISA 2007 amended EPCA to: (1) Create separate equipment classes for SPVACs and SPVHPs; (2) set minimum energy conservation standards for these equipment classes; (3) eliminate the restriction on amendments for small, large, and very large commercial package air-conditioning and heating equipment until after January 1, 2010; and (4) instruct DOE to review the most recently published ASHRAE Standard 90.1 with respect to SPVUs no later than 3 years after the enactment of EISA 2007. As noted previously, DOE published a final rule technical amendment in the **Federal Register** that codified into DOE regulations the standards for SPVUs that were established by EISA 2007. 74 FR 12058 (March 23, 2009).

On October 29, 2010, ASHRAE officially released ASHRAE Standard 90.1–2010 to the public. As an initial step in reviewing SPVUs under EPCA, DOE published a notice of data availability (NODA) on May 5, 2011, which contained potential energy savings estimates for certain industrial and commercial equipment, including SPVUs. 76 FR 25622. Although ASHRAE Standard 90.1–2010 did not update the efficiency levels for SPVUs, DOE was obligated to review the potential energy savings for these equipment classes under 42 U.S.C. 6313(a)(10)(B), as noted above. On January 17, 2012, DOE published a NOPR (January 2012 NOPR), which proposed revised energy conservation standards for certain types of commercial equipment (not including SPVUs), in response to standard levels contained in ASHRAE Standard 90.1–2010 that were more-stringent than Federal minimum standards at the time. In addition, the January 2012 NOPR proposed test procedure amendments for certain types of commercial equipment, including SPVUs, in order to incorporate the most current industry test procedures specified in ASHRAE Standard 90.1–2010. In the January 2012 NOPR, DOE proposed to incorporate by reference the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 390–2003, ''Performance

Rating of Single Package Vertical Air-Conditioners and Heat Pumps,'' into the DOE test procedure for SPVUs and proposed an optional equipment break-in period of no more than 16 hours. 77 FR 2356. On May 16, 2012, DOE published a final rule (May 2012 Rule), which incorporated by reference AHRI Standard 390–2003 into the DOE test procedure for SPVUs and increased the maximum duration of the optional break-in period to 20 hours. 77 FR 28928. The May 2012 Rule (as with the January 2012 NOPR) did not contain amended standards for SPVUs, because ASHRAE Standard 90.1–2010 did not set standard levels for SPVUs that were more stringent than the federally mandated standard levels at the time. As directed by EISA 2007, DOE was considering more-stringent standards for SPVUs on a separate timeline from the other equipment analyzed under the May 2012 Rule.

However, as noted before, during the analyses regarding whether standards more stringent than those promulgated by EISA 2007 would be justified, ASHRAE acted on October 9, 2013 to adopt ASHRAE Standard 90.1–2013. This revision to ASHRAE Standard 90.1 did contain amended standard levels for SPVUs, thereby triggering DOE's statutory obligation to promulgate an amended uniform national standard at those levels, unless DOE determines that there is clear and convincing evidence supporting the adoption of more-stringent energy conservation standards than the ASHRAE levels.

Once triggered by ASHRAE action, DOE became subject to certain new statutory requirements and deadlines. For example, the statute required DOE to publish in the **Federal Register** for comment an analysis of the energy savings potential of amended energy conservation standards at the ASHRAE Standard 90.1–2013 levels, not later than 180 days after amendment of the ASHRAE standard. DOE published this energy savings analysis as a NODA in the **Federal Register** on April 11, 2014 (April 2014 NODA). 79 FR 20114.

Once triggered by ASHRAE action, the applicable legal deadline for completion of this standards rulemaking also shifted. When DOE first commenced this rulemaking pursuant to 42 U.S.C. 6313(a)(10)(B), that provision directed DOE to follow the procedures established under 42 U.S.C. 6313(a)(6). Because DOE had not been triggered by ASHRAE action at the time (as would necessitate use of the procedures under 42 U.S.C. 6313(a)(6)(A)), DOE proceeded as a 6-year-lookback amendment of the standard under 42 U.S.C. 6313(a)(6)(C), which called for a NOPR followed by a final rule not more than 2 years later. DOE was close to issuing a NOPR at the time it was triggered by ASHRAE action on Standard 90.1–2013. Once triggered, DOE was then required to either adopt the levels in ASHRAE Standard 90.1–2013 not later than 18 months after the publication of the amended ASHRAE standard (*i.e.,* by April 9, 2015), or to adopt more-stringent standards not later than 30 months after publication of the amended ASHRAE standard (*i.e.,* by April 9, 2016). Subsequently, DOE published a NOPR in December 2014 with proposed standards for SPVU equipment. 79 FR 78614. DOE received a number of comments from interested parties; the parties are summarized in Table II.2. DOE considered these comments in the preparation of the final rule. Relevant comments, and DOE's responses, are provided in the appropriate sections of this document.

TABLE II.2—INTERESTED PARTIES PROVIDING COMMENTS

Name	Abbreviation	Type *
Air-Conditioning, Heating and Refrigeration Institute	AHRI	IR
Appliance Standards Awareness Project	ASAP	EA
Appliance Standards Awareness Project, Alliance to Save Energy, Natural Resources Defense Council.	ASAP *et al*	EA
Bard Manufacturing Company	Bard	M
Edison Electric Institute	EEI	U
Howe, Anderson, and Smith, P.C. (on behalf of First Company)	First Company	M
Friedrich Air Conditioning Company, LTD	Friedrich	M
General Electric	GE	M
Lennox International	Lennox	M
National Coil Company		M
Northwest Energy Efficiency Alliance	NEEA	EA
Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison, San Diego Gas and Electric.	CA IOUs	U
Southern Company Services	SCS	U
U.S. Chamber of Commerce and 10 trade associations	Associations	TA

* IR: Industry Representative; M: Manufacturer; EA: Efficiency/Environmental Advocate; TA: Trade Association; U: Utility.

III. General Discussion

A. Compliance Dates

Based on the statutory lead time for compliance in 42 U.S.C. 6313(a)(6)(D), for the SPVU equipment classes for which DOE is adopting the ASHRAE Standard 90.1–2013 levels, the compliance date is either 2 or 3 years after the effective date of the applicable ASHRAE standard, depending on equipment size (*i.e.,* by October 9, 2015 or October 9, 2016).[20] The compliance date for the SPVU equipment classes for which DOE is adopting more-stringent standards than the ASHRAE Standard 90.1–2013 levels is 4 years after the publication of this final rule in the **Federal Register**. Therefore, SPVU equipment classes subject to the standards more stringent than ASHRAE Standard 90.1–2013 level, which are manufactured on or after September 23, 2019 will be required to meet the more-stringent Federal standards.

B. Equipment Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered equipment into

[20] Under 42 U.S.C. 6313(a)(6)(D)(i), the applicable compliance date when DOE adopts the ASHRAE standard levels for small commercial package air conditioning and heating equipment (including SPVACs and SPVHPs under 135,000 Btu/h) is 2 years after the effective date of the minimum energy efficiency requirements in the amended ASHRAE Standard 90.1. Under 42 U.S.C. 6313(a)(6)(D)(ii), the applicable compliance date when DOE adopts the ASHRAE standard levels for large and very large commercial package air conditioning and heating equipment (including SPVACs and SPVHPs ≥135,000 Btu/h and <240,000 Btu/h) is 3 years after the effective date of the minimum energy efficiency requirement in the amended ASHRAE Standard 90.1.

equipment classes by the type of energy used or by capacity or other performance-related features that justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q))

EPCA, as amended, defines ''single package vertical air conditioner'' and ''single package vertical heat pump'' in 42 U.S.C. 6311(23) and (24). In particular, these units can be single- or three-phase; must have major components arranged vertically; must be an encased combination of components; and must be intended for exterior mounting on, adjacent interior to, or through an outside wall. DOE codified these definitions into its regulations at 10 CFR 431.92.

EPCA, as amended, set energy conservation standards for eight SPVU equipment classes based on cooling capacity, whether the equipment is an air conditioner or a heat pump, and in certain cases, phase, as shown in Table III.1. (42 U.S.C. 6313(a)(10)(A)) The energy conservation standards for SPVACs and SPVHPs are identical across phase, and as such, DOE does not always show the phase breakdown. (*See,* for example, 10 CFR part 431, Table 1 to § 431.97.)

TABLE III.1—EQUIPMENT CLASSES FOR SINGLE PACKAGE VERTICAL UNITS

Equipment type	Cooling capacity *Btu/h*	Phase
Single Package Vertical Air Conditioners	<65,000	Single-Phase.
		3-Phase.
	≥65,000 and <135,000	All.
	≥135,000 and <240,000	All.
Single Package Vertical Heat Pumps	<65,000	Single-Phase.
		3-Phase.
	≥65,000 and <135,000	All.
	≥135,000 and <240,000	All.

1. Consideration of a Space-Constrained SPVU Equipment Class

In the April 2014 NODA, DOE noted that ASHRAE Standard 90.1–2013 created a new equipment class for SPVACs and SPVHPs used in space-constrained and replacement-only applications, with a definition for ''non-weatherized space constrained single-package vertical unit'' and efficiency standards for the associated equipment class. In the NODA, DOE tentatively concluded that there was no need to establish a separate space-constrained class for SPVUs, given that certain models listed by manufacturers as SPVUs, most of which would meet the ASHRAE space-constrained definition, were being misclassified and should have been classified as central air conditioners (in most cases, space-constrained central air conditioners). 79 FR 20114, 20123 (April 11, 2014). DOE reaffirmed this position in the December 2014 NOPR. In response to the NOPR, DOE received several comments from stakeholders related to the classification of products that these commenters are referring to as space constrained SPVUs, the statutory definition of SPVU, how these products are applied in the field or specified for purchase, and whether the products warranted a separate equipment class within SPVU. (AHRI, No. 19 at p. 2; Lennox, No. 16 at pp. 11–12, 14,15, 17; First Company, No. 12 at pp. 1–3; GE, No. 21 at p. 2; Friedrich, No. 15 at p. 1; NEEA, No. 23 at p. 2; CA IOUs, No. 22 at p. 2) DOE will consider these comments and take appropriate action in a separate rulemaking.

2. Relationship to Dual Duct Air Conditioners

DOE notes that in the September 30, 2014 NOPR for commercial package air conditioning and heating equipment, it discussed a type of air-conditioning equipment designed for indoor installation in constrained spaces using ducting to an outside wall for the supply and discharge of condenser air to the condensing unit, referring to these units as ''dual-duct air-cooled air conditioners.'' 79 FR 58948, 58964. A subsequent working group established to negotiate standards for commercial package equipment recommended that dual duct air conditioners and heat pumps become a separate equipment class within the category of commercial packaged air-conditioning and heating equipment with their own standards and recommended the following definition:

''Dual duct air conditioner or heat pump means air-cooled commercial package air conditioning and heating equipment that

- is either a horizontal single package or split-system unit; or a vertical unit that consists of two components that may be shipped or installed either connected or split;
- is intended for indoor installation with ducting of outdoor air from the building exterior to and from the unit, where the unit and/or all of its components are non-weatherized and are not marked (or listed) as being in compliance with UL 1995 or equivalent requirements for outdoor use;
- (a) if it is a horizontal unit, the complete unit has a maximum height of 35 inches or the unit has components that do not exceed a maximum height of 35 inches;
- (b) if it is a vertical unit, the complete (split, connected, or assembled) unit has component that do not exceed maximum depth of 35 inches; and
- (c) has a rated cooling capacity greater than and equal to 65,000 Btu/h and up to 300,000 Btu/h.'' (EERE–2013–BT–STD–0007–0093, pp. 4–5).

DOE notes that the proposed definition does not encompass vertical single package units, and as such there is not any overlap with the definition of SPVU. DOE has not identified any equipment on the market that is arranged vertically in a single package configuration and meets all the criteria of the dual duct definition, with the sole exception of not consisting of two components. If such equipment existed, DOE would consider it to be an SPVU rather than a dual duct air conditioner or heat pump.

C. Test Procedure

DOE's current energy conservation standards for SPVUs are expressed in terms of EER for cooling efficiency and COP for heating efficiency (*see* 10 CFR 431.96(b)).

DOE's test procedures for SPVACs and SPVHPs are codified at Title 10 of the Code of Federal Regulations (CFR), section 431.96. The current test

procedures were amended in a final rule dated May 16, 2012. 77 FR 28928, 28987–91. The test procedures are incorporated by reference at 10 CFR 431.95(b)(6) and include the ANSI and AHRI Standard 390–2003 ''Performance Rating of Single Package Vertical Air-Conditioners and Heat Pumps'' (AHRI 390–2003).

D. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available equipment or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, Section 4(a)(4)(i).

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on equipment utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, Section 4(a)(4)(ii)–(iv). Section IV.B of this document discusses the results of the screening analysis for SPVACs and SPVHPs, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the final rule TSD.

2. Maximum Technologically Feasible Levels

When DOE adopts (or does not adopt) an amended energy conservation standard for a type or class of covered equipment, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such equipment. (42 U.S.C. 6295(p)(1) and 6313(a)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for SPVACs and SPVHPs using the design parameters that passed the screening analysis. The max-tech levels that DOE determined for this rulemaking are described in section IV.C.4 of this final rule and in chapter 5 of the final rule TSD.

E. Energy Savings

1. Determination of Savings

For each trial standard level (TSL), DOE projected energy savings from application of the TSL to SPVUs purchased in the 30-year period that begins in the year of compliance with any amended standards (2015–2044 for the ASHRAE level, and 2019–2048 for higher efficiency levels).[21] The savings are measured over the entire lifetime of products purchased in the 30-year analysis period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the ASHRAE base case, or the case in which DOE must adopt the standard levels in ASHRAE 90.1–2013.

DOE used its national impact analysis (NIA) spreadsheet models to estimate energy savings from potential amended standards for SPVUs. The NIA spreadsheet model (described in section IV.G of this final rule) calculates savings in site energy, which is the energy directly consumed by products at the locations where they are used. Based on the site energy, DOE calculates national energy savings (NES) in terms of primary energy savings at the site or at power plants, and also in terms of full-fuel-cycle (FFC) energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.[22] DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.G.1 of this final rule. For natural gas, the primary energy savings are considered to be equal to the site energy savings.

2. Significance of Savings

Among the criteria that govern DOE's adoption of more-stringent standards for SPVUs than the amended levels in ASHRAE Standard 90.1, clear and convincing evidence must support a determination that the standards would result in ''significant'' energy savings. (42 U.S.C. 6313(a)(6)(A)(ii)(II)) Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals, for the District of Columbia Circuit in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' DOE's estimates of the energy savings for each of the TSLs considered for the final rule for SPVUs <65,000 Btu/h (presented in section V.B.3.a) provide evidence that the additional energy savings each would achieve by exceeding the corresponding efficiency levels in ASHRAE Standard 90.1–2013 are nontrivial. Therefore, DOE considers these savings to be ''significant'' as required by 42 U.S.C. 6313(a)(6)(A)(ii)(II).

F. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a more stringent standard for SPVACs and SPVHPs is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii))

In response to the NOPR, AHRI stated that DOE is not performing the full cost-benefit analysis that EPCA section 6313(a)(6)(B)(ii) requires. It stated that DOE performed cost-benefit considerations at various points of its analysis, yet never fully reconciled those analyses or the assumptions and scope of coverage underlying them. It added that DOE's cost-benefit analyses with respect to the nation, manufacturers, and employment utilize very different geographic scopes, ignore the immediately apparent effects on employment, and rely on unsupported analyses for effects on the general economy. AHRI urged DOE to reconcile these various approaches and their assumptions, and also to make available any models or inputs/outputs DOE relied on. AHRI stated that DOE should remedy this shortcoming by performing an integrated, full cost-benefit analysis considering all factors, including the effects on all directly related domestic industries. (AHRI, No. 19 at p. 23)

As noted above, EPCA section 6313(a)(6)(B)(ii) lays out the factors the Secretary should consider, to the maximum extent practicable, in determining whether the benefits of a proposed standard exceed the burdens. EPCA does not mention or require the

[21] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[22] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

type of integrated cost-benefit analysis that AHRI envisions. It does not state or imply that all of the benefits and burdens need be quantified in monetary terms. Indeed, it is clear from reading the list of factors that no integrated analysis could encompass all of the factors in a single framework.

AHRI appears to be concerned that DOE's national cost-benefit analysis does not encompass the impacts on manufacturers of the proposed standards. The NIA considers, from a national perspective, all of the costs and benefits projected for consumers of SPVUs meeting the amended standards. The costs account for the incremental variable and fixed costs incurred by manufacturers due to the standards, some of which may be incurred in preparation for the final rule. DOE assumes that these costs will be reflected in higher prices for the covered products. DOE does consider the potential effects of standards on employment, both within the SPVU manufacturing industry and in the larger economy. Apart from estimating employment impacts, DOE does not attempt to estimate effects on the general economy. DOE has made available the models used for the NIA and the manufacturer and consumer impact analyses, and the inputs are described in the final rule TSD.

The following sections discuss how DOE has addressed each of the seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of an amended standard on manufacturers, DOE conducts a manufacturer impact analysis (MIA), as discussed in section IV.J. DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include INPV, which values the industry on the basis of expected future cash flows; cash flows by year; changes in revenue and income; and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national NPV of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared To Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered equipment compared to any increase in the price of the covered product that is likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of equipment (including its installation cost) and operating expenses (including energy, maintenance, and repair expenditures) discounted over the lifetime of the equipment. 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. For its analysis, DOE assumes that consumers will purchase the covered equipment in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of amended standards. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. DOE's LCC analysis is discussed in further detail in section IV.F.

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. 6313(a)(6)(B)(ii)(III)) As discussed in section IV.G, DOE uses the NIA spreadsheet to project NES.

AHRI stated that DOE is violating section 6313(a)(6)(A)(ii)(II) and section 6313(a)(6)(B)(ii)(I)–(VII) of EPCA by purporting to give energy savings disproportionate weight. AHRI noted that EPCA requires that DOE consider seven different factors in determining whether the benefits of a proposed standard exceed its burdens, and stated that there is no indication in the statute or otherwise that Congress intended this analysis to be anything other than a roughly equal weighting of factors where no particular factor is ''king'' over all the others. (AHRI, No. 19 at p. 21)

Section 6313(a)(6)(A)(ii)(II) concerns DOE's authority to adopt a national standard more stringent than the amended ASHRAE/IES Standard 90.1 if such standard would result in significant additional conservation of energy and is technologically feasible and economically justified. Section V.C of this document sets forth in detail the reasons why DOE has concluded that the adopted standards for SPVUs would indeed result in significant additional conservation of energy and are technologically feasible and economically justified.

Section 6313(a)(6)(B)(ii)(I)–(VII) lists the factors that DOE must consider in determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II). There is no language in the statute that indicates how the factors should be weighted, nor is there a basis for AHRI's interpretation of Congressional intent. Furthermore, given that some of the factors are amenable to quantification while others are more qualitative, it is not clear how the roughly equal weighting envisioned by AHRI would be accomplished. DOE does agree that no single factor should be given excessive consideration, and it does not give disproportionate weight to the projected quantity of energy savings.

d. Lessening of Utility or Performance of Equipment

In establishing classes of equipment, and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered equipment. (42 U.S.C. 6313(a)(6)(B)(ii)(IV)) Based on data available to DOE, the standards adopted in this final rule would not reduce the utility or performance of the equipment under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition that is likely to result from energy conservation standards. It also directs the Attorney General of the United States (Attorney General) to determine the impact, if any, of any lessening of competition likely to result from a standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6313(a)(6)(B)(ii)(V)) DOE transmitted a copy of its proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue.

In a letter dated March 2, 2015, DOJ expressed concern over the proposed energy conservation standards for SPVUs less than 65,000 Btu/h. In particular, DOJ noted that, based on its consideration of the rulemaking documents and observations at the public meeting, manufacturers seemed concerned that the costs of compliance might be prohibitive, and that higher costs may necessitate higher prices to consumers who may opt to switch to other potentially less efficient products or solutions. It also noted industry concerns that proposed standards will require them to increase the size and footprint of SPVUs, which may not be feasible or acceptable to consumers, thereby potentially limiting the range of competitive alternatives available to consumers. DOJ stated that, while it is not in a position to judge whether individual manufacturers will be able to meet the proposed standards, it had concern that the proposed changes could have an effect on competition and it urged DOE to take these into account in determining its final energy efficiency standards for SPVUs. In addition, DOJ recognized that the classification of space-constrained equipment was a potentially significant issue within the rulemaking, but could offer no assessment of the possible competitive impacts of the resolution of that issue.

In response to DOJ concerns, DOE notes that the technologies required to reach the adopted level are not proprietary, are understood by the industry, and are generally available to all manufacturers. In its engineering analysis, DOE concluded that the typical design path would require changes the size of the heat exchanger but would not affect the outer dimensions of the product. Moreover, DOE based its engineering analysis solely on equipment models and configurations which are currently on the market and thus which are, presumably, acceptable to consumers. For these reasons, DOE does not believe that the standard levels included in this final rule will result in adverse impacts on competition within the SPVU marketplace. Additionally, with respect to DOJ's comment on the classification of space-constrained equipment, DOE is currently addressing that topic in a separate rulemaking.

AHRI commented that failing to secure the views of the Attorney General in advance of the proposed rule prevented public comment on the conclusions. (AHRI, No. 19 at p. 23) AHRI seems to be suggesting that DOE should request DOJ's determination prior to publication of the NOPR so that such determination could be included in the NOPR. EPCA requires the Attorney General to make a determination of the impact, of any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the **Federal Register**. 42 U.S.C. 6295(o)(2)(B)(ii). The Attorney General makes a determination of the likely competitive impacts of the proposed standard, which can occur only after the proposed standard is issued by DOE. Additionally, AHRI had the opportunity to comment on all aspects of the NOPR, including the impact of any lessening of competition.

AHRI asked DOE to explain how it weighed section 6313(a)(6)(B)(ii)(IV) (impacts on utility and product performance) or (V) (the impact of a lessening of competition) in the process of deciding which TSL to select. In the context of market competition, AHRI stated that DOE failed to consider whether the negative impacts on small business can be averted if ASHRAE 90.1–2013 or TSL 1 levels are selected. (AHRI, No. 19 at p. 23)

As discussed in sections V.B.4 and V.B.5, DOE concluded: (1) That the efficiency levels adopted in this document are technologically feasible and would not reduce the utility or performance of SPVACs and SPVHPs, and (2) the amended levels would be unlikely to have a significant adverse impact on competition. In selecting a standard level, DOE is required to weigh the sum of all benefits against all costs. The impact on small manufacturers is one consideration in the balancing of costs and benefits. Given the size and composition of the industry, any publication of conversion costs or impacts by subgroup could disclose proprietary content or enable decomposition of aggregate numbers. In the following table, DOE shows the average conversion cost per manufacturer and those conversion costs as a percentage of revenue for the industry.

	Units	Trial Standard Level			
		1	2	3	4
Average Conversion Costs per Manufacturer	2014$M	.9	1.0	2.2	4.5
Conversion Costs as a Percentage of Revenue for the Industry *	%	7.2	7.8	16.8	34.5

* Based on 2015 projected industry revenue.

f. Need for National Energy Conservation

DOE also considers the need for national energy conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)(VI)) The energy savings from the adopted standards are likely to improve the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity, as discussed in section IV.L.

The adopted standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with energy production and use. DOE

conducts an emissions analysis to estimate how potential standards may affect these emissions, as discussed in section IV.J; the emissions impacts are reported in section V.B.6 of this final rule. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.K.

AHRI questioned DOE's inclusion of environmental benefits in its consideration since none of the specific factors in section 6313(a)(6)(B)(ii)(I)–(VI) refer to environmental matters. AHRI stated that DOE must clarify precisely why and how it believes that it has the statutory authority under section 6313(a)(6)(B)(ii) to consider SCC issues in any fashion and, if so, under which sub-provision (*i.e.,* which of the seven factors). (AHRI, No. 19 at pp. 24–25)

DOE maintains that environmental and public health benefits associated with more-efficient use of energy are important to take into account when considering the need for national energy and water conservation. Given the threats posed by global climate change to the economy, public health, and national security,[23] combined with the well-recognized potential of many energy conservation measures to reduce emissions of GHGs, DOE believes that evaluation of the potential benefits from slowing anthropogenic climate change must be part of the consideration of the need for national energy conservation required under 42 U.S.C. 6313(a)(6)(B)(ii)(VI).

g. Other Factors

EPCA allows the Secretary, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6313(a)(6)(B)(ii)(VII)) To the extent interested parties submit any relevant information regarding economic justification that does not fit into the other categories described above, DOE could consider such information under ''other factors.''

2. Rebuttable Presumption

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 analysis generates values used to calculate the effects that potential amended energy conservation standards would have on the PBP for consumers. These analyses include, but are not limited to, the 3-year PBP 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. 6313(a)(6)(B)(ii). 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 V.B.1.c of this final rule.

G. Additional Comments

DOE received additional non-methodological comments that are not classified in the discussion sections above. Responses to these additional comments are provided below.

Referring to section VI.A of the NOPR, AHRI stated that DOE failed to identify market failures or how energy prices fail to reflect costs associated with emissions of CO_2 and other pollutants. AHRI pointed out that those who purchase and rent commercial buildings (and their tenants) are typically sophisticated consumers who have access to information on energy costs, so any market failure in this context would not be large. AHRI stated that DOE must demonstrate that market failures actually exist in the real world and that, once quantified, DOE's assessment of costs and benefits for its rules in this area align with such an important external validity check on its analysis. (AHRI, No. 19 at pp. 26–27)

Section 1(b)(1) of Executive Order (E.O.) 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. As discussed in section VI.A of this final rule, DOE identified two problems that are related to certain features of consumer decision-making (numbers 1 and 2 in section VI.A), and one problem (number 3) that concerns environmental externalities that are not reflected in energy prices.[24] Energy prices only reflect costs incurred in the production and delivery of energy products (including costs related to meeting existing emissions regulations). They do not reflect costs associated with the effects of the pollutant emissions that do occur. In the case of GHGs, the wide range of economic, public health, and environmental costs associated with climate change are discussed in the National Academies 2014 report *America's Climate Choices.*[25]

DOE acknowledges that many SPVU consumers have access to information on energy costs and have the capacity to factor this information into their purchase decision. Indeed, DOE estimates that many consumers would purchase equipment with efficiency that meets or exceeds the proposed standards in the ASHRAE base case. It is possible that the problem related to information is not highly significant in the SPVU market, but DOE believes that the problem of misaligned incentives between purchasers and users exists in the case of building tenants who pay for electricity.

Neither EPCA nor E.O. 12866 require quantification of the problems. Nor is it clear how any such quantification would bear any relationship to the costs and benefits estimated for the adopted standards. In the case of the problem that there are external benefits resulting from improved energy efficiency of equipment that are not captured by the users, DOE attempts to qualify some of the external benefits through use of SCC values.

AHRI commented that, by proposing energy conservation standards for SPVUs above the levels presented in ASHRAE 90.1–2013, DOE failed to recognize that Congress intended that DOE rely on the ''ASHRAE process'' for commercial standards-making. AHRI added that DOE should have raised concerns regarding the proposed efficiency levels through the ASHRAE process. (AHRI, No. 19 at pp. 13–15) In proposing energy conservation standards for SPVUs above the levels presented in ASHRAE 90.1–2013, DOE followed the relevant provisions of EPCA, which authorize the adoption of an energy conservation standard above the levels adopted by ASHRAE if clear and convincing evidence shows that adoption of such a more-stringent standard would result in significant

[23] See the National Academies 2014 report *America's Climate Choices.* Available at: *http://nas-sites.org/americasclimatechoices/sample-page/panel-reports/americas-climate-choices-final-report/.*

[24] Note that since the publication of the SPVU NOPR, DOE has refined the description of the problems identified pursuant to E.O. 12866. See section VI.A.

[25] Available at: *http://nas-sites.org/americasclimatechoices/sample-page/panel-reports/americas-climate-choices-final-report/.*

additional conservation of energy and be technologically feasible and economically justified. 42 U.S.C. 6313(a)(6)(A)(ii)(II)

AHRI commented that DOE did not make a meaningful attempt to show that the energy savings meet the ''clear and convincing'' requirement of proof, and that the analysis falls short as a result of omissions related to increases in physical size, decreases in shipments, and lack of evidence for the conclusions of the net employment impacts. Furthermore, AHRI noted that the analysis used by DOE in this rulemaking is functionally equivalent to the 6295(o) process that does not have this elevated requirement of proof. (AHRI, No. 19 at pp. 14–17) Following the publication of the NOPR, DOE revised its analysis to incorporate feedback received through stakeholder comments and otherwise responded to specific concerns, including those related to physical size, shipments, and employment impacts; specific revisions and comment responses are addressed in the relevant sections of the document. Following the update of its analyses and review of the results, DOE continues to believe that there is clear and convincing evidence that the standard would result in significant additional conservation of energy and is technologically feasible and economically justified. Section V.C of this document sets forth in detail the reasons why DOE has made this conclusion.

AHRI also commented that the commercial provisions of the statute do not require the maximum improvement in energy efficiency as is required by the residential provisions of the statute (42 U.S.C. 6295(o)(2)(A)). Therefore, AHRI reported that DOE should not have started at TSL 4 and walked down, but should have first considered ASHRAE and only considered higher levels based on clear and convincing evidence as noted previously. (AHRI, No. 19 at pp. 15–17) In response, as described in this final rule, DOE adopted ASHRAE levels except where clear and convincing evidence supported the adoption of a more stringent standard.

DOE also received several comments from stakeholders regarding the proposed efficiency levels. ASAP *et al.,* NEEA, and the CA IOUs supported the proposed standards for SPVUs. (ASAP *et al.,* No. 18 at p. 1; NEEA, No. 23 at p. 1; and CA IOUs, No. 22 at pp. 1–2) AHRI, Lennox, Friedrich, First Company, and National Coil Company opposed increasing efficiency levels about the ASHRAE 90.1–2013 levels. (AHRI, No. 19 at p. 2; Lennox, No. 16 at p. 2; Friedrich, No. 15 at p. 2; First Company, No. 12 at p. 3; National Coil Company, No. 14 at p. 1) Friedrich stated that adopting the ASHRAE 90.1–2013 standards would allow for a realistic product design cycle. (Friedrich, No. 15 at p. 2) Lennox and AHRI stated that DOE has not provided clear and convincing evidence of the benefits of levels above ASHRAE including TSL 2. (Lennox, No. 16 at pp. 7–8; AHRI, No. 19 at p. 2) Lennox also cited instances when DOE rejected TSLs with higher energy savings in favor of ASHRAE, and noted that TSL 2 does not result in significant energy savings if DOE were to consider reduced future shipments and repairs. (Lennox, No. 16 at pp. 7–8) Similarly, National Coil Company noted that the economic benefits would actually be smaller than those in the NOPR because shipments projections are flawed and the PBPs will discourage consumers from purchasing the higher efficiency product. (National Coil Company, No. 14 at p. 2)

DOE appreciates stakeholder comments on the proposed efficiency levels. With respect to Friedrich's comment regarding design cycle, DOE believes that the compliance period associated with TSL 2 provides adequate time for development and implementation of any necessary changes to equipment offerings. Additionally, DOE's engineering analysis is based on equipment already on the market, so DOE does not believe that design cycle concerns should be a significant issue. In response to Lennox and AHRI, in section V.C of this final rule, DOE presents results related to energy savings, economic justification, and technological feasibility, which together meet the clear and convincing evidence requirement. While Lennox is correct in stating that in the past DOE has rejected TSLs with energy savings greater than those expected from adopting ASHRAE standard levels, in each of those cases, DOE had determined that there is not clear and convincing evidence to support the higher levels based on specific concerns identified in those rulemakings. DOE has revised its shipments analysis in response to comments, including those from Lennox and National Coil Company. After making these revisions, which include consideration of increased repairs and reduced shipments in the standards case, DOE still finds that there is clear and convincing evidence that TSL 2 provides significant energy savings that are economically justified.

Lennox stated that if DOE does not adopt the ASHRAE 90.1–2013 efficiency levels, it should engage stakeholders in a negotiated rulemaking to address multiple concerns. (Lennox, No. 16 at p. 2) AHRI stated that as an alternative to adopting the levels in ASHRAE 90.1–2013, DOE could issue a supplemental notice of proposed rulemaking (SNOPR) and allow stakeholders opportunity to comment on a revised analysis and proposal. (AHRI, No. 19 at p. 2) AHRI also noted that DOE may not adopt a final rule with energy conservation standards that it determined in the NOPR are not economically justified (*i.e.,* above TSL 2) without issuing an SNOPR. (AHRI, No. 19 at p. 22)

In response, DOE notes that there is no legal requirement for DOE to engage in a negotiated rulemaking. Furthermore, all stakeholders have had the opportunity to comment on DOE's proposals, which specifically included proposed standards for certain classes of SPVUs at levels more stringent than ASHRAE 90.1–2013. In this final rule, DOE is not adopting energy conservation standards above TSL 2.

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this rulemaking with regard to SPVACs and SPVHPs. Separate subsections address each component of the analysis.

DOE used several analytical tools to estimate the impact of the standards considered in this document. The first tool is a spreadsheet that calculates the LCC and PBP of potential amended or new energy conservation standards. The NIA uses a second spreadsheet set that provides shipments forecasts and calculates NES and NPV resulting from potential energy conservation standards. DOE uses the third spreadsheet tool, the Government Regulatory Impact Model (GRIM), to assess manufacturer impacts of potential standards. These three spreadsheet tools are available on the DOE docket Web page for this rulemaking: *http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-STD-0041.* Additionally, DOE used output from the latest version of the Energy Information Administration's (EIA's) *Annual Energy Outlook* (*AEO)* for the emissions and utility impact analyses.

AHRI stated that in the NOPR, DOE used *AEO2013* rather than *AEO2014* even though DOE acknowledged that *AEO2014* would reduce environmental benefits resulting from reductions of certain emissions. AHRI further stated that updating to *AEO2014* in the final rule is not consistent with the theory or practice of notice and comment rulemaking. According to AHRI, if DOE determines not to adopt ASHRAE 90.1–2013 levels, DOE must issue an SNOPR based on *AEO2014* data. AHRI stated that if DOE issues a final rule, it will be

too late to file comments and AHRI's only option will be litigation as the rule will have a fatal procedural error. (AHRI, No. 19 at pp. 18–19)

For the final rule, DOE updated to *AEO2015,* the most recent version available, wherever possible. Updating to the most recent AEO versions, however, had *de minimus* impact on the analysis and no impact on the conclusions DOE reached. The NOPR provided stakeholders with the opportunity to comment on the methodology in the rulemaking.

A. Market and Technology Assessment

To start the rulemaking analysis for SPVACs and SPVHPs, DOE researched information that provided an overall picture of the market for this equipment, including the purpose of the equipment, the industry structure, manufacturers, market characteristics, and technologies used in the equipment. This activity included both quantitative and qualitative assessments based primarily on publicly available information.

The market and technology assessment presented in the December 2014 NOPR discussed definitions, equipment classes, manufacturers, quantities, types of equipment sold and offered for sale, and technology options that could improve the energy efficiency of the equipment under examination. See chapter 3 of the final rule TSD for further discussion of the market and technology assessment.

In written submissions after publication of the NOPR, and discussion during the February 6, 2015 NOPR public meeting, several stakeholders provided comment on DOE's NOPR market and technology assessment. Bard commented that there were several domestic SPVU manufacturers that were not listed among the seven manufacturers considered by DOE in the NOPR. (Bard, NOPR Public Meeting Transcript, No. 11 at p. 52) DOE subsequently identified two additional domestic manufacturers of SPVUs that were not considered in the NOPR. AHRI commented that floor-mounted SPVUs used in offices and retail spaces were not included in the analysis. (AHRI, No. 19 at p. 27) DOE is not aware of any manufacturers of products that meet the statutory definition of an SPVU and are designed to be floor-mounted inside an office or retail space.

Lennox commented that, according to the AHRI database, no units exist on the market that meet the 12.3 EER max-tech level analyzed in the NOPR. (Lennox, No. 16 at p. 17) AHRI also commented that there are no units currently on the market that meet the 12.3 EER max-tech efficiency level. (AHRI, No. 19 at p. 34) For the final rule analysis, DOE reexamined up-to-date SPVU product listings in both the AHRI database and manufacturers' Web sites, and found the max-tech level to be 12.0 EER. This resulted in DOE's selection of a different max-tech level, but did not significantly alter the outcome of the analyses, because the standard level selected was not at the max-tech level of performance.

The December 2014 NOPR listed all of the potential technology options that DOE considered for improving energy efficiency of SPVACs and SPVHPs. 79 FR at 78631. These technology options are listed in Table IV.1.

TABLE IV.1—POTENTIAL TECHNOLOGY OPTIONS FOR IMPROVING ENERGY EFFICIENCY OF SPVACS AND SPVHPS

Technology options	
Heat Exchanger Improvements	Increased frontal coil area. Increased depth of coil. Increased fin density. Improved fin design. Improved tube design. Hydrophilic film coating on fins. Microchannel heat exchangers. Dual condensing heat exchangers.
Indoor Blower and Outdoor Fan Improvements	Improved fan motor efficiency. Improved fan blades.
Compressor Improvements	Improved compressor efficiency. Multi-speed Compressors.
Other Improvements	Thermostatic expansion valves. Electronic expansion valves.

DOE received multiple comments regarding implementation of the technology options listed in Table IV.1 as a means of improving the energy efficiency of SPVUs. These comments are addressed in the relevant sections of the screening analysis and engineering analysis in sections IV.B and IV.C, respectively. DOE did not receive any comments regarding technology options that are not listed in Table IV.1.

B. Screening Analysis

After DOE identified the technologies that might improve the energy efficiency of SPVACs and SPVHPs, DOE conducted a screening analysis. The purpose of the screening analysis is to evaluate the technologies that improve equipment efficiency to determine which technologies to consider further and which to screen out. DOE uses four screening criteria to determine which design options are suitable for further consideration in a standards rulemaking. Namely, design options will be removed from consideration if they are not technologically feasible; are not practicable to manufacture, install, or service; have adverse impacts on product utility or product availability; or have adverse impacts on health or safety. (10 CFR part 430, subpart C, appendix A at 4(a)(4) and 5(b)) Details of the screening analysis are in chapter 4 of the final rule TSD.

Technologies that pass through the screening analysis are referred to as ''design options'' in the engineering analysis. These four screening criteria do not include the proprietary status of design options. DOE will only consider efficiency levels achieved through the use of proprietary designs in the engineering analysis if they are not part of a unique path to achieve that efficiency level.

Through a review of each technology, DOE found that the technologies identified met all four screening criteria to be examined further in the analysis in the December 2014 NOPR. 79 FR at 78631.

Technologies Not Considered in the Engineering Analysis

Typically, energy-saving technologies that pass the screening analysis are evaluated in the engineering analysis.

However, some technologies are not included in the analysis for other reasons, including: (1) Data are not available to evaluate the energy efficiency characteristics of the technology; (2) available data suggest that the efficiency benefits of the technology are negligible; or (3) the test procedure and EER or COP metric would not measure the energy impact of these technologies. Accordingly, in the December 2014 NOPR, DOE eliminated the following technologies from consideration in the engineering analysis based upon these additional considerations: increased fin density, improved fin design, improved tube design, hydrophilic film coating on fins, thermostatic or electronic expansion valves, thermostatic cyclic controls, microchannel heat exchangers (MCHXs), and multi-speed compressors. 79 FR at 78631–32.

DOE received multiple comments on its exclusion of MCHXs from the engineering analysis. ASAP *et al.* commented that higher efficiency levels may have been found to be more cost effective if MCHXs had been incorporated in the analysis. Although DOE did not find any models on the market that use MCHX technology, ASAP *et al.* expressed the position that DOE could have modeled MCHX technology in order to determine its cost effectiveness. Additionally, ASAP *et al.* stated that MCHX technology offers reliability benefits to users of SPVUs. (ASAP *et al.,* No. 18 at p. 2) NEEA commented that MCHXs are currently found in some rooftop units manufactured by at least one manufacturer of SPVUs. NEEA stated that DOE would have found MCHXs to be a cost effective design option if modeling software had been used to simulate their use in SPVUs in the engineering analysis. (NEEA, No. 23 at pp. 1–2). The CA IOUs commented that MCHX is a mature technology that has been proven in various automotive and HVAC applications. Further, the CA IOUs stated that the non-existence of this technology in SPVUs may be because the current efficiency standards are sufficiently low to not encourage its use, and it may be cost effective if utilized. (CA IOUs, No. 22 at p. 2) DOE is aware that the technological feasibility of MCHX technology has been proven in certain HVAC applications, including some commercial packaged air conditioners (CUACs). However, DOE is not aware of any manufacturers of SPVUs who either currently or in the past have incorporated MCHX technology into SPVU products. As such, DOE is not aware of any research or data that document the effect that MCHX technology has on the energy efficiency of SPVUs. Therefore, DOE did not consider MCHX technology in its engineering analysis.

After screening out or otherwise removing from consideration the aforementioned technologies, the technologies that DOE identified for consideration in the engineering analysis are included in Table IV.2.

TABLE IV.2—DESIGN OPTIONS RETAINED FOR ENGINEERING ANALYSIS

Increased frontal coil area.
Increased depth of coil.
Improved fan motor efficiency.
Improved fan blade efficiency.
Improved compressor efficiency.
Dual condensing heat exchangers.

These remaining technology options from Table IV.2 are briefly described below.

Increased Frontal Coil Area

Manufacturers of SPVACs and SPVHPs will often improve the effectiveness of a unit's heat exchangers by using a coil with a larger frontal area, which increases the total heat transfer surface area. Enlarging the frontal area of a condenser coil allows heat to be rejected from the refrigerant at a lower condensing temperature. Similarly, such changes to the evaporator coil allow air to be cooled at a higher refrigerant temperature. These changes (either individually, or in tandem) can reduce the pressure difference across the compressor, and thus reduce the required compressor power. Increases in frontal coil area are limited by two factors. Growth of the evaporator coil is limited because it must be able to dehumidify the indoor air at a higher evaporating temperature. Also, existing cabinet dimensions often cannot accommodate increases in frontal coil area without the incursion of additional costs to enlarge the cabinet.

Increased Depth of Coil

Manufacturers of SPVACs and SPVHPs may choose to increase heat exchanger efficiency by adding tube rows to the evaporator and/or condenser coils. Adding tube rows increases total heat transfer surface area, which decreases the required compressor power (similar to the effect of increased frontal coil area). Adding tube rows to a coil increases its depth. Due to cabinet size constraints, there are limits on how much the depth of the coil can be increased without requiring cabinet expansion. Also, increased coil depth may impose a greater static pressure drop for the fan motor to overcome such that adequate air flow can be maintained. Any added fan power requirements must be considered when assessing the net efficiency benefit of increasing coil depth.

Improved Fan Motor Efficiency

SPVU manufacturers use either permanent split capacitor (PSC) motors or brushless permanent magnet (BPM) motors to power the fans and blowers of the SPVU. BPM motors have higher efficiencies than PSC motors, but are also more expensive and require additional control hardware. In addition, BPM motors weigh more than PSC motors, and may necessitate some system redesign to accommodate their increased weight.

DOE found that PSC motors are the dominant motor design in lower efficiency units and BPM motors are commonly found in higher efficiency equipment. Based on market data, DOE found that, in general, at the 10 EER efficiency level manufacturers transition from using a PSC motor to using a BPM motor to power the indoor blower.

Improved Fan Blade Efficiency

Air system efficiency can be improved through more advanced fan and blower design and by reducing the restrictions to air flow. The air delivery system of an SPVU typically consists of two motors driving three fans: Two indoor blowers (which move air across the evaporator coil) and an outdoor fan (which moves air across the condenser coil). The evaporator blowers are typically centrifugal blowers, while the condenser fan is typically a propeller-type fan. Improvements to the fan blade designs could increase the overall efficiency by decreasing the power demands for the fan motor. Most SPVUs use forward-curved blowers, but some manufacturers have been experimenting with backward-curved blowers for their quieter performance and higher efficiencies. However, the space limitations within SPVUs make reduction of flow resistance difficult. Backward-curved fan blades were found in SPVUs at the max-tech efficiency level. DOE has not found any data quantifying the efficiency improvement of a backward-curved blower in SPVU models.

Improved Compressor Efficiency

The compressors used in SPVUs are almost exclusively scroll compressors, which use two interleaving scrolls to pump refrigerant throughout the sealed system. The compressor consumes the majority of the electrical input to an

SPVU (indoor and outdoor blower fans and controls account for the remainder). As such, utilizing a higher efficiency compressor yields a significant improvement to the EER/COP of an SPVU.

Based on physical teardowns, baseline efficiency SPVUs use single-speed compressors with lower peak-load EERs, whereas more-efficient SPVUs incorporate two-speed compressors with higher EERs in their designs.

Dual Condenser Heat Exchangers

In air-conditioning equipment, the effectiveness of a condenser at discharging heat into the outdoor air stream is directly related to the amount of surface area of the condenser heat exchanger coils.

In order to continue improving the efficiency of the condenser section of a unit when increasing the size of the condenser coil is uneconomical, SPVU manufacturers may utilize two separate condensing heat exchangers, rather than just one. Doing so allows the manufacturer to achieve the desired increase in total condenser coil surface area without the cost constraints of manufacturing a single, large condenser coil as an alternative.

Based on all available information, DOE did not change the screening analysis between the December 2014 NOPR and this final rule. Additional detail on the screening analysis is contained in chapter 4 of the final rule TSD.

C. Engineering Analysis

The engineering analysis establishes the relationship between an increase in energy efficiency of the equipment and the increase in manufacturer selling price (MSP) associated with that efficiency increase. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer cost associated with increasing the efficiency of equipment above the baseline up to higher efficiency levels for each equipment class.

1. Methodology

DOE has identified three basic methods for developing cost-efficiency curves: (1) The design-option approach, which provides the incremental costs of adding design options to a baseline model that will improve its efficiency (*i.e.,* lower its energy use); (2) the efficiency-level approach, which provides the incremental costs of moving to higher energy efficiency levels, without regard to the particular design option(s) used to achieve such increases; and (3) the reverse-engineering (or cost-assessment) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on teardown analyses (or physical teardowns) providing detailed data on costs for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

DOE conducted the engineering analysis presented in the December 2014 NOPR using a combination of the efficiency level and cost-assessment approaches for analysis of the EER and COP efficiency levels. More specifically, DOE identified the efficiency levels for the analysis based on the range of rated efficiencies of SPVAC and SPVHP equipment found in the AHRI database and manufacturer literature. DOE selected SPVAC and SPVHP equipment that was representative of the market at different efficiency levels, then purchased and reverse-engineered the selected equipment. DOE used the cost-assessment approach to determine the manufacturer production costs (MPCs) for SPVAC and SPVHP equipment across a range of efficiencies from the baseline to max-tech efficiency levels. The methodology used to perform the reverse-engineering analysis and derive the cost-efficiency relationship is described in chapter 5 of the final rule TSD.

2. Efficiency Levels for Analysis

The engineering analysis first identifies representative baseline equipment, which is the starting point for analyzing potential technologies that provide energy efficiency improvements. ''Baseline equipment'' refers to a model or models having features and technologies typically found in the least-efficient equipment currently available on the market. As described in the December 2014 NOPR, DOE identified 36,000 Btu/h (3-ton) as the representative cooling capacity for SPVACs and SPVHPs with a cooling capacity less than 65,000 Btu/h, and DOE identified 72,000 (6-ton) as the representative cooling capacity for SPVACs and SPVHPs with a cooling capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h. 79 FR at 78632. DOE identified some SPVHP models with a cooling capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h; however, it could not identify any models in this category with efficiency data available, so these units were not included in the engineering analysis. DOE did not find any models of SPVHP greater than or equal to 135,000 Btu/h on the market. DOE found some SPVAC models with cooling capacities greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h; however, DOE did not consider these models in the engineering analysis due to a lack of available efficiency data.

Next, using the information DOE gathered during the market and technology assessment, DOE selected higher efficiency levels for analysis for the representative cooling capacities based on the most common equipment efficiencies on the market and efficiency levels that are typically achieved via substantial design changes, as well as the highest efficiency level on the market for each equipment class (*i.e.,* the max-tech level). Next, DOE identified typical technologies and features incorporated into equipment at these higher efficiency levels. To determine the appropriate COP heating mode efficiency levels for SPVHPs, DOE performed an analysis of how COP relates to EER. DOE reviewed the models in the database it compiled, and for each equipment class, DOE calculated the median COP for each EER efficiency level for analysis.

Table IV.3 and Table IV.4 list the efficiency levels analyzed for SPVUs. Due to changes in equipment efficiency certification ratings since the analysis conducted for the December 2014 NOPR, the max-tech efficiency level (EL) decreased from 12.3 EER to 12.0 EER. In addition, the median COP value at both EL 3 and EL 4 decreased from 3.9 COP to 3.7 COP. Because DOE could not find any SPVUs with cooling capacities ≥135,000 Btu/h and <240,000 that had efficiency data available, DOE did not analyze any efficiency levels for SPVACs or SPVHPs with cooling capacities ≥135,000 Btu/h and <240,000 Btu/h.

TABLE IV.3—EFFICIENCY LEVELS FOR ANALYSIS FOR SPVUS <65,000 BTU/H

Efficiency level	SPVACs, 36,000 Btu/h	SPVHPs, 36,000 Btu/h
EPCA Baseline *	9.0 EER	9.0 EER 3.0 COP
ASHRAE Baseline **	10.0 EER	10.0 EER 3.0 COP
EL1	10.5 EER	10.5 EER 3.2 COP
EL2	11.0 EER	11.0 EER 3.3 COP
EL3	11.75 EER	11.75 EER 3.7 COP
EL4 (max-tech)	12.0 EER	12.0 EER 3.7 COP

* Refers to the currently applicable Federal minimum efficiency level. See *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/35.*

** Refers to the current minimum efficiency permitted by the latest version of the ASHRAE standard, ASHRAE 90.1–2013.

TABLE IV.4—EFFICIENCY LEVELS FOR ANALYSIS FOR SPVUS ≥65,000 BTU/H AND <135,000 BTU/H

Efficiency level	SPVACs, 72,000 Btu/h	SPVHPs, 72,000 Btu/h
EPCA Baseline	8.9 EER	8.9 EER 3.0 COP
ASHRAE Baseline (max-tech)	10.0 EER	10.0 EER 3.0 COP

DOE received multiple comments regarding the method that was used to correlate the EER and COP efficiency metrics for formulation of the efficiency levels analyzed in the December 2014 NOPR. AHRI opined that it is not appropriate to correlate increases in EER with COP, since manufacturers may choose to increase either cooling or heating performance levels without increasing the other. (AHRI, No. 19 at p. 30) Lennox also asserted that EER and COP are not necessarily related because product designs may be optimized for cooling or heating performance. (Lennox, No. 16 at p. 17)

DOE acknowledges that product designs may be optimized for either cooling or heating performance, and understands that EER and COP cannot be directly correlated in practice. In its analyses, DOE found that the EER efficiency distributions for SPVACs and SPVHPs are similar, and that the design options used to achieve each EER efficiency level are generally the same for SPVACs and SPVHPs. Due to the similar relationships of cooling mode efficiency ratings versus implementation of design options for both SPVACs and SPVHPs, DOE has determined that SPVHP equipment is usually optimized to achieve a certain cooling mode performance level, with heating mode performance as a secondary concern. This determination has also been confirmed by feedback from manufacturer interviews. As such, DOE believes that because design option implementation in SPVHPs is more closely aligned with changes in cooling mode efficiency ratings than changes in heating mode efficiency ratings, the efficiency levels analyzed for SPVHPs should be centered on cooling mode efficiency data. Therefore, with the understanding that changes in COP do not have a definitive relationship to changes in EER, DOE believes that selecting the median COP value for SPVHPs on the market at each EER efficiency level is the most market-representative way of analyzing trends between SPVHP design option implementation and heating mode efficiency ratings.

3. Teardown Analysis

After selecting a representative capacity for each equipment class, DOE selected equipment near both the representative capacity and the selected efficiency levels for each of the equipment classes that was directly analyzed via physical teardowns. DOE gathered information from these teardowns to create detailed bills of materials (BOMs) that included all components and processes used to manufacture the equipment. The teardown analysis allowed DOE to identify the technologies that manufacturers typically incorporate into their equipment, along with the efficiency levels associated with each technology or combination of technologies. The end result of each teardown is a structured BOM. The BOMs from the teardown analysis were used as inputs to calculate the MPC for each unit that was torn down. The MPCs resulting from the teardowns were used to develop an industry average MPC for each efficiency level analyzed in each equipment class. During the development of the engineering analysis, DOE held interviews with manufacturers to gain insight into the SPVU industry and to request feedback on the engineering analysis and assumptions that DOE used. DOE used the information it gathered from those interviews, along with the information obtained through the teardown analysis, to refine the assumptions and data in the cost model. For additional detail on the teardown process, see chapter 5 of the final rule TSD.

4. Incremental Efficiency Levels and Design Options

During the teardown process, DOE quantified the typical design options manufacturers use to reach specific efficiency levels, as well as the efficiency levels at which manufacturers tend to make major technological design changes. DOE determined that to improve efficiency from the current EPCA baseline efficiency level of 9 EER to 10 EER, manufacturers will usually increase the heat exchanger face area, which necessitates an increase in cabinet size. In addition, DOE determined from market data and teardown results that manufacturers will typically switch from using a PSC indoor blower motor to using a BPM motor to reach 10 EER. To increase

efficiency from 10 EER to 10.5 EER, teardown data showed that manufacturers will typically increase the depth of one of the heat exchanger coils (either the evaporator or condenser) by adding another tube row. To increase from 10.5 EER to 11 EER, DOE found that manufacturers will add another tube row to the other heat exchanger coil that was not enlarged in the process of increasing efficiency from 10 EER to 10.5 EER. In the units torn down, both of these design changes were found to not necessitate an increase in cabinet size. To further increase efficiency from 11 EER to 11.75 EER, DOE determined that manufacturers will typically increase the face areas of both the evaporator and condenser heat exchanger coils, which necessitates an increase in cabinet size. In addition, DOE found that manufacturers will often utilize a higher efficiency compressor to reach 11.75 EER. To reach the 12.0 EER (max-tech) efficiency level, DOE found that manufacturers may switch from using a PSC outdoor fan motor to using a more-efficient BPM motor, as well as incorporate a high-efficiency fan blade for the outdoor fan. In addition, product data verified that manufacturers may also choose to increase the condensing heat exchanger face area by using two condensing heat exchangers rather than just one, which necessitates an increase in cabinet size.

DOE received multiple comments on the usage of BPM indoor blower motors as a design option to increase efficiency to 10 EER. AHRI stated that not all manufacturers will find it necessary to switch from a PSC to a BPM motor in order to reach the 10 EER efficiency level, but that BPM motors will likely be required to reach 11 EER. (AHRI, No. 19 at p. 34) Similarly, Lennox stated that while some manufacturers may choose to switch to a BPM motor as a means of achieving the 10 EER level, others may continue to use a PSC motor and instead modify heat transfer efficiency in order to reach 10 EER. (Lennox, No. 16 at p. 17) Friedrich stated that it would need to use a BPM motor to reach 10 EER. (Friedrich, No. 15 at p. 2) Additionally, National Coil Company stated that it currently uses BPM motors, in tandem with other means of improving energy efficiency, to achieve the 10 EER efficiency level in its products. (National Coil Company, No. 14 at p. 2) DOE understands that the usage of a BPM motor to reach the 10 EER efficiency level may not be required across all product lines by all manufacturers. However, DOE cannot determine specifically what share of SPVU product lines would not use a BPM motor to reach 10 EER, due to a lack of definitive data from stakeholders. In addition, market data indicates that a majority of SPVUs with efficiencies greater than or equal to 10 EER use BPM indoor blower motors. As a result, in the engineering analysis DOE has maintained the use of a BPM indoor blower motor as a required design option to reach the 10 EER efficiency level.

DOE also received multiple comments regarding the addition of heat exchanger coil rows as a design option to increase efficiency. Friedrich commented that it would need to increase the footprint of its units in order to add two additional heat exchanger coil rows. (Friedrich, NOPR Public Meeting Transcript, No. 11 at p. 111) AHRI commented that using the addition of two heat exchanger coil rows to increase efficiency from 10 to 11 EER may not be possible for all manufacturers, and that this design change will require some manufacturers to increase cabinet size for certain units, such as floor-mounted SPVUs. Additionally, AHRI stated that an increase in coil depth will negatively affect airside pressure drop, which may further complicate the design of the SPVU by requiring a larger fan motor. (AHRI, No. 19 at pp. 30–31) Bard commented that there are many different manufacturers and versions of SPVU products on the market, and it may not be possible to use the addition of tube rows to increase efficiency in all SPVU models without overcoming certain design hurdles. According to Bard, specific issues may include the need to jump cabinet sizes to a larger cabinet, as well as redesigning the entire backup electric heat system for particular models. (Bard, NOPR Public Meeting Transcript, No. 11 at pp. 92–93). Bard also commented that, in particular, the industry will have trouble reaching 11 EER in the higher capacity 5-ton units without increasing cabinet size. (Bard, No. 13 at p. 3) In addition, National Coil Company stated that simply adding rows of coil to their heat exchangers would not be sufficient to meet an 11 EER standard, and a complete redesign of their product lines would be needed. (National Coil Company, No. 14 at p. 2) DOE is aware that there are numerous SPVU product lines with unique characteristics, and that the applicability of design options will vary by manufacturer. In the engineering analysis, DOE estimated the aggregate industry cost of design changes to meet the efficiency levels analyzed by tearing down units that are representative of most models at each efficiency level. The teardown process provided definitive data that were used as a basis for determining the cost-efficiency relationship for market-representative SPVUs. DOE did not receive any additional, specific data from stakeholders that describe changes to particular units resulting from the addition of heat exchanger tube rows, that are not already accounted for in the engineering analysis. As a result, DOE was not able to modify the engineering analysis to model additional design changes; DOE did not receive any definitive engineering information to use as a platform for such adjustments.

Several stakeholders commented on the potential use of modeling to determine the energy efficiency impacts of design options. ASAP commented that when there is a technology proven in the market, but not incorporated in the specific product covered by the rulemaking, that DOE will typically use modeling to look at the impact of that technology. Specifically, ASAP asked whether DOE considered modeling the energy efficiency impact of MCHX technology. (ASAP, NOPR Public Meeting Transcript, No. 11 at p. 76) AHRI also noted that DOE has modeled the effect of technology options for other recent air-conditioning product rulemakings but not for this one. Further, AHRI noted that since the market for SPVUs is relatively small, it would likely take less time to develop a proper model for SPVUs. (AHRI, NOPR Public Meeting Transcript, No. 11 at pp. 77–81) NEEA expressed support of AHRI's suggestion that DOE model technology options for SPVUs, such as higher efficiency compressors and MCHXs. (NEEA, NOPR Public Meeting Transcript, No. 11 at pp. 91–92)

DOE acknowledges that in the rulemaking for CUACs (docket EERE–2014–BT–STD–0015), modeling was used to determine the effects on energy use of different technology options. In the analyses for that rulemaking, the integrated energy efficiency ratio (IEER) metric is used as the basis for differentiating the efficiency levels considered, which is different from the metric of EER, which is currently used to certify CUAC equipment. IEER is an efficiency metric that accounts for part load operations while EER is the full load efficiency measure. The AHRI Directory of Certified Product Performance provides IEER ratings as well as EER at the full load condition, but it does not provide detailed EERs at different part load conditions. DOE understands that part load operating characteristics of CUAC equipment are critical for accurate assessment of equipment energy use in the field. DOE

conducted laboratory testing for CUAC equipment in order to understand the part load operations at different ambient conditions. However, DOE was limited by the number of units the Department could purchase, as well as laboratory testing capability. Therefore, DOE conducted equipment modeling using simulation programs to better understand the part load operations of CUAC equipment in order to more accurately characterize the energy use in the field. In the analyses for SPVUs, each efficiency level is distinguished by the full load EER rating. DOE elected not to use the same type of detailed equipment modeling for part load operations that was conducted for CUAC because the design options that can potentially impact part load efficiency do not impact EER, and were therefore not considered in the engineering analysis. However, equipment performance curves were used to model energy use.

For CUAC, modeling was also used in the engineering analysis to characterize the design changes needed to reach incrementally higher efficiency levels, because the large breadth of CUAC product offerings could not be accurately examined solely via a teardown analysis. For SPVUs, due to the relatively small number of product offerings, DOE determined that teardowns combined with analysis of product literature and published efficiency ratings were sufficient to accurately examine the design changes used in market-representative products to improve efficiency. As a result, modeling was not needed to determine the efficiency impacts of technology options currently used in SPVUs. Lastly, DOE did not model the efficiency impacts of MCHX technology on SPVUs. As explained in detail in section IV.B, DOE did not consider MCHX in the engineering analysis due to a lack of documentation regarding any improvements offered by MCHX to the overall energy efficiency of an SPVU.

For more information on the design options DOE considered at each efficiency level, see chapter 5 of the final rule TSD.

5. Cost Model

DOE developed a manufacturing cost model to estimate the MPC of SPVUs. The cost model is a spreadsheet model that converts the materials and components in the BOMs into dollar values based on the price of materials, average labor rates associated with fabrication and assembling, and the cost of overhead and depreciation, as determined based on manufacturer interviews and DOE expertise. To convert the information in the BOMs into dollar values, DOE collected information on labor rates, tooling costs, raw material prices, and other factors. For purchased parts, the cost model estimates the purchase price based on volume-variable price quotations and detailed discussions with manufacturers and component suppliers. For fabricated parts, the prices of raw metal materials (*e.g.,* tube, sheet metal) are estimates on the basis of 5-year averages (2010 to 2014). The cost of transforming the intermediate materials into finished parts is estimated based on current industry pricing. Additional details on the cost model are contained in chapter 5 of the final rule TSD.

6. Manufacturer Production Costs

Once the cost estimates for all the components in each teardown unit were finalized, DOE totaled the cost of materials, labor, depreciation, and overhead used to manufacture each type of equipment in order to calculate the MPC. The total cost of the equipment was broken down into two main costs: (1) The full MPC; and (2) the non-production cost, which includes selling, general, and administration (SG&A) costs; the cost of research and development; and interest from borrowing for operations or capital expenditures. DOE estimated the MPC at each efficiency level considered for each equipment class, from the baseline through the max-tech level. The incremental increases in MPC over the EPCA baseline efficiency level for each subsequently higher efficiency level in each equipment class are shown in Table IV.5. After incorporating all of the assumptions into the cost model, DOE calculated the percentages attributable to each element of total production costs (*i.e.,* materials, labor, depreciation, and overhead). These percentages are used to validate the assumptions by comparing them to manufacturers' actual financial data published in annual reports, along with feedback obtained from manufacturers during interviews. DOE uses these production cost percentages in the MIA.

TABLE IV.5—INCREMENTAL MPC INCREASES (2014$)

Equipment type	EPCA baseline	ASHRAE baseline	EL1	EL2	EL3	EL4
SPVACs <65,000 Btu/h	.....	$271	$349	$427	$578	$917
SPVACs ≥65,000 Btu/h and <135,000 Btu/h	.....	385	.....	.....	.....	.....
SPVHPs <65,000 Btu/h	.....	316	407	498	673	1,069
SPVHPs ≥65,000 Btu/h and <135,000 Btu/h	.....	449	.....	.....	.....	.....

7. Cost-Efficiency Relationship

The result of the engineering analysis is a cost-efficiency relationship, which depicts how changes in the energy efficiency of SPVUs drive changes in MSP. DOE created a separate cost-efficiency relationship at the representative cooling capacity for each of the four equipment classes analyzed. DOE reported the MPCs for the units analyzed in the teardown analysis in aggregated form to maintain confidentiality of sensitive component data. DOE obtained input from manufacturers during the manufacturer interview process on the MPC estimates and assumptions to confirm their accuracy. For SPVACs with a cooling capacity <65,000 Btu/h, DOE performed physical teardowns supplemented with virtual teardowns to develop cost-efficiency relationships for each manufacturer analyzed in the teardown analysis, and then created a market-share-weighted relationship based on approximate market share data obtained during manufacturer interviews. For SPVACs with a cooling capacity ≥65,000 Btu/h and <135,000 Btu/h, DOE performed virtual teardowns of a 6-ton SPVAC and determined the average percentage increase in cost from a 3-ton SPVAC to a 6-ton SPVAC. Then, DOE scaled the 3-ton cost-efficiency curve by that average percentage increase in cost. Likewise for SPVHPs with a cooling capacity <65,000 Btu/h, DOE performed a physical teardown and compared the average percentage increase in cost of a 3-ton SPVHP compared to a 3-ton SPVAC. DOE applied this average percentage increase in cost to the cost-efficiency curve for both SPVACs with a cooling capacity <65,000 Btu/h and SPVACs with a cooling capacity ≥65,000

Btu/h and <135,000 Btu/h to obtain the respective cost-efficiency curves for both SPVHP equipment classes.

In order to develop the final cost-efficiency relationships for SPVUs, DOE examined the cost differential to move from one efficiency level to the next for each manufacturer analyzed in the teardown analysis. DOE used the results of the teardowns on a market-share weighted average basis to determine the industry average cost increase to move from one efficiency level to the next. Additional details on how DOE developed the cost-efficiency relationships and related results, as well as a presentation of the final results, are available in chapter 5 of the final rule TSD.

8. Manufacturer Markup

To account for manufacturers' non-production costs and profit margin, DOE applies a non-production cost multiplier (the manufacturer markup) to the full MPC. The resulting MSP is the price at which the manufacturer can recover all production and non-production costs and earn a profit. To meet new or amended energy conservation standards, manufacturers often introduce design changes to their equipment lines that result in increased MPCs. Depending on competitive pressures, some or all of the increased production costs may be passed from manufacturers to retailers and eventually to customers in the form of higher purchase prices. As production costs increase, manufacturers typically incur additional overhead. The MSP should be high enough to recover the full cost of the equipment (*i.e.,* full production and non-production costs) and yield a profit. The manufacturer markup has an important bearing on profitability. A high markup under a standards scenario suggests manufacturers can readily pass along the increased variable costs and some of the capital and product conversion costs (the one-time expenditure) to customers. A low markup suggests that manufacturers will not be able to recover as much of the necessary investment in plant and equipment.

DOE normally develops the manufacturer markup through an examination of corporate annual reports and Securities and Exchange Commission (SEC) 10–K reports; however, in the case of SPVU manufacturers, DOE did not feel this process would be representative of the majority of the industry, because most SPVU manufacturers are privately held companies. Therefore, DOE based the manufacturer markup for the SPVU industry on the markup used for the package terminal air conditioner and package terminal heat pump (PTAC/PTHP) final rule published in the **Federal Register** on October 7, 2008 (73 FR 58772), and sought manufacturer feedback on this markup number during the interview process. DOE used the PTAC manufacturer markup because it is a comparable industry to the SPVU industry in terms of the size of the market (*i.e.,* the number of annual shipments) and the types of equipment on the market (*i.e.,* both are commercial air conditioners of similar capacities). DOE estimated the average manufacturer markup for the SPVU industry to 1.28. See chapter 5 of the final rule TSD for additional details.

9. Shipping Costs

Manufacturers of HVAC equipment typically pay for shipping to the first step in the distribution chain. Freight is not a manufacturing cost, but because it is a substantial cost incurred by the manufacturer, DOE is accounting for shipping costs of SPVUs separately from other non-production costs that comprise the manufacturer markup. To calculate the MSP for SPVUs, DOE first multiplied the MPC at each efficiency level (determined from the cost model) by the manufacturer markup, and then added the shipping costs for equipment at that given efficiency level. Chapter 5 of the final rule TSD contains details about DOE's shipping cost assumptions and DOE's shipping cost estimates.

10. Manufacturer Interviews

As noted in the preceding section, throughout the rulemaking process, DOE has sought and continues to seek feedback and insight from interested parties that would improve the information used in its analysis. DOE interviewed manufacturers as part of the NOPR MIA. During the interviews, DOE sought feedback on all aspects of its analyses for SPVUs. For the engineering analysis, DOE discussed the analytical assumptions and estimates, cost model, and cost-efficiency curves with SPVU manufacturers. DOE considered all the information manufacturers provided when refining the cost model and assumptions. However, DOE incorporated data and information specific to individual manufacturers into the analysis as averages in order to avoid disclosing sensitive information about individual manufacturers' equipment or manufacturing processes. More detail about the manufacturer interviews is contained in chapter 12 of the final rule TSD.

D. Markups To Determine Equipment Price

The markups analysis develops appropriate markups in the distribution chain to convert the estimates of MSP to consumer prices. (''Consumer'' refers to purchasers of the equipment being regulated.) DOE calculates overall baseline and incremental markups based on the equipment markups at each step in the distribution chain. The incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the consumer price.

DOE understands that the price of SPVU equipment depends on the distribution channel the customer uses to purchase the equipment. Typical distribution channels for most commercial HVAC equipment include shipments that may pass through manufacturers' national accounts, or through entities including wholesalers, mechanical contractors, and/or general contractors. However, DOE understands that there are multiple branched distribution channels for SPVU equipment for both new construction and replacement equipment. For SPVU equipment, the new equipment distribution channel is one in which SPVU equipment is sold directly or indirectly to manufacturers of wood and non-wood modular buildings, and the rest of the supply chain is essentially the chain of manufacturing, wholesaling, and contractor support for wood and non-wood modular buildings. The distribution channel for replacement equipment goes directly, or through air conditioning wholesalers/distributors, to mechanical contractors who install replacements on behalf of customers, or to wholesalers/distributors of modular buildings, who own leased fleets of modular buildings and who are assumed to perform their own SPVU replacements in their leased fleets.

DOE developed supply chain markups in the form of multipliers that represent increases above equipment purchase costs for air-conditioning equipment wholesalers/distributors, modular building manufacturers and wholesalers/distributors, and mechanical contractors and general contractors working on behalf of customers. DOE applied these markups (or multipliers) to each distribution channel entity's costs that were developed from the engineering analysis. DOE then included sales taxes and installation costs (where appropriate) to arrive at the final installed equipment prices for baseline

and higher-efficiency equipment. DOE identified two separate distribution channels for SPVU equipment to describe how the equipment passes from the equipment manufacturer to the customer, as presented in Table IV.6.

TABLE IV.6—DISTRIBUTION CHANNELS FOR SPVU EQUIPMENT

Channel 1 New SPVU equipment	*Channel 2* Replacement SPVU equipment
Air-Conditioning Wholesale Distributor or Manufacturer's Representative.	Air-Conditioning Wholesale Distributor or Manufacturer's Representative.
Modular Building Manufacturer	Mechanical Contractor or Modular Building Distributor.
Modular Building Distributor or General Contractor	
Customer	Customer.

DOE developed baseline and incremental markups based on available financial data. More specifically, DOE based the air-conditioning wholesaler/distributor markups on data from the Heating, Air Conditioning, and Refrigeration Distributors International (HARDI) 2013 Profit Report.[26] DOE also used financial data from the 2007 U.S. Census Bureau [27] for the wood [28] and non-wood [29] modular building manufacturing industries; concrete product manufacturing sector; [30] the wood [31] and non-wood [32] modular building wholesale industries; brick, stone, and related construction material merchant wholesalers [33]; the plumbing, heating, and air-conditioning contractor industry [34]; and the non-residential general contractor industries [35] to estimate markups for all of these sectors.

The overall markup is the product of all the markups (baseline or incremental markups) for the different steps within a distribution channel, and sales tax. DOE calculated sales taxes based on 2014 State-by-State sales tax data reported by the Sales Tax Clearinghouse.[36] Because both distribution channel costs and sales tax vary by State, DOE allowed markups due to distribution channel costs and sales taxes within each distribution channel to vary by State. No information was available to develop State-by-State distributions of SPVU equipment by building type or business type, so the distributions of sales by business type are assumed to be the same in all States. The national distribution of the markups varies among business types. Chapter 6 of the final rule TSD provides additional detail on markups.

DOE requested comment regarding the selected distribution channels and the shipments through each channel as outlined in the NOPR. DOE did not specifically receive comment on the selected channels, but did receive comments regarding incremental markups. AHRI commented that incremental markups understate the cost to manufacturers and end user of the proposed standards. (AHRI, No. 19 at pp. 2, 25) Lennox commented that baseline markups get carried through to the end user in all efficiency ranges. (Lennox, NOPR Public Meeting Transcript, No. 11 at p. 129) Downstream markups do not affect manufacturer MSPs or MPCs, and the Department maintains that incremental markups are applicable and reasonable to use in the markups analysis.

E. Energy Use Analysis

The energy use analysis provides estimates of the annual unit energy consumption (UEC) of SPVAC and SPVHP equipment at the considered efficiency levels. The annual UECs are used in subsequent analyses.

Approximately 35 percent of SPVAC shipments go to educational facilities, the majority of which are for space conditioning of modular classroom buildings. Additionally, approximately 35 percent of the shipments go to providing cooling for telecommunications and electronics enclosures. The remainder of all shipments (30 percent) are used in a wide variety of commercial buildings, including offices, temporary buildings, and some miscellaneous facilities. In almost all of these commercial building applications, the buildings served are expected to be of modular construction, because SPVUs, as packaged air conditioners installed on external building walls, do not impact site preparation costs for modular buildings, which may be relocated multiple times over the building's life. The vertically oriented configuration of SPVUs allows the building mounting to be unobtrusive and minimizes impacts on modular building transportation requirements. These advantages do not apply to a significant extent in site-constructed buildings. DOE also modeled shipments of SPVHP equipment to primarily

[26] Heating, Air-conditioning & Refrigeration Distributors International (HARDI), 2013 Profit Report (2012 Data) (Available at: *http://www.hardinet.org/Profit-Report*).

[27] The U.S. Census Bureau conducts an economic census every 5 years. The 2012 Economic Census may become available early in 2015; if so, the final rule analysis will be updated with data from the 2012 Economic Census.

[28] U.S. Census Bureau. 2007. Prefabricated Wood Building Manufacturing. Sector 32: 321992. Table EC073111 Manufacturing: Industry Series: Detailed Statistics by Industry for the United States: 2007. (Available at *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*)

[29] U.S. Census Bureau. 2007. Prefabricated Metal Building and Component Manufacturing. Sector 33: 332311. EC073111 Manufacturing: Industry Series: Detailed Statistics by Industry for the United States: 2007 (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[30] U.S. Census Bureau. 2007. Other Concrete Product Manufacturing Sector 32: 327390. EC073111 Manufacturing: Industry Series: Detailed Statistics by Industry for the United States: 2007 (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[31] U.S. Census Bureau. 2007. 423310 Lumber, plywood, millwork, and wood panel merchant wholesalers. EC0742SXSB06. Wholesale Trade: Subject Series—Misc Subjects: Gross Margin and its Components for Merchant Wholesalers for the United States: 2007. (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[32] U.S. Census Bureau. 2007. 423390 Other construction material merchant wholesalers. EC0742SXSB06. Wholesale Trade: Subject Series—Misc Subjects: Gross Margin and its Components for Merchant Wholesalers for the United States: 2007. (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[33] U.S. Census Bureau. 2007. Brick, stone, and related construction material merchant wholesalers: 2007. Sector 42: 423320 Other Construction Material Merchant Wholesalers. Brick, stone, and related construction material merchant wholesalers: Merchant wholesalers, except manufacturers' sales branches and offices. Detailed Statistics by Industry for the United States: 2007. (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[34] U.S. Census Bureau. 2007. Sector 23: 238220. Plumbing, heating, and air-conditioning contractors. EC0723I1: Construction: Industry Series: Preliminary Detailed Statistics for Establishments: 2007. (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[35] U.S. Census Bureau. 2007. Sector 23: 236220. Commercial and institutional building construction. EC0723I1: Construction: Industry Series: Preliminary Detailed Statistics for Establishments: 2007. (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?ref=top&refresh=t#none*).

[36] The Sales Tax Clearing House (2014) (Last accessed Feb. 16, 2015) (Available at: *www.thestc.com/STrates.stm*).

educational facilities or office-type end uses, but notes that SPVHPs would be infrequently used for telecommunication or electronics enclosures for which the heating requirements are often minimal.

DOE analyzed energy use in three different classes of commercial buildings that utilize SPVU equipment: (1) Modular classrooms; (2) modular offices; and (3) telecommunications shelters. To estimate the energy use of SPVU equipment in these building types, DOE developed building simulation models for use with DOE's EnergyPlus software.[37] A prototypical building model was developed for each building type, described by the building footprint, general building size, and design. The building types were represented by a 1,568 ft^2 wood-frame modular classroom, a 1,568 ft^2 wood-frame modular office, and a 240 ft^2 concrete-wall telecommunication shelter. In each case, the building construction (footprint, window-wall ratio, general design) was developed to be representative of typical designs within the general class of building. Operating schedules, internal load profiles, internal electric receptacle (plug) loads, and occupancy for the modular classroom were those from classroom-space-type data found in the DOE Primary School commercial prototype building model.[38] Operating schedules, internal load profiles, internal plug loads, and occupancy for modular office buildings were those from office space in the DOE Small Office commercial prototype building model. *Id.* For the telecommunications shelters, DOE did not identify a source for typical representative internal electronic loads as a function of building size, nor did it find information on representative internal gain profiles. However, based on feedback from shelter manufacturers, DOE used a 36,000 Btu/h (10.55 kW) peak internal load to reflect internal design load in the shelter. DOE determined that on average over a given year, this load ran at a scheduled 65 percent of peak value, reflecting estimates for computer server environments.[39] Each of these three building models was used to establish the energy usage of SPVAC and SPVHP equipment in the same building class.

Envelope performance (*e.g.,* wall, window, and roof insulation, and window performance) and lighting power inputs were based on requirements in ASHRAE Standard 90.1–2004.[40] DOE believes that the requirements in ASHRAE Standard 90.1–2004 are sufficiently representative of a mixture of both older and more recent construction [41] and that resulting SPVU equipment loads will be representative of typical SPVU equipment loads in the building stock. Ventilation levels were based on ASHRAE Standard 62.1–2004.[42]

DOE simulated each building prototype in each of 237 U.S. climate locations, taking into account variation in building envelope performance for each climate as required by ASHRAE 90.1–2004. For simulations used to represent the less than 65,000 Btu/h SPVU equipment, no outside air economizers were assumed for the modular office and modular classroom buildings.[43] However, for simulations used to represent greater than or equal to 65,000 Btu/h but less than 135,000 Btu/h equipment, economizer usage was presumed to be climate-dependent in these building types, based on ASHRAE Standard 90.1–2004 requirements for unitary equipment in that capacity range. For the telecommunications shelters, economizers were assumed to operate in 45 percent of buildings, based on multiple comments received in the NOPR stage of this rulemaking.

DOE's understanding is that the 54,000 Btu/h limit introduced in ASHRAE Standard 90.1–2010 is for comfort cooling applications and that ASHRAE Standard 90.1 has separate economizer requirements for computer rooms (generally defined as a space where the primary function is to house equipment for processing of electronic data and which has a design electronics power density exceeding 20 W/ft^2—as would be typical of a telecommunication shelter).[44] These computer room economizer requirements begin to require economizers only for fan cooling units greater than or equal to 65,000 Btu/h and at that threshold only for certain climate zones. The comfort cooling requirements in ASHRAE Standard 90.1, to the extent they are adopted by local jurisdictions, would appear not to apply to telecommunications shelters. And, if such requirements were to apply, they would do so only for a fraction of the products in the less than 65,000 Btu/h SPVU market. For these reasons, DOE maintained its NOPR analysis assumption regarding economizers for this final rule by implementing economizer use in 45 percent of the SPVAC units used in telecommunication shelters. Users of the SPVU LCC spreadsheet can change the percentage of equipment using economizers to see the impact of different weights. In addition, for telecommunication shelters, redundant identical air conditioners with alternating usage were assumed when establishing average annual energy consumption per unit.

Simulations were done for the buildings using SPVAC equipment and electric resistance heating, and then a separate set of simulations was done for buildings with SPVHP equipment. For each equipment type and building type combination, DOE simulated each efficiency level identified in the engineering analysis for each equipment class. Fan power at these efficiency levels was based on manufacturer's literature and reported fan power consumption data as developed in the engineering analysis. BPM supply air blower motors were assumed at an EER of 10.0 and higher for all classes of equipment based on results from the engineering analysis. The supply air blower motors are assumed to run at constant speed and constant power while operating.

DOE used typical meteorological weather data (TMY3) for each location in the simulations.[45] DOE sized equipment for each building simulation using a design day sizing method incorporating the design data found in the EnergyPlus design-day weather data

[37] EnergyPlus Energy Simulation Software and documentation are available at: *http://apps1.eere.energy.gov/buildings/energyplus/.*

[38] The commercial prototype building models are available on DOE's Web site as Energy Plus input files at: *http://www.energycodes.gov/development/commercial/90.1_models.* Documentation of the initial model development is provided in: Deru, M., *et al., U.S. Department of Energy Commercial Reference Building Models of the National Building Stock,* NREL/TP–5500–46861 (2011).

[39] EnergyConsult Pty Ltd., *Equipment Energy Efficiency Committee Regulatory Impact Statement Consultation Draft: Minimum Energy Performance Standards and Alternative Strategies for Close Control Air Conditioners,* Report No 2008/11 (2008) (Available at: *www.energyrating.gov.au*).

[40] ASHRAE, *Energy Standard for Buildings Except Low-Rise Residential Buildings,* ANSI/ASHRAE/IESNA Standard 90.1–2004 (2005).

[41] ASHRAE 90.1–2004 is still one of the prevailing building codes for the design of new commercial buildings. In addition, a large percentage of existing buildings were built in accordance with earlier versions of ASHRAE Standard 90.1.

[42] ASHRAE, *Ventilation for Acceptable Indoor Air Quality,* ANSI/ASHRAE/IESNA Standard 62.1–2004 (2004).

[43] An ''outside air economizer'' is a combination of ventilation and exhaust air dampers and controls that increase the amount of outside air brought in to a building when the outside air conditions (*i.e.,* temperature and humidity) are low, such that increasing the amount of ventilation air reduces the equipment cooling loads.

[44] DOE notes that these requirements introduced in ASHRAE Standard 90.1.2010 continued unchanged in ASHRAE Standard 90.1–2013.

[45] Wilcox S. and W. Marion, *User's Manual for TMY3 Data Sets,* National Renewable Energy Laboratory, Report No. NREL/TP–581–43156 (2008).

files for each climate.[46] DOE also incorporated an additional cooling sizing factor of 1.1 for the equipment used in the modular office and modular classroom simulations, reflective of the typical sizing adjustment needed to account for discrete available equipment capacities in SPVAC and SPVHP equipment.

EER and heating COP were converted to corresponding simulation inputs for each efficiency level simulated. These inputs, along with the calculated fan power at each efficiency level, were used in the building simulations. Further details of the building model and the simulation inputs for the SPVAC and SPVHP equipment can be found in chapter 7 of the final rule TSD.

From the annual simulation results for SPVAC equipment, DOE extracted the condenser energy use for cooling, the supply air blower energy use for both heating and cooling hours, the electric resistance heating energy, and the equipment capacity for each building type, climate, and efficiency level. From these, DOE developed corresponding normalized annual cooling energy per cooling ton and annual blower energy per ton for the efficiency levels simulated. DOE also developed the electrical heating energy per ton for the building. These per-ton cooling and blower energy values were added together and then multiplied by the average cooling capacity estimated for the equipment class simulated to arrive at an initial energy consumption estimate for SPVACs. DOE calculated a heating ''take back'' effect for higher efficiency levels as a deviation from the baseline heating energy use for each equipment capacity. The final SPVAC energy consumption estimates were then based on the calculated cooling and supply blower energy uses plus this heating take back, which allowed the resulting energy savings estimates to correctly account for the heating energy increase during the year. In addition, it was estimated that 5 percent of the market for the SPVACs less than 65,000 Btu/h class utilize gas furnace heating. The heating take back for these systems was estimated based on the heating load of the systems with electric resistance heat and assuming an average 81-percent furnace annual fuel utilization efficiency.

The analytical method for SPVHPs was carried out in a similar fashion; however, for heat pumps, DOE included the heating energy (compressor heating and electric resistance backup) directly from the simulation results and, thus, did not separately calculate a heating take back effect. From these data, DOE developed per-ton energy consumption values for cooling, supply blower, and heating electric loads. These per-ton energy figures were summed and multiplied by the nominal capacity for the equipment class simulated to arrive at the annual per-ton energy consumption for SPVHPs for each combination of building type, climate, and efficiency level.

For each combination of equipment class, building type, climate, and efficiency level, DOE developed UEC values for each State using weighting factors to establish the contribution of each climate in each State. Once State-level UEC estimates were established, they were provided as input to the LCC analysis. National average UEC estimates for each equipment class and efficiency level were also established based on population-based weighting across States and shipment weights to the different building types. With regard to the latter, while DOE established shipment weights for SPVAC equipment related to the three building types (educational, office, and telecommunications), DOE determined that SPVHP equipment was not used to a significant extent in telecommunication facilities and, thus, only allocated shipments of SPVHP equipment to two building types: educational and office.

For details of this energy use analysis, see chapter 7 of the final rule TSD.

Table IV.7 shows the annual UEC estimates for SPVACs and SPVHPs corresponding to the efficiency levels analyzed.

TABLE IV.7—NATIONAL UEC ESTIMATES FOR SPVAC AND SPVHP EQUIPMENT

Efficiency level	Equipment class				
	SPVACs, <65 kBtu/h		SPVHPs, <65 kBtu/h	SPVACs, ≥65 and <135 kBtu/h	SPVHPs, ≥65 and <135 kBtu/h
	kWh/yr	Gas kBtu/yr*	kWh/yr	kWh/yr	kWh/yr
EPCA Baseline	6,880	—	20,921	13,743	41,721
ASHRAE Baseline**	6,175	54	20,383	12,251	40,589
EL1	5,923	54	19,921	NA	NA
EL2	5,694	54	19,629	NA	NA
EL3	5,387	54	18,924	NA	NA
EL4**	5,300	54	18,858	NA	NA

* Calculated average gas heating ''take back'' based on 5 percent of market with gas heat.
** ASHRAE baseline represents max-tech levels established for SPVACs and SPVHPs greater than or equal to 65,000 Btu/h, but less than 135,000 Btu/h. EL 4 represents max-tech levels established for SPVACs and SPVHPs less than 65,000 Btu/h.

DOE received multiple comments during the NOPR public meeting and public comment period regarding the use of economizers in telecommunication shelters. AHRI commented that energy savings currently realized through the use of economizers could be greater than that determined by DOE in the NOPR due to the more pervasive use of economizers. AHRI suggested that 40 to 80 percent of units used in telecommunication shelters use this operating feature. (AHRI, No. 19 at pp. 31, 35) Bard commented that 40 to 45 percent of the units in the telecommunication shelter market use economizers. (Bard, No. 13 at p. 2) Consistent with these suggestions, DOE's final rule maintains the assumptions made for the NOPR analysis, which is that 45 percent of all telecommunication shelters use economizers.

[46] EnergyPlus TMY3-based weather data files and design day data files are available at: *http://apps1.eere.energy.gov/buildings/energyplus/weatherdata_about.cfm.*

F. Life-Cycle Cost and Payback Period Analysis

DOE conducted the LCC and PBP analysis to estimate the economic impacts of potential standards on individual consumers of SPVU equipment. DOE first analyzed these impacts for SPVU equipment by calculating the change in consumers' LCCs likely to result from higher efficiency levels compared with the EPCA and ASHRAE baseline efficiency levels for the SPVU classes discussed in the engineering analysis. The LCC calculation considers total installed cost (equipment cost, sales taxes, distribution chain markups, and installation cost), operating expenses (energy, repair, and maintenance costs), equipment lifetime, and discount rate. DOE calculated the LCC for all customers as if each would purchase an SPVU unit in the year the standard takes effect. DOE presumes that the purchase year for all SPVU equipment for purposes of the LCC calculation is 2015, the compliance date for the energy conservation standard equivalent to the levels in ASHRAE 90.1–2013 (for the EPCA baseline), or 2019, the compliance date for the energy conservation standard more stringent than the corresponding levels in ASHRAE 90.1–2013 (for the ASHRAE baseline). To compute LCCs, DOE discounted future operating costs to the time of purchase and summed them over the lifetime of the equipment.

Next, DOE analyzed the effect of changes in installed costs and operating expenses by calculating the PBP of potential standards relative to baseline efficiency levels. The PBP estimates the amount of time it would take the customer to recover the incremental increase in the purchase price of more-efficient equipment through lower operating costs. In other words, the PBP is the change in purchase price divided by the change in annual operating cost that results from the energy conservation standard. DOE expresses this period in years. Similar to the LCC, the PBP is based on the total installed cost and operating expenses. However, unlike the LCC, DOE only considers the first year's operating expenses in the PBP calculation and does not account for changes in operating expense over time or the time value of money.

DOE conducted the LCC and PBP analysis using a commercially available spreadsheet tool and a purpose-built spreadsheet model, available on DOE's Web site.[47] This spreadsheet model developed by DOE accounts for variability in energy use and prices, installation costs, repair and maintenance costs, and energy costs. It uses weighting factors to account for distributions of shipments to different building types and States to generate national LCC savings by efficiency level. The results of DOE's LCC and PBP analysis are summarized in section V.B.1 and described in detail in chapter 8 of the final rule TSD.

1. Approach

Recognizing that each business that uses SPVU equipment is unique, DOE analyzed variability and uncertainty by performing the LCC and PBP calculations assuming a correspondence between five types of businesses (education, telecommunications, construction and mining firms occupying temporary offices, a variety of service and retail firms occupying conventional office space, and health care firms) for customers located in three types of commercial buildings (telecommunications, education, and office). DOE developed financial data appropriate for the customers in each business and building type. Each type of building has typical customers who have different costs of financing because of the nature of the business. DOE derived the financing costs based on data from the Damodaran Online Web site.[48]

The LCC analysis used the estimated annual energy use for each SPVU equipment unit described in section IV.E. Because energy use of SPVU equipment is sensitive to climate, energy use varies by State. Aside from energy use, other important factors influencing the LCC and PBP analysis are energy prices, installation costs, equipment distribution markups, and sales tax. All of these factors are assumed to vary by State. At the national level, the LCC spreadsheets explicitly model both the uncertainty and the variability in the model's inputs, using probability distributions based on the shipments of SPVU equipment to different States.

As mentioned earlier, DOE generated LCC and PBP results by business type within building type and State and developed weighting factors to generate national average LCC savings and PBPs for each efficiency level. As there is a unique LCC and PBP for each calculated value at the building type and State level, the outcomes of the analysis can also be expressed as probability distributions with a range of LCC and PBP results. A distinct advantage of this type of approach is that DOE can identify the percentage of customers achieving LCC savings or attaining certain PBP values due to an increased efficiency level, in addition to the average LCC savings or average PBP for that efficiency level.

2. Life-Cycle Cost Inputs

For each efficiency level DOE analyzed, the LCC analysis required input data for the total installed cost of the equipment, its operating cost, and the discount rate. Table IV.8 summarizes the inputs and key assumptions DOE used to calculate the consumer economic impacts of all energy efficiency levels analyzed in this rulemaking. A more detailed discussion of the inputs follows.

TABLE IV.8—SUMMARY OF INPUTS AND KEY ASSUMPTIONS USED IN THE LCC AND PBP ANALYSIS

Inputs	Description
Affecting Installed Costs	
Equipment Price	Equipment price was derived by multiplying manufacturer sales price or MSP (calculated in the engineering analysis) by distribution channel markups, as needed, and sales tax from the markups analysis.
Installation Cost	Installation cost includes installation labor, installer overhead, and any miscellaneous materials and parts, derived from *RS Means CostWorks 2014*.[49]

[47] See *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/35*.

[48] Damodaran Online (Last accessed Feb. 14, 2014) (Available at: *http://pages.stern.nyu.edu/~adamodar/New_Home_Page/home.htm*).

TABLE IV.8—SUMMARY OF INPUTS AND KEY ASSUMPTIONS USED IN THE LCC AND PBP ANALYSIS—Continued

Inputs	Description
Affecting Operating Costs	
Annual Energy Use	Annual unit energy consumption for each class of equipment at each efficiency level estimated by state and building type using simulation models and a population-based mapping of climate locations to states.
Electricity Prices, Natural Gas Prices	DOE developed average electricity prices based on EIA Form 826 data for 2014.[50] Future electricity prices are projected based on Annual Energy Outlook 2015 (*AEO2015*).[51] DOE developed natural gas prices based on EIA state-level commercial prices in EIA data navigator.[52] Future natural gas prices are projected based on *AEO2015.*
Maintenance Cost	DOE estimated annual maintenance costs based on RS Means CostWorks 2014 for small, single-zone rooftop commercial air conditioning equipment. Annual maintenance cost did not vary as a function of efficiency.
Repair Cost	DOE estimated the annualized repair cost for baseline-efficiency SPVU equipment based on cost data from RS Means CostWorks 2014 for small, single-zone rooftop commercial air conditioning equipment. DOE assumed that the materials and components portion of the repair costs would vary in direct proportion with the MSP at higher efficiency levels because it generally costs more to replace components that are more efficient.
Affecting Present Value of Annual Operating Cost Savings	
Equipment Lifetime	DOE estimated that SPVU equipment lifetimes range between 10 and 25 years, with an average lifespan of 15 years, based on estimates cited in available packaged air conditioner literature.[53] [54] [55]
Discount Rate	Mean real discount rates for all buildings range from 2.6 percent for education buildings to almost 10.5 percent for some office building owners.
Analysis Start Year	Start year for LCC is 2019, which is the earliest compliance date that DOE can set for new standards if it adopts any efficiency level for energy conservation standards higher than that shown in ASHRAE Standard 90.1–2013.
Analyzed Efficiency Levels	
Analyzed Efficiency Levels	DOE analyzed the ASHRAE baseline efficiency levels and up to four higher efficiency levels for SPVUs <65,000 Btu/h and only the ASHRAE baseline for SPVUs >65,000 Btu/h. See the engineering analysis for additional details on selections of efficiency levels and cost.

DOE analyzed the EPCA and ASHRAE baseline efficiency levels (reflecting the efficiency levels in ASHRAE Standard 90.1–2013) and up to four higher efficiency levels for SPVUs <65,000 Btu/h. Chapter 5 of the final rule TSD provides additional details on selections of efficiency levels and cost.

a. Equipment Prices

The price of SPVU equipment reflects the application of distribution channel markups (mechanical contractor markups) and sales tax to the MSP, which is the cost established in the engineering analysis. As described in section IV.D, DOE determined distribution channel costs and markups for air-conditioning equipment. For each equipment class, the engineering analysis provided contractor costs for the ASHRAE baseline equipment and up to four higher equipment efficiencies.

The markup is the percentage increase in price as the SPVU equipment passes through distribution channels. As explained in section IV.D, SPVU equipment is assumed to be delivered by the manufacturer through a variety of distribution channels. If the SPVU equipment is for a new installation, it is assumed to be sold as a component of a new modular building. There are several distribution pathways that involve different combinations of the costs and markups of air-conditioning equipment wholesaler/distributors, manufacturers of modular buildings, and wholesalers/distributors of modular buildings. In some cases, a general contractor is also involved for site preparation and management. Some replacement equipment is assumed to be sold directly to mechanical contractors and to wholesalers/distributors of modular buildings, but some is sold through air-conditioning equipment wholesalers/distributors to these same entities. The overall markups used in LCC analyses are weighted averages of all of the relevant distribution channel markups.

To project an MSP price trend for the final rule, DOE derived an inflation-

[49] RS Means CostWorks 2014, R.S. Means Company, Inc. (2013) (Last accessed on February 27, 2014) (Available at: *www.meanscostworks.com/*).

[50] U.S. Energy Information Administration. Electric Sales, Revenue, and Average Price 2014, Select table Sales and Revenue Data by State, Monthly Back to 1990 (Form EIA–826), (Last accessed on April 17, 2015) (Available at: *http://www.eia.gov/cneaf/electricity/page/sales_revenue.xls*).

[51] U.S. Energy Information Administration. *Annual Energy Outlook 2015* (2015) DOE/EIA–0383(2015). (Last Accessed April 18, 2015) (Available at: *http://www.eia.gov/forecasts/aeo/data.cfm*).

[52] U.S. Energy Information Administration. Average Price of Natural Gas Sold to Commercial Consumers—by State. (Last accessed on February 17, 2014) (Available at: *http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PCS_DMcf_a.htm*).

[53] ASHRAE, ASHRAE Handbook: 2011 Heating, Ventilating, and Air-Conditioning Applications (2011).

[54] Abramson, Interactive Web-based Owning and Operating Cost Database, Final Report ASHRAE Research Project RP–1237 (2005).

[55] Energy Efficient Strategies Pty Ltd., Equipment Energy Efficiency Committee Regulatory Impact Statement Consultation Draft. Revision to the Energy Labelling Algorithms and Revised MEPS levels and Other Requirements for Air Conditioners, Report No 2008/09 (September 2008) (Last accessed March 22, 2012) (Available at: *http://www.energyrating.gov.au/wp-content/uploads/Energy_Rating_Documents/Library/Cooling/Air_Conditioners/200809-ris-ac.pdf*).

adjusted index of the Producer Price Index (PPI) for miscellaneous refrigeration and air-conditioning equipment over the period 1990–2010. These data show a general price index decline from 1990 to 2004, followed by a sharp increase, primarily due to rising prices of copper and steel components that go into this equipment, in turn driven by rapidly rising global demand. Since 2009, there has been no clear trend in the price index. Given the continued slow global economic activity in 2009 through 2014, DOE believes that the extent to which the future trend can be predicted based on the last two decades is very uncertain and that the observed data do not provide a firm basis for projecting future costs trends for SPVU equipment. Therefore, DOE used a constant price assumption as the default price factor index to project future SPVU prices in 2019. Thus, prices projected for the LCC and PBP analysis are equal to the 2014 values for each efficiency level in each equipment class. Appendix 8D of the final rule TSD describes the historical data and the derivation of the price projection.

b. Installation Costs

DOE derived national average installation costs for SPVU equipment from data provided in RS Means CostWorks 2014 (hereafter referred to as RS Means) specifically for packaged air-conditioning equipment. RS Means provides estimates for installation costs for SPVU units by equipment capacity, as well as cost indices that reflect the variation in installation costs for 295 cities in the United States. The RS Means data identify several cities in all 50 States and the District of Columbia. DOE incorporated location-based cost indices into the analysis to capture variation in installation costs, depending on the location of the consumer.

For more-stringent efficiency levels, DOE recognized that installation costs potentially could be higher with larger units and higher-efficiency SPVU equipment, mainly due to increased size. DOE utilized RS Means installation cost data from RS Means to derive installation cost curves by size of unit for base-efficiency models. DOE did not have data to calibrate the extent to which installation costs might change as efficiency increased. For the final rule LCC analysis, DOE assumed that installation cost would not increase as a function of increased efficiency.

c. Annual Energy Use

DOE estimated the annual electricity and natural gas consumed by each class of SPVU equipment, by efficiency level, based on the energy use analysis described in section IV.E and in chapter 7 of the final rule TSD.

d. Electricity and Natural Gas Prices

Electricity prices and natural gas prices are used to convert changes in the electric and natural gas consumption from higher-efficiency equipment into energy cost savings. Because of the variation in annual electricity and natural gas consumption savings and equipment costs across the country, it is important to consider regional differences in electricity and natural gas prices. DOE used average effective commercial electricity prices [56] and commercial natural gas prices [57] at the State level from EIA data for 2014. This approach captured a wide range of commercial electricity and natural gas prices across the United States. Furthermore, different kinds of businesses typically use electricity in different amounts at different times of the day, week, and year, and therefore, face different effective prices. To make this adjustment, DOE used EIA's 2003 Commercial Building Energy Consumption Survey (CBECS) data set [58] to identify the average prices that the five business types paid for electricity and natural gas and compared them separately with the corresponding average prices that all commercial customers paid. DOE used the ratios of prices paid by the five types of businesses to the national average commercial prices seen in the 2003 CBECS as multipliers to adjust the average commercial 2014 State price data.

DOE weighted the electricity and natural gas consumption and prices each business type paid in each State by the estimated percentages of SPVU equipment in each business type and by the population in each State to obtain weighted-average national electricity and natural gas costs for 2014. The State/building-type weights reflect the probabilities that a given unit of SPVU equipment shipped will operate with a given fuel price. The original State-by-State average commercial prices range from approximately $0.078 per kWh to approximately $0.343 per kWh for electricity and from approximately $6.81 per MBtu to $43.36 per MBtu for natural gas. See chapter 8 of the final rule TSD for further details.

The electricity and natural gas price trends provide the relative change in electricity and natural gas costs for future years. DOE used the *AEO2015* Reference case to provide the default electricity and natural gas price scenarios. DOE extrapolated the trend in values at the Census Division level from 2025 to 2040 of the projection for all five building types to establish prices beyond 2040 (see section IV.F.2.g). DOE provides a sensitivity analysis of the LCC savings and PBP results to different fuel price scenarios using both the *AEO2015* high-price and low-price projections in appendix 8C of the final rule TSD.

e. Maintenance Costs

Maintenance costs are the costs to the consumer of ensuring continued equipment operation. Maintenance costs include services such as cleaning heat-exchanger coils and changing air filters. DOE estimated annual routine maintenance costs for SPVU air conditioners as $315 per year (2014$) for capacities up to 135,000 Btu/h. For heat pumps less than 65,000 Btu/h capacity, maintenance costs reported in the RS Means CostWorks 2013 database were $350 per year; costs were $420 per year for larger capacities. Because data were not available to indicate how maintenance costs vary with equipment efficiency, DOE used preventive maintenance costs that remain constant as equipment efficiency increases.

f. Repair Costs

The repair cost is the cost to the customer of replacing or repairing components that have failed in the SPVU equipment. DOE estimated the one-time repair cost in RS Means as equivalent to those for small packaged rooftop units: $2,630 (2014$) for both air conditioners and heat pumps less than 65,000 Btu/h capacity, and $3,291 for larger units. Based on frequency and type of major repairs in the RS Means database, DOE assumed that the repair would be a one-time event at about year 10 of the equipment life that involved replacing the supply fan motor, compressor, some bearings, and refrigerant. DOE then annualized the present value of the cost over the average equipment life of 15 years to obtain an annualized equivalent repair cost. DOE determined that the materials portion of annualized repair costs

[56] Energy Information Administration, Form EIA–826 Database Monthly Electric Utility Sales and Revenue Data (EIA–826 Sales and Revenue Spreadsheets) (Available at: *http://www.eia.gov/electricity/data/eia826/*; on the right side of the screen under Aggregated, select 1990-current) (Last accessed April 17, 2015).

[57] Energy Information Administration, Natural Gas Prices (Available at: *http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PCS_DMcf_a.htm)* (Last accessed February 13, 2014).

[58] Energy Information Administration, Commercial Building Energy Consumption Survey 2003, CBECS Public Use Microdata Files (Available at: *http://www.eia.gov/emeu/cbecs/cbecs2003/public_use_2003/cbecs_pudata2003.html*) (Last accessed February 12, 2014).

would increase in direct proportion with increases in equipment prices, because the replacement parts would be similar to the more-expensive original equipment that they replaced. Because the price of SPVU equipment increases with efficiency, the cost for component repair is also expected to increase as the efficiency of equipment increases. See chapter 8 of the final rule TSD for details on the development of repair cost estimates.

g. Equipment Lifetime

DOE defines ''equipment lifetime'' as the age when a unit of SPVU equipment is retired from service. DOE reviewed available literature to establish typical equipment lifetimes, which showed a wide range of lifetimes from 10 to 25 years. The data did not distinguish between classes of SPVU equipment. Consequently, DOE used a distribution of lifetimes between 10 and 25 years, with an average of 15 years based on a review of a range of packaged cooling equipment lifetime estimates found in published studies and online documents. DOE applied this distribution to all classes of SPVU equipment analyzed. Chapter 8 of the final rule TSD contains a detailed discussion of equipment lifetimes.

Friedrich commented during the public meeting that based on feedback from its customers, 8 to 9 years was a more realistic lifetime than the 15 years proposed by DOE. (Friedrich, NOPR Public Meeting Transcript, No. 11 at p. 166) For the final rule, DOE maintained its equipment lifetime assumptions for the LCC and PBP analysis, but notes that there is a distribution of lifetimes between 10 and 25 years, wherein approximately half of the equipment fails before 15 years.

h. Discount Rate

The discount rate is the rate at which future expenditures are discounted to establish their present value. DOE determined the discount rate by estimating the cost of capital for purchasers of SPVU equipment. Most purchasers use both debt and equity capital to fund investments. Therefore, for most purchasers, the discount rate is the weighted-average cost of debt and equity financing, or the weighted-average cost of capital (WACC), less the expected inflation.

To estimate the WACC of SPVU equipment purchasers, DOE used a sample of more than 340 companies grouped to be representative of operators of each of five commercial business types (health care, education, telecommunications, temporary office, and general office) drawn from a database of 7,766 U.S. companies presented on the Damodaran Online Web site.[59] This database includes most of the publicly traded companies in the United States. The WACC approach for determining discount rates accounts for the current tax status of individual firms on an overall corporate basis. DOE did not evaluate the marginal effects of increased costs, and, thus, depreciation due to more-expensive equipment, on the overall tax status.

DOE used the final sample of companies to represent purchasers of SPVU equipment. For each company in the sample, DOE derived the cost of debt, percentage of debt financing, and systematic company risk from information on the Damodaran Online Web site. Damodaran estimated the cost of debt financing from the nominal long-term Federal government bond rate and the standard deviation of the stock price. DOE then determined the weighted average values for the cost of debt, range of values, and standard deviation of WACC for each category of the sample companies. Deducting expected inflation from the cost of capital provided estimates of the real discount rate by ownership category.

For most educational buildings and a portion of the office buildings occupied by public schools, universities, and State and local government agencies, DOE estimated the cost of capital based on a 40-year geometric mean of an index of long-term tax-exempt municipal bonds (>20 years).[60] Federal office space was assumed to use the Federal bond rate, derived as the 40-year geometric average of long-term (>10 years) U.S. government securities.[61]

Based on this database, DOE calculated the weighted-average, after-tax discount rate for SPVU equipment purchases, adjusted for inflation, in each of the five business types, which were allocated to the three building types used in the analysis based on estimated market shares of modular buildings used by each business type. The allocation percentages came from a combination of manufacturer interviews and industry data published by the Modular Buildings Institute.[62] [63] [64] [65]

Chapter 8 of the final rule TSD contains the detailed calculations related to discount rates.

3. Payback Period

DOE also determined the economic impact of potential amended energy conservation standards on consumers by calculating the PBP of more-stringent efficiency levels relative to the base-case efficiency levels. The PBP measures the amount of time it takes the commercial customer to recover the assumed higher purchase expense of more-efficient equipment through lower operating costs. Similar to the LCC, the PBP is based on the total installed cost and the operating expenses for each building type and State, weighted on the probability of shipment to each market. Because the PBP does not take into account changes in operating expense over time or the time value of money, DOE considered only the first year's operating expenses to calculate the PBP, unlike the LCC, which is calculated over the lifetime of the equipment. Chapter 8 of the final rule TSD provides additional details about the PBP calculations.

DOE received comments during the NOPR public meeting and in written form regarding the LCC analysis. AHRI commented that physical changes in cabinet size will incur higher installation costs, and that physical size changes also affect repair vs. replacement decisions. (AHRI, No. 19 at pp. 16, 17, 31, 32, 34) Bard commented that schools will repair failing equipment rather than replace it with more-expensive, efficient models; customers will not tolerate 14.7 and 10.1 year PBPs, and more efficient models require larger cabinet sizes. (Bard, No. 13 at pp. 2, 3) Lennox commented that increasing cabinet size will increase installation cost as modifications to buildings will be required. (Lennox, No. 16 at p. 18) Lennox also commented that commercial entities will not like paybacks as long as 8.4 years, and will end up repairing old equipment rather

[59] Damodaran financial data used for determining cost of capital is available at: *http://pages.stern.nyu.edu/~adamodar/* for commercial businesses (Last accessed February 12, 2014).

[60] Federal Reserve Bank of St. Louis, *State and Local Bonds—Bond Buyer Go 20-Bond Municipal Bond Index* (Last accessed April 16, 2015) Available at: *http://research.stlouisfed.org/fred2/series/MSLB20/downloaddata?cid=32995*.

[61] Rate calculated with 1975–2014 data. Data source: U.S. Federal Reserve (Last accessed April 16, 2015) (Available at: *www.federalreserve.gov/releases/h15/data.htm*).

[62] Modular Building Institute, State of the Industry 2006 (Available at: *http://www.modular.org/HtmlPage.aspx?name=analysis*) (March 6, 2014).

[63] Modular Building Institute, Commercial Modular Construction Report 2008 (Available at: *http://www.modular.org/HtmlPage.aspx?name=analysis*) (March 6, 2014).

[64] Modular Building Institute, Commercial Modular Construction Report 2009 (Available at: *http://www.modular.org/HtmlPage.aspx?name=analysis*) (March 6, 2014).

[65] Modular Building Institute, Relocatable Buildings 2011 Annual Report (Available at: *http://www.modular.org/HtmlPage.aspx?name=analysis*) (March 6, 2014).

than buying new. (Lennox, NOPR Public Meeting Transcript, No. 11 at p. 138) DOE appreciates these comments and addressed repair vs. replacement decisions in the NIA, as discussed in section IV.G.2.b. National Coil Company commented that more efficient equipment yields larger cabinet sizes, which are more expensive to install. (National Coil Company, No. 14 at p. 3) Edison Electric Institute commented that some modular portable buildings are only used for 4 to 5 years, which is shorter than the average lifetime of this equipment, and expressed concern that education facilities have longer paybacks and higher net costs relative to the average customer. (Edison Electric Institute, NOPR Public Meeting Transcript, No. 11 at pp. 118, 144) DOE notes that most modular buildings are not destroyed after 4 to 5 years of use, but are moved to another location and continue to be used. Because they are an integral component of modular buildings, SPVUs are moved along with the building and continue giving service in the new location. Friedrich commented that the majority of its equipment goes to the hotel/motel industry, and there is a higher cost to install more-efficient, larger units. (Friedrich, NOPR Public Meeting Transcript, No. 11 at p. 132)

DOE acknowledges and appreciates the comments shared in the public meeting and via written comment. DOE agrees that to a certain extent, more-efficient equipment requires larger cabinet sizes and therefore higher installation costs. As discussed in section IV.C.4, transitioning from EER 9.0 to EER 10.0 necessitates an increase in cabinet size. The economic analyses DOE conducted for equipment with efficiencies greater than EER 10.0 equipment are compared against EER 10.0 equipment. DOE notes that the standard levels for equipment less than 65,000 Btu/h of EER 11.0 and EER 11.0/COP 3.3 for SPVACs and SPVHPs, respectively, do not necessitate larger cabinet sizes than the ASHRAE efficiency equipment. Therefore, DOE did not modify its approach for calculating installation costs for the final rule.

G. National Impact Analysis

The NIA evaluates the effects of a considered energy conservation standard from a national perspective rather than from the customer perspective represented by the LCC. This analysis assesses the NPV (future amounts discounted to the present) and the NES of total commercial consumer costs and savings that are expected to result from amended standards at specific efficiency levels.[66]

The NES refers to cumulative energy savings for the lifetime of units shipped from 2019 through 2048. DOE calculated energy savings in each year relative to a base case, defined as DOE adoption of the efficiency levels specified by ASHRAE Standard 90.1–2013. DOE also calculated energy savings from adopting efficiency levels specified by ASHRAE Standard 90.1–2013 compared to the EPCA base case (*i.e.,* the current Federal standards) for units shipped from 2015 through 2044. The NPV refers to cumulative monetary savings. DOE calculated net monetary savings in each year relative to the ASHRAE base case as the difference between total operating cost savings and increases in total installed cost. DOE accounted for operating cost savings until 2072, when the equipment installed in the 30th year after the compliance date of the amended standards should be retired. Cumulative savings are the sum of the annual NPV over the specified period.

1. Approach

The NES and NPV are a function of the total number of units in use and their efficiencies. Both the NES and NPV depend on annual shipments and equipment lifetime. Both calculations start by using the shipments estimate and the quantity of units in service derived from the shipments model.

To make the analysis more transparent to all interested parties, DOE used a spreadsheet tool, available on DOE's Web site,[67] to calculate the energy savings and the national economic costs and savings from potential amended standards. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

Unlike the LCC analysis, the NES spreadsheet does not use distributions for inputs or outputs, but relies on national average equipment costs and energy costs developed from the LCC spreadsheet. DOE used the NES spreadsheet to perform calculations of energy savings and NPV using the annual energy consumption and total installed cost data from the LCC analysis. For efficiency levels higher than ASHRAE, DOE projected the energy savings, energy cost savings, equipment costs, and NPV of benefits for equipment sold in each SPVU class from 2019 through 2048. For the ASHRAE level, DOE projected energy savings for equipment sold from 2015 through 2044. DOE does not calculate economic benefits for the ASHRAE level because it is statutorily required to use the ASHRAE level as the baseline. The projection provided annual and cumulative values for all four output parameters described above.

a. National Energy Savings

DOE calculated the NES associated with the difference between the per-unit energy use under a standards-case scenario and the per-unit energy use in the base case. The average energy per unit used by the SPVUs in service gradually decreases in the standards case relative to the base case because more-efficient SPVUs are expected to gradually replace less-efficient ones.

Unit energy consumption values for each equipment class are taken from the LCC spreadsheet for each efficiency level and weighted based on market efficiency distributions. To estimate the total energy savings for each efficiency level, DOE first calculated the delta unit energy consumption (*i.e.,* the difference between the energy directly consumed by a unit of equipment in operation in the base case and the standards case) for each class of SPVUs for each year of the analysis period. The analysis period begins with the earliest expected compliance date of amended energy conservation standards (*i.e.,* 2015), assuming DOE adoption of the baseline ASHRAE Standard 90.1–2013 efficiency levels. For the analysis of DOE's potential adoption of more-stringent efficiency levels, the analysis period does not begin until the compliance date of 2019, four years after DOE would likely issue a final rule requiring such standards.

Second, DOE determined the annual site energy savings by multiplying the stock of each equipment class by vintage (*i.e.,* year of shipment) by the delta unit energy consumption for each vintage (from step one). As mentioned in section IV.E, this includes an increase in gas usage for some SPVAC units sold with gas furnaces (where fan power was reduced to achieve higher efficiency levels).

Third, DOE converted the annual site electricity savings into the annual amount of energy saved at the source of electricity generation (the source or primary energy), using annual conversion factors derived from *AEO2015*. Finally, DOE summed the annual primary energy savings for the lifetime of units shipped over a 30-year period to calculate the total NES. DOE performed these calculations for each

[66] The NIA accounts for impacts in the 50 States and the U.S. territories.

[67] DOE's Web page on SPVUs can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/35*.

efficiency level considered for SPVUs in this rulemaking.

In 2011, 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 Sciences, DOE announced its intention to use FFC measures of energy use and GHG and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (Aug. 18, 2011). After evaluating the approaches discussed in the August 18, 2011 document, DOE published a statement of amended policy in which DOE explained its determination that EIA's National Energy Modeling System (NEMS) is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (Aug. 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector[68] that EIA uses to prepare its *Annual Energy Outlook.* The approach used for the final rule, and the FFC multipliers that were applied, are described in appendix 10A of the final rule TSD. NES results are presented in both primary and FFC savings in section V.B.3.a.

DOE considered whether a rebound effect is applicable in its NES analysis for SPVUs. A rebound effect occurs when an increase in equipment efficiency leads to increased demand for its service. For example, when a consumer realizes that a more-efficient air conditioner will lower the electricity bill, that person may opt for increased comfort in the home by lowering the temperature, thereby returning a portion of the energy cost savings. For the SPVU market, there are two ways that a rebound effect could occur: (1) Increased use of the air-conditioning equipment within the commercial buildings in which such units are installed; and (2) additional instances of air-conditioning of spaces that were not being cooled before. In the case of SPVUs, the person owning the equipment (*i.e.,* the building owner) is usually not the person operating the equipment (*i.e.,* the renter). Because the operator usually does not own the equipment, that person will not have the operating cost information necessary to influence their operation of the equipment. Therefore, DOE believes that the first instance is unlikely to occur. Similarly, the second instance is unlikely because a small change in efficiency is insignificant among the factors that determine how much floor space will be air-conditioned.

b. Net Present Value

To estimate the NPV, DOE calculated the net impact as the difference between total operating cost savings and increases in total installed costs. DOE calculated the NPV of each considered standard level over the life of the equipment using the following three steps.

First, DOE determined the difference between the equipment costs under the standard-level case and the base case in order to obtain the net equipment cost increase resulting from the higher standard level. As noted in section IV.F.2.a, DOE used a constant price assumption as the default price forecast; the cost to manufacture a given unit of higher efficiency neither increases nor decreases over time. In addition, DOE considered two alternative price trends in order to investigate the sensitivity of the results to different assumptions regarding equipment price trends. One of these used an exponential fit on the deflated PPI for all other miscellaneous refrigeration and air-conditioning equipment, and the other is based on the ''deflator—other durables excluding medical'' that was forecasted for *AEO2015.* The derivation of these price trends is described in appendix 10B of the final rule TSD.

Second, DOE determined the difference between the base-case operating costs and the standard-level operating costs in order to obtain the net operating cost savings from each higher efficiency level. The operating cost savings are energy cost savings, which are calculated using the estimated energy savings in each year and the projected price of the appropriate form of energy. To estimate energy prices in future years, DOE multiplied the average regional energy prices by the forecast of annual national-average residential energy price changes in the Reference case from *AEO2015,* which has an end year of 2040. To estimate price trends after 2040, DOE used the average annual rate of change in prices from 2030 to 2040. As part of the NIA, DOE also analyzed scenarios that used inputs from the *AEO2015* Low Economic Growth and High Economic Growth cases. Those cases have higher and lower energy price trends compared to the Reference case. NIA results based on these cases are presented in appendix 10B of the final rule TSD.

Third, DOE determined the difference between the net operating cost savings and the net equipment cost increase in order to obtain the net savings (or expense) for each year. DOE then discounted the annual net savings (or expenses) to 2015 for SPVUs bought in or after 2019 and summed the discounted values to provide the NPV for an efficiency level.

In accordance with the OMB's guidelines on regulatory analysis,[69] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy. DOE used this discount rate to approximate the opportunity cost of capital in the private sector, because recent OMB analysis has found the average rate of return on capital to be near this rate. DOE used the 3-percent rate to capture the potential effects of standards on private consumption (*e.g.,* through higher prices for products and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to their present value. This rate can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on United States Treasury notes minus annual rate of change in the Consumer Price Index), which has averaged about 3 percent on a pre-tax basis for the past 30 years.

2. Shipments Analysis

In its shipments analysis, DOE developed shipment projections for SPVUs and, in turn, calculated equipment stock over the course of the analysis period. DOE used the shipments projection and the equipment stock to determine the NES. In order to account for the analysis periods of both the ASHRAE level and higher efficiency levels, the shipments portion of the spreadsheet model projects SPVU shipments from 2015 through 2048.

a. Shipments Model and Forecast

To develop the shipments model, DOE started with 2005 shipment estimates from the Air-Conditioning and Refrigeration Institute (ARI, now AHRI) for units less than 65,000 Btu/h as published in a previous rulemaking,[70]

[68] For more information on NEMS, refer to *The National Energy Modeling System: An Overview,* DOE/EIA–0581 (98) (Feb. 1998) (Available at: *http://www.eia.gov/oiaf/aeo/overview/*).

[69] OMB Circular A–4, section E (Sept. 17, 2003) (Available at: *www.whitehouse.gov/omb/circulars_a004_a-4*).

[70] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy, Technical Support Document: Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air-Conditioning, and Water Heating Equipment Including Packaged Terminal Air-Conditioners and Packaged Terminal Heat Pumps, Small Commercial Packaged Boiler, Three-Phase Air-Conditioners and

Continued

as more recent data are not available. DOE added additional shipments for SPVACs greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h, which make up 3 percent of the market, based on manufacturer interviews. As there are no models on the market for SPVHPs greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h, or for any SPVUs greater than or equal to 135,000 Btu/h, DOE did not develop shipment estimates (or generate NES and NPV) for these equipment classes. See chapter 9 of the final rule TSD for more details on the initial shipment estimates by equipment class that were used as the basis for the shipments projections discussed below.

To project shipments of SPVUs for new construction (starting in 2006) for the NOPR, DOE relied primarily on sector-based estimates of saturation and projections of floor space. Based on manufacturer interview information, DOE allocated 35 percent of shipments to the education sector, 35 percent to telecom, and 30 percent to offices. DOE used the 2005 new construction shipments and 2005 new construction floor space for education (from *AEO2013*) to estimate a saturation rate.[71] DOE applied this saturation rate to *AEO2013* projections of new construction floor space to project shipments to new construction in the education sector through 2048. For offices, DOE decided to hold SPVU shipments to new office construction constant at 2005 levels. For shipments to telecom, DOE developed an index based on County Business Pattern data for establishments [72] and projected this trend forward.

To allocate the total projected shipments for office, education, and telecom into the equipment classes applicable to each sector for the NOPR, DOE used the fraction of shipments from 2005 for each equipment class in each sector. The fractions within each sector remained constant over time.

In order to model shipments for replacement SPVUs for the NOPR, DOE developed historical shipments for SPVUs back to 1981 based on an index of square footage production data from the Modular Buildings Institute.[73] Shipments prior to 1994 were extrapolated based on a trend from 1994 to 2005. In the stock model, the lifetime of SPVUs follows the distribution discussed in section IV.F.2.g, with a minimum of 10 years and a maximum of 25 years. All retired units are assumed to be replaced with new shipments.

In response to the NOPR, Lennox commented that the NOPR indicated that the SPVU market has grown since 2006, ignoring past market volatility and the recent recession. Lennox stated that its own shipments of SPVUs declined dramatically in the 2008 to 2009 timeframe and have continued at levels lower than the 2005 to 2006 timeframe when DOE began its projections. (Lennox, No. 16 at pp. 6, 20) Similarly, AHRI commented that SPVU levels decreased through 2009 and have not yet rebounded to their 2006 levels, so DOE's projections are too high for 2006–2013. (AHRI, No. 19 at pp. 28–29) Bard also stated that its unit shipments in that same period experienced a decline. (Bard Manufacturing Company, No. 13 at p. 2)

For the final rule, DOE modified its estimate of shipments prior to 2014 to account for decline in shipments related to the recession. DOE used information on historical shipments from Lennox and AHRI to develop a revised trend for shipments from 2005 to 2014 to more accurately reflect the shipments of SPVUs as defined in this final rule. The complete discussion of the method for extrapolating historical shipments can be found in chapter 9 of the final rule TSD. As a result of the above change, DOE modified its projection of shipments to new construction. Instead of using shipments in 2005 as a basis (as described above), DOE used the revised estimates for 2014.

The complete discussion of shipment allocation and projected shipments for the different equipment classes can be found in chapter 9 of the final rule TSD.

b. Effect of Amended Standards on Shipments

As equipment purchase price and repair costs increase with efficiency, higher first costs and repair costs can result in a drop in shipments. In manufacturer interviews prior to the NOPR, manufacturers expressed concern that an increase in first cost could lead customers to switch to split-system or rooftop units. However, manufacturers did not provide any information on the price point at which this switch might occur, and DOE had insufficient data for estimating the elasticity of shipments for SPVUs as a function of first costs, repair costs, or operating costs. For these and other reasons, DOE assumed that the shipments projection would not change under the considered standard levels.

In response to the NOPR, numerous stakeholders disagreed with the NOPR assumption of no change in shipments.

AHRI commented that higher efficiency equipment will be more expensive and consumers will look towards other HVAC products if the price becomes prohibitive or the PBP is too long, or equipment will be repaired instead of replaced. AHRI stated that DOE should analyze the negative impacts that occurred when small unitary air conditioning efficiencies were increased from 10 to 13 seasonal energy efficiency ratio, and noted that the recent CUAC NOPR projects a reduction in shipments after higher standards. (AHRI, No. 19 at p. 28) Lennox indicated that the shipments model should project a drop in future shipments due to increased efficiency levels. Lennox commented that many businesses that are end-users of SPVU equipment have strict budget obligations and will forgo replacements due to the higher installation and building modification costs and instead repair their current SPVU products. Lennox also noted that the CUAC NOPR projects a decline in future shipments due to increased product costs. (Lennox, No. 16 at pp. 6–7) Bard stated that an 11.0 EER standard would cause many of its customers to abandon SPVUs in favor of other more economically sensible products. In particular, Bard stated that DOE's assumption ignores the price sensitivity of the modular/relocatable building market, which is the largest SPVU market. (Bard Manufacturing Company, No. 13 at p. 3)

For the final rule, DOE modified its approach to reflect the potential market response to more-stringent standards for SPVUs. DOE implemented a repair vs. replace decision in the shipment model. First, DOE assumed a price elasticity of

Heat Pumps <65,000 Btu/h, and Single-Package Vertical Air Conditioners and Single-Package Vertical Heat Pumps <65,000 Btu/h (March 2006) (Available at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/ashrae_products/ashrae_products_draft_tsd_030206.pdf*). This TSD was prepared for the rulemaking that resulted in the Final Rule: Energy Efficiency Program for Certain Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air-Conditioning, and Water-Heating Equipment. 72 FR 10038 (March 7, 2007).

[71] Manufacturers reported that in 2012, 50 percent of shipments were for new construction. DOE originally adjusted that split for 2005 until the result from the shipments model was 50/50 in 2012. This resulting 2005 split was 84 percent new construction and 16 percent replacement. However, this led to a steep shipments increase in the model from 2005 to 2006. Instead, DOE used the 50/50 split directly in 2005, which resulted in a much steadier shipments trend. Therefore, 2005 new construction shipments are derived using 50 percent of the total 2005 historical shipments.

[72] U.S. Census Bureau, County Business Patterns for NAICS 237130 Power and Communication Line and Related Structures Construction (Available at: *http://www.census.gov/econ/cbp/index.html*) (Last accessed April 15, 2014).

[73] Available at: *http://www.modular.org/HtmlPage.aspx?name=analysis* (Last accessed May 18, 2012).

-0.5 to estimate the fraction of consumers that would be sensitive to the higher prices of equipment under new standards.[74] Their units would undergo a major repair instead of replacement upon failure, in this case assumed to be a compressor repair. In the case of the adopted standards, the model resulted in 3 percent of SPVU consumers opting to repair rather than replace in the compliance year. Next, DOE extended the lifetime of repaired equipment by half the original lifetime, or approximately 7.5 years on average. The complete discussion of the method for the repair vs. replace decision can be found in chapter 9 of the final rule TSD. For the adopted standards, the revised shipments model results in a cumulative drop in shipments of 1 percent compared to the shipments in the ASHRAE case, or 2 percent compared to the market base case.

DOE also modified the NES and NPV calculations to take into account the increased energy use and repair cost for the units that are repaired instead of replaced in each standards case. These calculations are discussed in chapter 10 of the final rule TSD.

3. Base-Case and Standards-Case Forecasted Distribution of Efficiencies

To project what the SPVU market would look like in the absence of amended standards, DOE developed a base-case distribution of efficiency levels for SPVU equipment using manufacturer-provided estimates. DOE applied the percentages of models within each efficiency range to the total unit shipments for a given equipment class to estimate the distribution of shipments for the base case. Then, from those market shares and projections of shipments by equipment class, DOE extrapolated future equipment efficiency trends both for a base-case scenario and for standards-case scenarios.

To estimate an efficiency trend in the base-case, DOE used the trend from 2012 to 2035 found in the Commercial Unitary Air Conditioner Advance Notice of Proposed Rulemaking (ANOPR), which estimated an increase of approximately 1 EER every 35 years.[75] DOE used this same trend in the standards-case scenarios, when seeking to ascertain the impact of amended standards.

For each efficiency level analyzed, DOE used a ''roll-up'' scenario to establish the market shares by efficiency level for the year that compliance would be required with amended standards (*i.e.,* 2015 if DOE adopts the efficiency levels in ASHRAE Standard 90.1–2013, or 2019 if DOE adopts more-stringent efficiency levels than those in ASHRAE Standard 90.1–2013). DOE collected information suggesting that, as the name implies, the efficiencies of equipment in the base case that did not meet the standard level under consideration would roll up to meet the amended standard level. This information also suggests that equipment efficiencies in the base case that were above the standard level under consideration would not be affected. The efficiency distributions for each equipment class are presented in chapter 10 of the final rule TSD.

H. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended standards on commercial consumers, DOE evaluates the impact on identifiable groups (*i.e.,* subgroups) of consumers, such as different types of businesses that may be disproportionately affected by a national standard level. For this rulemaking, DOE identified mining and construction companies occupying temporary office space as a disproportionately affected subgroup. Because it has generally higher costs of capital and, therefore, higher discount rates than other firms using SPVUs, this consumer subgroup is less likely than average to value the benefits of increased energy savings. However, this group also faces relatively high electricity prices compared with some other consumer subgroups. These two conditions tend to offset each other, so a quantitative analysis was required to determine whether this subgroup would experience higher or lower than average LCC savings. Another type of consumer that might be disproportionately affected is public education facilities. Because of their tax-exempt status, public education agencies generally have lower capital costs than other SPVU users and, thus, might disproportionately benefit from increased SPVU energy efficiency; however, they also typically face lower electricity costs than other commercial customers, so a quantitative analysis was required to determine whether they would have lower or higher than average LCC savings.

DOE also analyzed the potential effects of amended SPVU standards on businesses with high capital costs, which are generally (but not always) small businesses. DOE analyzed the potential impacts of amended standards by conducting the analysis with different discount rates, because small businesses do not have the same access to capital as larger businesses, but they may pay similar prices for electricity. DOE obtained size premium data from Ibbotson Associates' *Stocks, Bonds, Bills, and Inflation 2013 Yearbook.*[76] For the period of 1926–2012, the geometric mean of annual returns for the smallest companies in all industries (13 percent) was 103.1 percent of the average for the total value-weighted index of companies listed on the New York Stock Exchange (NYSE), American Stock Exchange (AMEX), and National Association of Security Dealers Stock Exchange (NASDAQ) (9.6 percent), implying that on average, historical performance of small companies has been (113.0/109.6) = 1.031 or 3.1 percent points higher than the market average, in effect a ''small company size premium,'' an extra cost premium that they have to pay to do business. DOE assumed that for businesses purchasing SPVUs and purchasing or renting modular buildings containing SPVUs, the average discount rate for small companies is 3.1 percent higher than the industry average.

DOE determined the impact of consumer subgroup costs and savings using the LCC spreadsheet model. DOE conducted the LCC and PBP analysis separately for consumers represented by the mining and construction firms using temporary office buildings and for public education agencies using portable classrooms, and then compared the results with those for average commercial customers. DOE also conducted an analysis in which only firms with a discount rate 3.1 percent higher than the corresponding industry average were selected. While not all of these firms were small businesses (some had volatile stock prices or other special circumstances), they were the ones that had the highest costs of capital and were the least likely to benefit from increased SPVU standards.

Due to the higher costs of conducting business, benefits of SPVU standards for small and other high-capital-cost businesses are estimated to be slightly

[74] DOE typically uses a price elasticity of −0.34 for residential products. However, DOE has no information regarding the price elasticity for commercial equipment. DOE believes that the price elasticity may be somewhat higher for commercial equipment than for residential products, as it is more expensive, but that it would be less than perfectly elastic because of other significant considerations. As a result, DOE selected the midpoint between inelastic and elastic.

[75] *See* DOE's TSD underlying DOE's July 29, 2004 ANOPR. 69 FR 45460 (Available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2006-STD-0103-0078*). SPVUs have only had EER standards since 2002, which was not long enough to establish an efficiency trend.

[76] Morningstar, Inc., *Ibbotson SBBI 2013 Classic Yearbook. Market Results for Stocks, Bonds, Bills, and Inflation* 1926–2012 (2013).

lower than for the general population of SPVU owners.

The results of DOE's LCC subgroup analysis are summarized in section V.B.1.b and described in detail in chapter 11 of the final rule TSD.

I. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to estimate the financial impact of amended energy conservation standards on manufacturers of SPVACs and SPVHPs, and to calculate the potential impact of such standards on employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the GRIM, an industry cash-flow model with inputs specific to this rulemaking. The key GRIM inputs are data on the industry cost structure, equipment costs, shipments, and assumptions about markups and conversion expenditures. The key output is the INPV. Different sets of assumptions (markup scenarios) will produce different results. The qualitative part of the MIA addresses factors such as equipment characteristics, impacts on particular subgroups of firms, and important market and equipment trends. The complete MIA is outlined in chapter 12 of the final rule TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE conducted structured, detailed interviews with a representative cross-section of manufacturers and prepared a profile of the SPVAC and SPVHP industry. During manufacturer interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to identify key issues or concerns and to inform and validate assumptions used in the GRIM.

DOE used information obtained during these interviews to prepare a profile of the SPVAC and SPVHP industry, including a manufacturer cost analysis. Drawing on financial analysis performed as part of the 2008 energy conservation standard for SPVACs and SPVHPs as well as feedback obtained from manufacturers, DOE derived financial inputs for the GRIM (*e.g.,* SG&A expenses; research and development (R&D) expenses; and tax rates). DOE also used public sources of information, including company SEC 10–K filings,[77] corporate annual reports, the U.S. Census Bureau's Economic Census,[78] and Hoover's reports,[79] to develop the industry profile.

In Phase 2 of the MIA, DOE prepared an industry cash-flow analysis to quantify the potential impacts of an amended energy conservation standard on manufacturers of SPVACs and SPVHPs. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) Create a need for increased investment; (2) raise production costs per unit; and (3) alter revenue due to higher per-unit prices and possible changes in sales volumes. To quantify these impacts, DOE used the GRIM to perform a cash-flow analysis for the SPVAC and SPVHP industry using financial values derived during Phase 1.

In Phase 3 of the MIA, DOE conducted structured, detailed interviews with a representative cross-section of manufacturers. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM and to identify key issues or concerns.

Additionally, in Phase 3, DOE evaluated subgroups of manufacturers that may be disproportionately impacted by standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash-flow analysis. For example, small manufacturers, niche players, or manufacturers exhibiting a cost structure that largely differs from the industry average could be more negatively affected. Thus, during Phase 3, DOE analyzed small manufacturers as a subgroup.

The Small Business Administration (SBA) defines a small business for North American Industry Classification System (NAICS) code 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' as having 750 employees or fewer. During its research, DOE identified two domestic companies that manufacture equipment covered by this rulemaking and qualify as small businesses under the SBA definition. The SPVAC and SPVHP small manufacturer subgroup is discussed in chapter 12 of the final rule TSD and in section VI.C of this document.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in cash flow due to amended standards that result in a higher or lower industry value. The GRIM analysis uses a standard, annual cash-flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. The GRIM models changes in costs, distribution of shipments, investments, and manufacturer margins that could result from an amended energy conservation standard. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2014 (the base year of the analysis) and continuing for a 30-year period that begins in the compliance year for each equipment class. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. DOE used a real discount rate of 10.4 percent, which was derived from industry financials and then modified according to feedback received during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between a base case and each standards case. The difference in INPV between the base case and a standards case represents the financial impact of the amended energy conservation standard on manufacturers.

DOE collected information on critical GRIM inputs from a number of sources, including publicly available data and interviews with manufacturers (described in the next section). The GRIM results are shown in section V.B.2. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the final rule TSD.

a. Government Regulatory Impact Model Key Inputs

Manufacturer Production Costs

Manufacturing more-efficient equipment is typically more expensive than manufacturing baseline equipment due to the use of more complex components, which are typically more costly than baseline components. The changes in the MPC of the analyzed equipment can affect the revenues, gross margins, and cash flow of the industry, making these equipment cost data key GRIM inputs for DOE's analysis.

In the MIA, DOE used the MPCs for each considered efficiency level calculated in the engineering analysis, as described in section IV.C and further detailed in chapter 5 of the final rule TSD. In addition, DOE used information

[77] U.S. Securities and Exchange Commission. *Annual 10–K Reports.* Various Years. *http://www.sec.gov.*

[78] ''Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries.'' U.S. Census Bureau. 2014. Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t.*

[79] Hoovers, Inc. *Company Profiles.* Various Companies. *http://www.hoovers.com.*

from its teardown analysis, described in chapter 5 of the final rule TSD, to disaggregate the MPCs into material, labor, and overhead costs. To calculate the MPCs for equipment above the baseline, DOE added the incremental material, labor, and overhead costs from the engineering cost-efficiency curves to the baseline MPCs. These cost breakdowns and equipment markups were validated and revised with manufacturers during manufacturer interviews.

Shipments Forecasts

The GRIM estimates manufacturer revenues based on total unit shipment forecasts and the distribution of these values by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, the GRIM uses the NIA's annual shipment forecasts derived from the shipments analysis. See section IV.G and chapter 10 of the final rule TSD for additional details.

For the standards-case shipment forecast, the GRIM uses the NIA standards-case shipment forecasts. The NIA assumes that product efficiencies in the base case that do not meet the energy conservation standard in the standards case ''roll up'' to meet the amended standard in the standard year. See section IV.G and chapter 9 of the final rule TSD for additional details.

Product and Capital Conversion Costs

An amended energy conservation standard would cause manufacturers to incur one-time conversion costs to bring their production facilities and equipment designs into compliance. DOE evaluated the level of conversion-related expenditures that would be needed to comply with each considered efficiency level in each equipment class. For the MIA, DOE classified these conversion costs into two major groups: (1) 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 equipment designs comply with the amended energy conservation standard. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant equipment designs can be fabricated and assembled.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with amended energy conservation standards, DOE used manufacturer interviews to gather data on the anticipated level of capital investment that would be required at each efficiency level. DOE validated manufacturer comments through estimates of capital expenditure requirements derived from the equipment teardown analysis and engineering analysis described in chapter 5 of the final rule TSD.

DOE assessed the product conversion costs at each considered efficiency level by integrating data from quantitative and qualitative sources. DOE considered market-share-weighted feedback from multiple manufacturers to determine conversion costs, such as R&D expenditures, at each efficiency level. Manufacturer numbers were aggregated to better reflect the industry as a whole and to protect confidential information.

In general, DOE assumes that all conversion-related investments occur between the year of publication of the final rule and the year by which manufacturers must comply with the new standard. The conversion cost figures used in the GRIM can be found in section V.B.2 of this document. For additional information on the estimated product and capital conversion costs, see chapter 12 of the final rule TSD.

b. Government Regulatory Impact Model Scenarios

Markup Scenarios

MSPs include direct MPCs (*i.e.,* labor, materials, and overhead estimated in DOE's MPCs) and all non-production costs (*i.e.,* SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied non-production cost markups to the MPCs estimated in the engineering analysis for each equipment class and efficiency level. Modifying these markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) a preservation of gross margin percentage markup scenario; and (2) a preservation of per unit operating profit markup scenario. These scenarios lead to different markup values that, when applied to the inputted MPCs, result in varying revenue and cash flow impacts.

Under the preservation-of-gross-margin-percentage scenario, DOE applied a single uniform ''gross margin percentage'' markup across all efficiency levels. As production costs increase with efficiency, this scenario implies that the absolute dollar markup will increase as well. DOE assumed the non-production cost markup—which includes SG&A expenses, R&D expenses, interest, and profit—to be 1.28 for SPVU equipment. This markup is consistent with the one DOE assumed in the base case for the GRIM. Manufacturers tend to believe it is optimistic to assume that they would be able to maintain the same gross margin percentage markup as their production costs increase. Therefore, DOE assumes that this scenario represents a high bound to industry profitability under an amended energy conservation standard.

In the preservation-of-operating-profit scenario, as the cost of production goes up under a standards case, manufacturers are generally required to reduce their markups to a level that maintains base-case operating profit. DOE implemented this scenario in the GRIM by lowering the manufacturer markups at each TSL to yield approximately the same earnings before interest and taxes in the standards case as in the base case in the year after the compliance date of the amended standards. The implicit assumption behind this markup scenario is that the industry can only maintain its operating profit in absolute dollars after the standard.

3. Discussion of Comments

During the NOPR public comment period, interested parties commented on assumptions and results described in the December 2014 NOPR and accompanying TSD. Written comments submitted to DOE and oral comments delivered during the February 2015 NOPR public meeting address several topics related to manufacturer impacts. These include cumulative regulatory burden, conversion costs, changes in customer demand, diminished product offering, and impacts on the subgroup of small business manufacturers.

a. Cumulative Regulatory Burden

Many manufacturers commented that this rule combined with other pending rulemakings would place high cumulative regulatory burden on manufacturers with multiple products subject to updated appliances standards. (AHRI, No. 19 at p. 26; Bard, No. 11 at p. 173; Friedrich, No. 11 at p. 175, No. 15 at p. 2; Lennox, No. 11 at p. 171, No. 16 at p. 2; National Coil Company, No. 11 at p. 174, No. 14 at p. 2) Specifically, the stakeholders noted obligations related to room air conditioners, residential central air conditioners and heat pumps, commercial warm air furnaces, air-cooled CUACs and heat pumps, and walk-in coolers and freezers

rulemakings. DOE provides additional detail on these rules in section V.B.2.e of this final rule. First Company and Bard also added that the cumulative regulatory burden would have a more significant effect on small and mid-sized companies that are already overburdened by other regulations. (First Company, No. 12 at p. 2; Bard, No. 11 at p. 173). DOE has taken these comments under advisement. The Department lists the complete set of Federal regulations contributing to cumulative regulatory burden in section V.B.2.e. DOE takes cumulative regulatory impact into account when selecting the appliance standard in this final rule.

b. Conversion Costs

Lennox and AHRI commented that DOE underestimated the conversion costs needed to update manufacturing facilities, and that this undue financial burden on manufacturers could diminish their ability to stay competitive in the marketplace. (Lennox, No. 11 at p. 173; AHRI, No. 19 at p. 11) Lennox stated that its estimate of the industry's conversion costs are at least twice DOE's estimate, but more likely in the 300 to 500 percent range above DOE's current estimate. (Lennox, No. 16 at p. 4) In response, DOE's conversion costs are based on detailed discussions of capital and production conversion costs with a broad range of manufacturers of the covered product. DOE interviewed and collected conversion cost data from manufacturers that constitute the majority of the SPVU market. While any single manufacturer may have higher conversion cost than the average, DOE believes its conversion cost model is representative of the industry at large. DOE did revise its conversion costs upward between the NOPR and final rule, from $7.2M to $9.2M. However, this revision was primary driven by changes in the number of manufacturers and shifts in the number of product listings between the time of the NOPR analysis and the time of the final rule analysis.

c. Changes in Customer Demand

Bard stated that an 11.0 EER standard would cause many of its customers to abandon SPVUs in favor of other more economically sensible products, which would cause Bard to shrink in size. (Bard, No. 13 at p. 3) DOE estimates shipments impacts in the shipment analysis. During interviews, manufacturers stated that split system air conditioners and rooftop units would be the primary competitors. For much of the replacement market, these alternatives would continue to have a much higher installed cost than SPVUs due to the need for ductwork. Therefore, DOE believes that its shipments analysis accurately reflects potential changes in industry shipments over the analysis period.

d. Diminished Product Offering

AHRI and Bard commented that raising the standard for smaller units to 11 EER and 3.3 COP would eliminate most product lines from the market. AHRI also suggested that the cost to redesign, impact on annual shipments, and the loss of utility to customers would be extremely significant. (AHRI, No. 11 at p. 19; Bard, No. 11 at p. 176) DOE notes that its analysis takes into account the percentage of products that would be eliminated by an 11 EER and 3.3 COP standard, as described in section V.B.2.a. In response to AHRI and Bard, DOE's INPV calculations and estimates of manufacturer impacts take into account manufacturers' costs to redesign in its estimate of conversion costs, changes in annual shipments as estimated in the shipments analysis, and considerations of changes in utility in the screening and engineering analyses. Through tear-downs of existing products on the market, DOE concluded that most models could reach 11 EER and 3.3 COP with changes in heat exchanger surface area that do not require changes to the dimensions of the cabinet. DOE's analysis does reflect Bard's and AHRI's comments on the portion of units that require redesign. DOE's analysis concludes that 71 percent of SPVU models require some redesign to meet the adopted standard. The need for product redesign affect's DOE's analysis of conversion costs and MSPs. These, in turn, drive the estimates of manufacturer impacts. The portion of products that require redesign are considered in the MIA and are part of the weighing of cost and benefits in the selection of the adopted standard.

e. Impacts on the Subgroup of Small Business Manufacturers

Bard stated that they direct much of their engineering resources towards remaining competitive in the SPVU market. They added that to achieve the proposed 11 EER efficiency level, they would have to repurpose these resources, which could impact their ability to stay competitive, particularly since it is a small business.. (Bard, No. 13 at p. 3). In response to Bard, . DOE notes that regulations apply to the entire industry and all manufacturers will need to re-direct engineering resources to comply with efficiency regulations. However, DOE understands that small businesses manufacturers generally have smaller engineering teams to manage the redesign of products. DOE notes that disproportionate impacts to small business as a result of an energy conservation standard are analyzed in section VI.C

National Coil Company added that it believes it should be treated as a small business because, even though it has a parent company (Eubank) that has more than 750 total employees, Nation Coil Company operates as a separate entity and directly employs a number of employees much less that the 750 person threshold. (National Coil Company, No. 14 at p. 1) In response to National Coil Company, DOE notes that small business standards are listed by NAICS code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Further, the SBA requires parent company employees to be included when determining whether a business is a small manufacturer.

J. Emissions Analysis

The emissions analysis consists of two components. The first component estimates the effect of potential energy conservation standards on power sector and site (where applicable) combustion emissions of CO_2, NO_X, SO_2, and Hg. The second component estimates the impacts of potential standards on emissions of two additional GHGs, CH_4 and N_2O, as well as the reductions to emissions of all species due to ''upstream'' activities in the fuel production chain. These upstream activities comprise extraction, processing, and transporting fuels to the site of combustion. The associated emissions are referred to as upstream emissions.

The analysis of power sector emissions uses marginal emissions factors that were derived from data in *AEO2015,* as described in section IV.L. The methodology is described in chapter 13 and chapter 15 of the final rule TSD.

Combustion emissions of CH_4 and N_2O are estimated using emissions intensity factors published by the U.S. Environmental Protection Agency (EPA), GHG Emissions Factors Hub.[80] The FFC upstream emissions are estimated based on the methodology described in chapter 13 of the final rule TSD. The upstream emissions include both emissions from fuel combustion during extraction, processing, and transportation of fuel, and ''fugitive''

[80] Available at: *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

emissions (direct leakage to the atmosphere) of CH_4 and CO_2.

The emissions intensity factors are expressed in terms of physical units per MWh or MMBtu of site energy savings. Total emissions reductions are estimated using the energy savings calculated in the NIA.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying each ton of gas by the gas' global warming potential (GWP) over a 100-year time horizon. Based on the Fifth Assessment Report of the Intergovernmental Panel on Climate Change,[81] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

The *AEO* incorporates the projected impacts of existing air quality regulations on emissions. *AEO2015* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of October 31, 2014. DOE's estimation of impacts accounts for the presence of the emissions control programs discussed in the following paragraphs.

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). (42 U.S.C. 7651 *et seq.*) 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). CAIR created an allowance-based trading program that operates along with the Title IV program. In 2008, CAIR was remanded to EPA by the U.S. Court of Appeals for the District of Columbia Circuit, but it remained in effect.[82] In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (Aug. 8, 2011). On August 21, 2012, the DC Circuit issued a decision to vacate CSAPR,[83] and the court ordered EPA to continue administering CAIR. On April 29, 2014, the U.S. Supreme Court reversed the judgment of the DC Circuit and remanded the case for further proceedings consistent with the Supreme Court's opinion.[84] On October 23, 2014, the DC Circuit lifted the stay of CSAPR.[85] Pursuant to this action, CSAPR went into effect (and CAIR ceased to be in effect) as of January 1, 2015.

EIA was not able to incorporate CSAPR into *AEO2015,* so it assumes implementation of CAIR. Although DOE's analysis used emissions factors that assume that CAIR, not CSAPR, is the regulation in force. However, the difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of emissions impacts from energy conservation standards.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector SO_2 emissions would occur as a result of standards.

Beginning in 2016, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the 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. *AEO2015* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2016. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, emissions will be far below the cap established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU.[86] Therefore, DOE believes that energy conservation standards will generally reduce SO_2 emissions in 2016 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern States and the District of Columbia.[87] 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 from other facilities. However, standards would be expected to reduce NO_X emissions in the States not affected by the caps, so DOE estimated NO_X emissions reductions from the standards considered in this final rule for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO2015,* which incorporates the MATS.

K. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this

[81] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Chapter 8.

[82] 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).

[83] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), *cert. granted,* 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (U.S. June 24, 2013) (No. 12–1182).

[84] *See EPA* v. *EME Homer City Generation,* 134 S.Ct. 1584, 1610 (U.S. 2014). The Supreme Court held in part that EPA's methodology for quantifying emissions that must be eliminated in certain States due to their impacts in other downwind States was based on a permissible, workable, and equitable interpretation of the Clean Air Act provision that provides statutory authority for CSAPR.

[85] *See Georgia* v. *EPA,* Order *(D. C. Cir. filed October 23, 2014)* (*No. 11–1302),*

[86] DOE notes that the Supreme Court recently remanded EPA's 2012 rule regarding national emission standards for hazardous air pollutants from certain electric utility steam generating units. See *Michigan* v. *EPA* (Case No. 14–46, 2015). DOE has tentatively determined that the remand of the MATS rule does not change the assumptions regarding the impact of energy efficiency standards on SO_2 emissions. Further, while the remand of the MATS rule may have an impact on the overall amount of mercury emitted by power plants, it does not change the impact of the energy efficiency standards on mercury emissions. DOE will continue to monitor developments related to this case and respond to them as appropriate.

[87] CSAPR also applies to NO_X and it would supersede the regulation of NO_X under CAIR. As stated previously, the current analysis assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR with regard to DOE's analysis of NO_X emissions is slight.

calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this final rule.

For this final rule, DOE relied on a set of values for the SCC that was developed by a Federal interagency process. The basis for these values is summarized in the next section, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the final rule TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) climate-change-related changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of CO_2. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in CO_2 emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, ''assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.'' The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of CO_2 emissions, the analyst faces a number of challenges. A report from the National Research Council [88] points out that any assessment will suffer from uncertainty, speculation, and lack of information about (1) future emissions of GHGs; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing CO_2 emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC values appropriate for that year. The NPV of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across Federal agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: Global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specially, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: The FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: Climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

In 2010, the interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC

[88] National Research Council, *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use,* National Academies Press: Washington, DC (2009).

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, was 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,[89] although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.9 presents the values in the 2010 interagency group report,[90] which is reproduced in appendix 14A of the final rule TSD.

TABLE IV.9—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[2007$ per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th Percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for this final rule were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature, as described in the 2013 update from the interagency working group (revised July 2015).[91] Table IV.10 shows the updated sets of SCC estimates from the latest interagency update in 5-year increments from 2010 to 2050. The full set of annual SCC values between 2010 and 2050 is reported in appendix 14B of the final rule TSD. The central value that emerges is the average SCC across models at the 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.10—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE (REVISED JULY 2015), 2010–2050

[2007$ per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th Percentile
2010	10	31	50	86
2015	11	36	56	105
2020	12	42	62	123
2025	14	46	68	138
2030	16	50	73	152
2035	18	55	78	168
2040	21	60	84	183
2045	23	64	89	197
2050	26	69	95	212

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable because they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned previously points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytical challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing

[89] It is recognized that this calculation for domestic values is approximate, provisional, and highly speculative. There is no *a priori* reason why domestic benefits should be a constant fraction of net global damages over time.

[90] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* Interagency Working Group on Social Cost of Carbon, United States Government (February 2010) (Available at: *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf*).

[91] *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 July 2015) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/scc-tsd-final-july-2015.pdf*).

knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report (revised July 2015), adjusted to 2014$ using the implicit price deflator for gross domestic product from the Bureau of Economic Analysis. For each of the four sets of SCC cases specified, the values for emissions in 2015 were $12.2, $40.0, $62.3, and $117 per metric ton avoided (values expressed in 2014$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

In responding to the NOPR, AHRI criticized DOE's use of SCC estimates that are subject to considerable uncertainty. (AHRI, No. 19 at pp. 19–21) The Associations [92] objected to DOE's use of the SCC in the cost-benefit analysis performed in the NOPR, and expressed the belief that the SCC should not be used in any rulemaking or policymaking until it undergoes a more rigorous notice, review, and comment process. (The Associations, No. 17 at p. 4)

In conducting the interagency process that developed the SCC values, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. Key uncertainties and model differences transparently and consistently inform the range of SCC estimates. These uncertainties and model differences are discussed in the interagency working group's reports, which are reproduced in appendices 14A and 14B of the final rule TSD, as are the major assumptions. Specifically, uncertainties in the assumptions regarding climate sensitivity, as well as other model inputs such as economic growth and emissions trajectories, are discussed and the reasons for the specific input assumptions chosen are explained. However, the three integrated assessment models used to estimate the SCC are frequently cited in the peer-reviewed literature and were used in the last assessment of the IPCC. In addition, new versions of the models that were used in 2013 to estimate revised SCC values were published in the peer-reviewed literature (see appendix 14B of the final rule TSD for discussion). Although uncertainties remain, the revised estimates that were issued in November 2013 are based on the best available scientific information on the impacts of climate change. The current estimates of the SCC have been developed over many years, using the best science available, and with input from the public.[93] DOE stands ready to work with OMB and the other members of the interagency working group on further review and revision of the SCC estimates as appropriate.

AHRI criticized DOE's reliance on the impact of CO_2 emissions over a time period greatly exceeding that used to measure the economic costs. (AHRI, No. 19 at pp. 19–21)

For the analysis of national impacts of standards, DOE considers the lifetime impacts of equipment shipped in a 30-year period. With respect to energy cost savings, impacts continue until all of the equipment shipped in the 30-year period is retired. Emissions impacts occur over the same period. With respect to the valuation of CO_2 emissions reductions, the SCC estimates developed by the interagency working group are meant to represent the full discounted value (using an appropriate range of discount rates) of emissions reductions occurring in a given year. For example, CO_2 emissions in 2050 have a long residence time in the atmosphere, and thus contribute to radiative forcing, which affects global climate, for a long time. In the case of both consumer economic costs and benefits and the value of CO_2 emissions reductions, DOE is accounting for the lifetime impacts of equipment shipped in the same 30-year period.

AHRI also criticized DOE's use of global rather than domestic SCC values, pointing out that EPCA references weighing of the need for national energy conservation. (AHRI, No. 19 at p. 20)

DOE's analysis estimates both global and domestic benefits of CO_2 emissions reductions. Following the recommendation of the interagency working group, the December 2014 NOPR and this final rule focus on a global measure of SCC. As discussed in appendix 14A of the final rule TSD, the climate change problem is highly unusual in at least two respects. First, it involves a global externality: Emissions of most GHGs contribute to damages around the world even when they are emitted in the United States. Consequently, to address the global nature of the problem, the SCC must incorporate the full (global) damages caused by GHG emissions. Second, climate change presents a problem that the United States alone cannot solve. Even if the United States were to reduce its GHG emissions to zero, that step would be far from enough to avoid substantial climate change. Other countries would also need to take action to reduce emissions if significant changes in the global climate are to be avoided. Emphasizing the need for a global solution to a global problem, the United States has been actively involved in seeking international agreements to reduce emissions and in encouraging other nations, including emerging major economies, to take significant steps to reduce emissions. When these considerations are taken as a whole, the interagency group concluded that a global measure of the benefits from reducing U.S. emissions is preferable. DOE's approach is not in contradiction of the requirement to weigh the need for national energy conservation, as one of the main reasons for national energy conservation is to contribute to efforts to mitigate the effects of global climate change.

AHRI disputed DOE's assumption that SCC values will increase over time. It suggested that adaptation and mitigation efforts would work in the opposite direction. (AHRI, No. 19 at p. 21) As discussed in appendix 14A of the final rule TSD, SCC increases over time because future emissions are expected to produce larger incremental damages as physical and economic systems become more stressed in response to greater climatic change. The approach used by the interagency working group allowed estimation of the growth rate of the SCC directly using the three integrated assessment models, which helps to ensure that the estimates are internally consistent with other modeling assumptions. Adaptation and mitigation efforts, while necessary and important, are not without cost,

[92] The U.S. Chamber of Commerce, the American Chemistry Council, the American Forest & Paper Association, the American Fuel & Petrochemical Manufacturers, the American Petroleum Institute, the Brick Industry Association, the Council of Industrial Boiler Owners, the National Association of Manufacturers, the National Mining Association, the National Oilseed Processors Association, and the Portland Cement Association (collectively, ''the Associations'').

[93] In November 2013, OMB announced a new opportunity for public comment on the interagency technical support document underlying the revised SCC estimates. 78 FR 70586. In July 2015 OMB published a detailed summary and formal response to the many comments that were received. *https://www.whitehouse.gov/blog/2015/07/02/estimating-benefits-carbon-dioxide-emissions-reductions.*

particularly if their implementation is delayed.

1. Social Cost of Other Air Pollutants

As noted previously, DOE has estimated how the considered energy conservation standards would decrease power sector NO_X emissions in those 22 States not affected by the CAIR. DOE estimated the monetized value of net NO_X emissions reductions resulting from each of the TSLs considered for this final rule based on estimates developed by EPA for 2016, 2020, 2025, and 2030.[94] The values reflect estimated mortality and morbidity per ton of directly emitted NO_X reduced by electricity generating units. EPA developed estimates using a 3-percent and a 7-percent discount rate to discount future emissions-related costs. The values in 2016 are $5,562/ton using a 3-percent discount rate and $4,920/ton using a 7-percent discount rate (2014$). DOE extrapolated values after 2030 using the average annual rate of growth in 2016–2030. DOE multiplied the emissions reduction (tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

DOE evaluates appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. DOE has not included monetization of those emissions in the current analysis.

L. Utility Impact Analysis

The utility impact analysis estimates several effects on the electric power industry that would result from the adoption of new or amended energy conservation standards. The utility impact analysis estimates the changes in installed electrical capacity and generation that would result for each TSL. The analysis is based on published output from the NEMS associated with *AEO2015*. NEMS produces the *AEO* Reference case, as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. DOE uses published side cases to estimate the marginal impacts of reduced energy demand on the utility sector. These marginal factors are estimated based on the changes to electricity sector generation, installed capacity, fuel consumption, and emissions in the *AEO* Reference case and various side cases. Details of the methodology are provided in the appendices to chapters 13 and 15 of the final rule TSD.

The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity, and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of electricity savings calculated in the NIA to provide estimates of selected utility impacts of new or amended energy conservation standards.

M. Employment Impact Analysis

Employment impacts include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the products subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more-efficient appliances. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy due to (1) reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased customer spending on the purchase of new products; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.[95] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing customer utility bills. Because reduced customer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from amended energy conservation standards for SPVUs.

For the amended standard levels considered in the final rule, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[96] 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 final rule, DOE used ImSET only to estimate short-term (through 2023) employment impacts.

For more details on the employment impact analysis, see chapter 16 of the final rule TSD.

AHRI commented that the employment analysis ignores the immediately apparent effects on employment and relies on unsupported analysis for effects on the general economy. AHRI claimed that DOE's current approach ignores the ripple effects of the burdens on manufacturers (on suppliers, their employees, and investors). (AHRI, No. 19 at pp. 24–26)

DOE conducts two separate analyses of employment impacts of standards. The MIA looks at the potential impacts of amended energy conservation standards on direct employment in manufacturing of particular covered

[94] *http://www2.epa.gov/benmap/sector-based-pm25-benefit-ton-estimates.*

[95] *See* Bureau of Economic Analysis, ''Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II),'' U.S. Department of Commerce (1992).

[96] M. J. Scott, O. V. Livingston, P. J. Balducci, J. M. Roop, and R. W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, Pacific Northwest National Laboratory (2009) (Available at: *www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf*).

products. As described in section V.B.2.b of this document, DOE estimates that the adopted standards could either slightly increase or decrease the number of SPVU production workers. To estimate employment impacts in the general economy, DOE used ImSET, an I–O model that was specifically designed to estimate the national employment effects of energy-saving technologies. Here too the estimated impacts of the amended standards for SPVUs are negligible. DOE did not have sufficient information to estimate how suppliers to SPVU manufacturers would be affected by the standards, but it is likely that any additional costs would be passed on in the price of goods sold to the manufacturers.

V. Analytical Results

The following section addresses the results from DOE's analyses with respect to the considered energy conservation standards for SPVAC and SPVHP equipment. It addresses the TSLs examined by DOE and the projected impacts of each of these levels if adopted as energy conservation standards for SPVAC and SPVHP equipment. Additional details regarding DOE's analyses are contained in the final rule TSD supporting this document.

A. Trial Standard Levels

DOE developed TSLs that combine efficiency levels for each equipment class of SPVACs and SPVHPs. Table V.1 presents the efficiency EERs for each equipment class in the EPCA and ASHRAE baseline and each TSL. TSL 1 consists of efficiency level 1 for equipment classes less than 65,000 Btu/h. TSL 2 consists of efficiency level 2 for equipment classes less than 65,000 Btu/h. TSL 3 consists of efficiency level 3 for equipment classes less than 65,000 Btu/h. TSL 4 consists of efficiency level 4 (max-tech) for equipment classes less than 65,000 Btu/h. For SPVACs between 65,000 and 135,000 Btu/h, there are no models on the market above the ASHRAE level, and for SPVHPs between 65,000 and 135,000 Btu/h and SPVUs greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h, there are no models on the market at all, and, therefore, DOE had no basis with which to develop higher efficiency levels or conduct analyses. As a result, for each TSL, the EER (and COP) for these equipment classes is shown as the ASHRAE standard level of 10.0 EER (and 3.0 COP for heat pumps).

TABLE V.1—EPCA BASELINE, ASHRAE BASELINE, AND TRIAL STANDARD LEVELS FOR SPVUS

Equipment class	EPCA baseline	ASHRAE baseline	Trial standard levels EER(/COP)			
			1	2	3	4
SPVACs <65,000 Btu/h	9.0	10.0	10.5	11.0	11.75	12.0
SPVHPs <65,000 Btu/h	9.0/3.0	10.0/3.0	10.5/3.2	11.0/3.3	11.75/3.9	12.0/3.9
SPVACs ≥65,000 Btu/h and <135,000 Btu/h	8.9	10.0	10.0	10.0	10.0	10.0
SPVHPs ≥65,000 Btu/h and <135,000 Btu/h	8.9/3.0	10.0/3.0	10.0/3.0	10.0/3.0	10.0/3.0	10.0/3.0
SPVACs ≥135,000 Btu/h and <240,000 Btu/h	8.6	10.0	10.0	10.0	10.0	10.0
SPVHPs ≥135,000 Btu/h and <240,000 Btu/h	8.6/2.9	10.0/3.0	10.0/3.0	10.0/3.0	10.0/3.0	10.0/3.0

For clarity, DOE has also summarized the different design options that would be introduced across equipment classes at each TSL in Table V.2.

TABLE V.2—DESIGN OPTIONS AT EACH TRIAL STANDARD LEVEL FOR SPVUS

Equipment class	ASHRAE baseline	Trial standard levels			
		1	2	3	4
Design Options for Each TSL (options are cumulative—TSL 4 includes all preceding options)					
SPVACs <65,000 Btu/h	BPM indoor motor, increased HX face area.	Addition of HX tube row.	Addition of HX tube row.	Improved compressor efficiency, increased HX face area.	BPM outdoor motor, high-efficiency outdoor fan blade, dual condensing heat exchangers.
SPVHPs <65,000 Btu/h	BPM indoor motor, increased HX face area.	Addition of HX tube row.	Addition of HX tube row.	Improved compressor efficiency, increased HX face area.	BPM outdoor motor, high-efficiency outdoor fan blade, dual condensing heat exchangers.
*SPVACs ≥65,000 Btu/h and <135,000 Btu/h.	BPM indoor motor, increased HX face area.	No change	No change	No change	No change.
*SPVHPs ≥65,000 Btu/h and <135,000 Btu/h.	BPM indoor motor, increased HX face area.	No change	No change	No change	No change.
SPVACs ≥135,000 Btu/h and <240,000 Btu/h.	No change	No change	No change	No change	No change.
SPVHPs ≥135,000 Btu/h and <240,000 Btu/h.	No change	No change	No change	No change	No change.

*TSL 1 through TSL 4 are marked as ''no change'' because for these equipment classes, each TSL consists of the ASHRAE efficiency level.

B. Economic Justification and Energy Savings

As discussed in section II.A, EPCA provides seven factors to be evaluated in determining whether a more stringent standard for SPVACs and SPVHPs is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)) The following sections generally discuss how DOE has addressed each of those factors in this rulemaking.

1. Economic Impacts on Commercial Consumers

DOE analyzed the economic impacts on SPVAC and SPVHP equipment consumers by looking at the effects that amended standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on consumer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

Customers affected by new standards usually incur higher purchase prices and lower operating costs. DOE evaluates these impacts on individual customers by calculating changes in LCC and the PBP associated with the TSLs. The results of the LCC analysis for each TSL were obtained by comparing the installed and operating costs of the equipment in the base-case scenario (EPCA and ASHRAE baselines) against the standards-case scenarios at each TSL. It is important to note that for equipment less than 65,000 Btu/h, efficiency levels higher than ASHRAE were compared against ASHRAE-level equipment. Inputs used for calculating the LCC include total installed costs (*i.e.,* equipment price plus installation costs), operating expenses (*i.e.,* annual energy savings, energy prices, energy price trends, repair costs, and maintenance costs), equipment lifetime, and discount rates.

The LCC analysis is carried out using Monte Carlo simulations. Consequently, the results of the LCC analysis are distributions covering a range of values, as opposed to a single deterministic value. DOE presents the mean or median values, as appropriate, calculated from the distributions of results. The LCC analysis also provides information on the percentage of consumers for whom an increase in the minimum efficiency standard would have a positive impact (net benefit), a negative impact (net cost), or no impact.

DOE also performed a PBP analysis as part of the LCC analysis. The PBP is the number of years it would take for the consumer to recover the increased costs of higher-efficiency equipment as a result of energy savings based on the operating cost savings. The PBP is an economic benefit-cost measure that uses benefits and costs without discounting. Chapter 8 of the final rule TSD provides detailed information on the LCC and PBP analysis.

As described in section IV.G, DOE used a ''roll-up'' scenario in this rulemaking. Under the roll-up scenario, DOE assumes that the market shares of the efficiency levels (in the ASHRAE base-case) that do not meet the standard level under consideration would be ''rolled up'' into (meaning ''added to'') the market share of the efficiency level at the standard level under consideration, and the market shares of efficiency levels that are above the standard level under consideration would remain unaffected. Customers in the ASHRAE base-case scenario who buy the equipment at or above the TSL under consideration would be unaffected if the standard were to be set at that TSL. Customers in the ASHRAE base-case scenario who buy equipment below the TSL under consideration would be affected if the standard were to be set at that TSL. Among these affected customers, some may benefit from lower LCCs of the equipment and some may incur net cost due to higher LCCs, depending on the inputs to the LCC analysis such as electricity prices, discount rates, installation costs, and markups.

DOE's LCC and PBP analysis provided key outputs for each efficiency level above the baseline (*i.e.,* efficiency levels more stringent than those in ASHRAE 90.1–2013), as reported in Table V.3 and Table V.4.[97] DOE's results indicate that for SPVAC and SPVHP units, affected customer savings are positive at TSLs 1, 2, and 3. LCC and PBP results using the EPCA baseline are available in appendix 8B of the final rule TSD.

TABLE V.3—SUMMARY LCC AND PBP RESULTS FOR SPVACS, <65,000 BTU/H CAPACITY

TSL	Efficiency level	Life-cycle cost (2014$)			Life-cycle cost savings				Payback period (years)
		Installed cost	Discounted operating cost	LCC	Average savings (2014$*)	% of customers that experience			
						Net cost	No impact	Net benefit	Median
	ASHRAE Baseline	4,708	13,029	17,737	.....	.....	.....	.....	.....
1	1	4,871	12,750	17,621	115	28	26	47	9.1
2	2	5,035	12,499	17,534	174	39	1	59	9.6
3	3	5,386	12,190	17,576	130	53	0	47	12.7
4	4	6,151	12,232	18,384	(678)	85	0	15	25.2

* Parentheses indicate negative values.

TABLE V.4—SUMMARY LCC AND PBP RESULTS FOR SPVHPS, <65,000 BTU/H CAPACITY

TSL	Efficiency level	Life-cycle cost (2014$)			Life-cycle cost savings				Payback period (years)
		Installed cost	Discounted operating cost	LCC	Average savings (2014$*)	% of customers that experience			
						Net cost	No impact	Net benefit	Median
	ASHRAE Baseline	5,314	32,799	38,112	.....	.....	.....	.....	.....
1	1	5,505	32,231	37,736	375	0	26	74	4.5
2	2	5,697	31,887	37,584	435	2	1	96	5.8
3	3	6,102	31,095	37,197	817	4	0	95	6.2

[97] Because there are no units above the ASHRAE baseline in the classes greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h, and no units greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h, there are no LCC savings for these classes.

TABLE V.4—SUMMARY LCC AND PBP RESULTS FOR SPVHPS, <65,000 BTU/H CAPACITY—Continued

TSL	Efficiency level	Life-cycle cost (2014$)			Life-cycle cost savings				Payback period (years)
		Installed cost	Discounted operating cost	LCC	Average savings (2014$*)	% of customers that experience			
						Net cost	No impact	Net benefit	Median
4	4	6,989	31,176	38,165	(153)	69	0	31	14.4

* Parentheses indicate negative values.

b. Consumer Subgroup Analysis

As described in section IV.H of this final rule, DOE estimated the impact of the considered TSLs on three consumer subgroups. Table V.5 and Table V.6 show the results using the ASHRAE baseline for SPVAC and SPVHP consumer subgroups. In most cases, the average LCC savings and PBP for the subgroup at the considered efficiency levels are not substantially different from the average for all businesses. Chapter 11 of the final rule TSD presents the complete LCC and PBP results for the subgroups.

TABLE V.5—COMPARISON OF IMPACTS FOR CONSUMER SUBGROUPS WITH ALL CONSUMERS, SPVACS <65,000 BTU/H

TSL	Energy efficiency level	LCC Savings (2014$*)				Median payback period (years)			
		Construction and mining	Education	High rate	All	Construction and mining	Education	High rate	All
1	1	(40)	90	98	115	15.5	10.3	9.0	9.1
2	2	(84)	131	146	174	16.5	10.9	9.6	9.6
3	3	(312)	48	84	130	22.4	14.5	12.6	12.7
4	4	(1,158)	(802)	(719)	(678)	49.1	33.0	25.4	25.2

* Parentheses indicate negative values.

TABLE V.6—COMPARISON OF IMPACTS FOR CONSUMER SUBGROUPS WITH ALL CONSUMERS, SPVHPS <65,000 BTU/H

TSL	Energy efficiency level	LCC Savings (2014$*)				Median payback period (years)			
		Construction and mining	Education	High rate	All	Construction and mining	Education	High rate	All
1	1	273	459	359	375	4.9	4.4	4.5	4.5
2	2	279	562	413	435	6.1	5.3	5.8	5.8
3	3	533	1,047	772	817	6.8	6.0	6.3	6.2
4	4	(431)	78	(192)	(153)	15.6	13.5	14.3	14.4

* Parentheses indicate negative values.

c. Rebuttable Presumption Payback

As discussed above, 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. In calculating a rebuttable presumption PBP for each of the considered TSLs, DOE used discrete values rather than distributions for input values, and, as required by EPCA, based the energy use calculation on the DOE test procedures for SPVAC and SPVHP equipment. As a result, DOE calculated a single rebuttable presumption payback value, and not a distribution of PBPs, for each efficiency level. Table V.7 presents the rebuttable-presumption PBPs for the considered TSLs. While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels considered for this rule are economically justified through a more detailed analysis of the economic impacts of those levels, pursuant to 42 U.S.C. 6295(o)(2)(B)(i), that considers the full range of impacts to the consumer, manufacturer, Nation, and environment. 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 preliminary determination of economic justification. Table V.7 shows the rebuttable presumption PBPs for the considered TSLs for SPVAC and SPVHP equipment using the ASHRAE baseline.

TABLE V.7—REBUTTABLE-PRESUMPTION PAYBACK PERIOD (YEARS) FOR SPVAC AND SPVHP EQUIPMENT

Equipment class	Rebuttable presumption payback *(years)*			
	TSL 1	TSL 2	TSL 3	TSL 4
SPVACs <65,000 Btu/h	5.1	5.3	6.7	12.8
SPVHPs <65,000 Btu/h	3.6	4.4	4.8	9.7

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on SPVAC and SPVHP manufacturers. DOE calculated manufacturer impacts relative to a base case, defined as DOE adoption of the efficiency levels specified by ASHRAE Standard 90.1–2013. Consequently, when comparing the INPV impacts under the GRIM model, the baseline technology is at an efficiency of 10 EER/3.0 COP. The following subsection describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the final rule TSD explains the analysis in further detail, and also contains results using the EPCA baseline.

a. Industry Cash Flow Analysis Results

Table V.8 depicts the estimated financial impacts on manufacturers and the conversion costs that DOE expects manufacturers would incur at each TSL. The financial impacts on manufacturers are represented by changes in INPV.

As discussed in section IV.I.2, DOE modeled two different markup scenarios to evaluate the range of cash flow impacts on the SPVAC and SPVHP industry: (1) The preservation of gross margin percentage markup scenario; and (2) the preservation of per unit operating profit markup scenario.

To assess the less severe end of the range of potential impacts, DOE modeled a preservation of gross margin percentage markup scenario, in which a uniform ''gross margin percentage'' markup is applied across all potential efficiency levels. In this scenario, DOE assumed that a manufacturer's absolute dollar markup would increase as production costs increase in the standards case. DOE assumed the nonproduction cost markup—which includes SG&A expenses, R&D expenses, interest, and profit—to be a factor of 1.28. These markups are consistent with the ones DOE assumed in the engineering analysis and in the base case of the GRIM. Manufacturers have indicated that it is optimistic to assume that as their production costs increase in response to an amended energy conservation standard, they would be able to maintain the same gross margin percentage markup. Therefore, DOE assumes that this scenario represents a high bound to industry profitability under an amended energy conservation standard.

To assess the more severe end of the range of potential impacts, DOE modeled the preservation of per unit operating profit markup scenario, which reflects manufacturer concerns about their inability to maintain their margins as manufacturing production costs increase to reach more-stringent efficiency levels. In this scenario, while manufacturers make the necessary investments required to convert their facilities to produce new standards-compliant equipment, operating profit does not change in absolute dollars and decreases as a percentage of revenue.

Each of the modeled scenarios results in a unique set of cash flows and corresponding industry values at each TSL. In the following discussion, the INPV results refer to the difference in industry value between the base case and each standards case that results from the sum of discounted cash flows from the base year 2014 through 2048, the end of the analysis period. To provide perspective on the short-run cash flow impact, DOE includes in the discussion of results a comparison of free cash flow between the base case and the standards case at each TSL in the year before amended standards would take effect. This figure provides an understanding of the magnitude of the required conversion costs relative to the cash flow generated by the industry in the base case.

The following tables present results for both the preservation of gross margin percentage markup scenario and the preservation of per-unit operating profit markup scenario. As noted, the preservation of operating profit scenario accounts for the more severe impacts presented.

TABLE V.8—MANUFACTURER IMPACT ANALYSIS RESULTS FOR SPVACS AND SPVHPS, GROSS MARGIN PERCENTAGE MARKUP SCENARIO

	Units	Base case	Trial standard level *			
			1	2	3	4
INPV	2014$M	41.2	36.7	37.0	34.8	20.4
Change in INPV	2014$M		(4.5)	(4.3)	(6.5)	(20.9)
	% Change	(10.9)	(10.3)	(15.7)	(50.6)	
Product Conversion Costs	2014$M		5.6	6.3	16.3	27.8
Capital Conversion Costs	2014$M		2.9	2.9	3.5	13.0
Total Conversion Costs	2014$M		8.5	9.2	19.8	40.9
Free Cash Flow **	2014$M	3.4	0.5	0.3	(2.8)	(12.0)
	% Change	(84.5)	(90.7)	(182.2)	(451.4)	

* Parentheses indicate negative values.
** DOE presents free cash flow impacts in 2018, the year before the 2019 compliance date for SPVACs in the standards case.

TABLE V.9—MANUFACTURER IMPACT ANALYSIS RESULTS FOR SPVACS AND SPVHPS, PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level *			
			1	2	3	4
INPV	2014$M	41.2	35.7	33.9	26.3	5.0
Change in INPV	2014$M		(5.5)	(7.4)	(15.0)	(36.2)
	% Change	(13.3)	(17.9)	(36.3)	(87.8)	
Product Conversion Costs	2014$M		5.6	6.3	16.3	27.8
Capital Conversion Costs	2014$M		2.9	2.9	3.5	13.0
Total Conversion Costs	2014$M		8.5	9.2	19.8	40.9
Free Cash Flow **	2014$M	3.4	0.5	0.3	(2.8)	(12.0)

TABLE V.9—MANUFACTURER IMPACT ANALYSIS RESULTS FOR SPVACS AND SPVHPS, PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO—Continued

	Units	Base case	Trial standard level *			
			1	2	3	4
	% Change	(84.5)	(90.7)	(182.2)	(451.4)	

* Parentheses indicate negative values.
** DOE presents free cash flow impacts in 2018, the year before the 2019 compliance date for SPVACs in the standards case.

At TSL 1, the standard for all equipment classes with capacity less than 65,000 Btu/h is set at 10.5 EER/3.2 COP. The standard for all equipment classes with capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h and greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h is set at the baseline (*i.e.,* 10.0 EER/3.0 COP). DOE estimates the change in INPV to range from −$5.5 to −$4.5 million, or a change of −13.3 percent to −10.9 percent. At this level, free cash flow is estimated to decrease to $0.5 million, or a decrease of 84.5 percent compared to the base-case value of $3.4 million in the year 2018, the year before the standards year. DOE does expect a standard at this level to require changes to manufacturing equipment, thereby resulting in capital conversion costs. The engineering analysis suggests that manufacturers would reach this amended standard by increasing heat exchanger size. Roughly 61 percent of the SPVU models listed in the AHRI Directory would need to be updated to meet this amended standard level. Estimated industry conversion costs total $8.5 million.

At TSL 2, the standard for all equipment classes with capacity less than 65,000 Btu/h is set at 11.0 EER/3.3 COP. The standards for all equipment classes with capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h and greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h remain at baseline as in TSL 1. DOE estimates impacts on INPV to range from −$7.4 million to −$4.3 million, or a change in INPV of −17.9 percent to −10.3 percent. At this level, free cash flow is estimated to decrease to $0.3, or a change of −90.7 percent compared to the base-case value of $3.4 million in the year 2018. Based on the engineering analysis, DOE expects manufacturers to reach this level of efficiency by further increasing the size of the heat exchanger. Seventy-one percent of the SPVU models listed in the AHRI Directory would require redesign at this amended standard level. Product updates and associated testing expenses would further increase conversion costs for the industry to $9.2 million.

At TSL 3, the standard increases to 11.75 EER/3.7 COP for equipment with capacity less than 65,000 Btu/h. The standards for SPVAC and SPVHP equipment with capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h and greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h remain at baseline as in TSLs 1 and 2. DOE estimates impacts on INPV to range from −$15.0 million to −$6.5 million, or a change in INPV of −36.3 percent to −15.7 percent. At this level, free cash flow is estimated to decrease to less than zero, to −$2.8 million, or a change of −182.2 percent compared to the base-case value of $3.4 million in the year 2018. The engineering analysis suggests that manufacturers would reach this amended standard by once again increasing heat exchanger size and by switching to more-efficient two-stage compressors. Manufacturers that produce heat exchangers in-house may need to add coil fabrication equipment to accommodate the size of the heat exchanger necessary to meet the standard. Additionally, the new heat exchanger size may require manufacturers to invest additional capital into their sheet metal bending lines. Ninety-six percent of the SPVU models listed in the AHRI Directory would require redesign at this amended standard level. DOE estimates total conversion costs to be $19.8 million for the industry.

At TSL 4, the standard increases to 12.0 EER/COP of 3.7 for SPVAC and SPVHP equipment with capacity less than 65,000 Btu/h. The standards for SPVAC and SPVHP equipment with capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h and greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h remain at baseline as in TSLs 1, 2, and 3. DOE estimates impacts on INPV to range from −$36.2 million to −$20.9 million, or a change in INPV of −87.8 percent to −50.6 percent. At this level, free cash flow is estimated to decrease to −$12.0 million, or a decrease of 451.4 percent compared to the base-case value of $3.4 million in the year 2018. TSL 4 represents the max-tech standard level. DOE expects manufacturers to meet the amended standard by dramatically increasing the size of the evaporating heat exchanger and incorporating two condensing heat exchangers. Ninety-seven percent of all SPVU models listed in the AHRI Directory would require redesign at this amended standard level. Additionally, DOE expects designs to use BPMs for both the indoor and outdoor motors. Total conversion costs are expected to reach $40.9 million for the industry.

b. Direct Impacts on Employment

To quantitatively assess the potential impacts of amended energy conservation standards on direct employment, DOE used the GRIM to estimate the domestic labor expenditures and number of direct employees in the base case and at each TSL from 2014 through 2048. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers,[98] the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic direct employment levels. Labor expenditures related to producing the equipment are a function of the labor intensity of producing the equipment, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the MPCs by the labor percentage of MPCs. DOE estimates that 95 percent of SPVAC and SPVHP units are produced domestically.

The total labor expenditures in the GRIM were then converted to domestic production employment levels by dividing production labor expenditures by the annual payment per production worker (production worker hours times the labor rate found in the U.S. Census Bureau's 2011 Annual Survey of Manufacturers). The production worker estimates in this section only cover workers up to the line-supervisor level

[98] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries (2011) (Available at *http://www.census.gov/manufacturing/asm/index.html*).

who are directly involved in fabricating and assembling a product within an original equipment manufacturer facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific products covered by this rulemaking.

To estimate an upper bound to employment change, DOE assumes all domestic manufacturers would choose to continue producing products in the U.S. and would not move production to foreign countries. To estimate a lower bound to employment, DOE estimated the maximum portion of the industry that would choose to leave the industry rather than make the necessary product conversions. A complete description of the assumptions used to generate these upper and lower bounds can be found in chapter 12 of the final rule TSD.

As noted above, DOE estimates that 95 percent of SPVAC and SPVHP units sold in the United States are manufactured domestically. In the absence of amended energy conservation standards, DOE estimates that the SPVAC and SPVHP industry would employ 310 domestic production workers in 2019.

Table V.10 shows the range of the impacts of potential amended energy conservation standards on U.S. production workers of SPVUs.

TABLE V.10—POTENTIAL CHANGES IN THE TOTAL NUMBER OF STANDARD SIZE SPVAC AND SPVHP PRODUCTION WORKERS IN 2019

	Trial standard level *				
	Base case †	1	2	3	4
Total Number of Domestic Production Workers in 2019	310	294 to 314	294 to 325	260 to 337	223 to 403
Potential Changes in Domestic Production Workers in 2019	—	(16) to 4	(16) to 15	(50) to 27	(87) to 93

* Parentheses indicate negative values.
† Base case assumes 310 domestic production workers in the SPVAC and SPVHP industry in 2019.

The upper end of the range estimates the maximum increase in the number of production workers in the SPVAC and SPVHP industry after implementation of an amended energy conservation standard. It assumes manufacturers would continue to produce the same scope of covered equipment within the United States and would require some additional labor to produce more-efficient equipment.

The lower end of the range indicates the total number of U.S. production workers in the industry who could lose their jobs if all existing production were moved outside of the United States. The lower end of the range represents the maximum decrease to the total number of U.S. production workers in the industry due to manufacturers choosing to leave the industry or due to moving production to other countries.

This conclusion is independent of any conclusions regarding indirect employment impacts in the broader United States economy, which are documented in chapter 16 of the final rule TSD.

c. Impacts on Manufacturing Capacity

According to SPVAC and SPVHP manufacturers interviewed, demand for SPVACs and SPVHPs, which roughly correlates to trends in telecommunications spending and construction of new schools, peaked in the 2001–2006 time frame. As a result, excess capacity exists in the industry today.

Except at the max-tech level, any necessary redesign of SPVAC and SPVHP models would not fundamentally change the assembly of the equipment. Any bottlenecks are more likely to come from the redesign, testing, and certification process rather than from production capacity. To that end, some interviewed manufacturers expressed concern that the redesign of all products to include BPM motors would require a significant portion of their engineering resources, taking resources away from customer responsiveness and R&D efforts. Furthermore, some manufacturers noted that an amended standard requiring BPMs would monopolize their testing resources and facilities—to the point where some manufacturers anticipated the need to build new psychometric test labs to have enough in-house testing capacity to meet an amended standard. Once all products have been redesigned to meet an amended energy conservation standard, manufacturers did not anticipate any production constraints.

d. Impacts on Subgroups of Manufacturers

As discussed above, using average cost assumptions to develop an industry cash flow estimate is not adequate for assessing differential impacts among subgroups of manufacturers. Small manufacturers, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. As discussed in section IV.I, using average cost assumptions developed for an industry cash-flow estimate is inadequate to assess differential impacts among manufacturer subgroups.

For SPVAC and SPVHP equipment, DOE identified and evaluated the impact of amended energy conservation standards on one subgroup, specifically small manufacturers. The SBA defines a ''small business'' as having 750 employees or less for NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' Based on this definition, DOE identified two domestic manufacturers in the industry that qualify as small businesses. The SPVAC and SPVHP small business subgroup analysis is discussed in chapter 12 of the final rule TSD and in section VI.C of this document.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of several 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. Multiple regulations affecting the same manufacturer can strain profits and can lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its

rulemakings pertaining to appliance efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect SPVAC and SPVHP manufacturers that will take effect approximately 3 years before or after the compliance date of amended energy conservation standards for these products. For equipment with standards that are more stringent than those contained in ASHRAE Standard 90.1–2013, the compliance date is 4 years after publication of an energy conservation standards final rule (*i.e.,* compliance date assumed to be 2019 for the purposes of MIA). For equipment with standards that are set at the levels contained in ASHRAE Standard 90.1–2013, the compliance date is 2 or 3 years after the effective date of the requirements in ASHRAE Standard 90.1–2013, depending on equipment size (*i.e.,* 2015 or 2016). For this cumulative regulatory burden analysis, DOE considered regulations that could affect SPVAC and SPVHP manufacturers that take effect from 2012 to 2022, to account for the range of compliance years.

In interviews, manufacturers cited Federal regulations on equipment other than SPVACs and SPVHPs that contribute to their cumulative regulatory burden. In particular, manufacturers noted that some of them also produce residential central air conditioners and heat pumps, residential furnaces, room air conditioners, and water-heating equipment. These products have amended energy conservation standards that go into effect within 3 years of the compliance date for any amended SPVAC and SPVHP standards. The compliance years and expected industry conversion costs are listed in the following table.

TABLE V.11—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING SPVAC AND SPVHP MANUFACTURERS

Federal energy conservation standards	Approximate compliance date	Estimated total industry conversion expense
2008 Packaged Terminal Air Conditioners and Heat Pumps 73 FR 58772 (Oct. 7, 2008).	2012	$33.7M (2007$)
2011 Room Air Conditioners 76 FR 22454 (April 21, 2011); 76 FR 52854 (August 24, 2011).	2014	$171M (2009$)
2007 Residential Furnaces & Boilers 72 FR 65136 (Nov. 19, 2007).	2015	$88M (2006$) *
2011 Residential Furnaces 76 FR 37408 (June 27, 2011); 76 FR 67037 (Oct. 31, 2011).	2015	$2.5M (2009$) **
2011 Residential Central Air Conditioners and Heat Pumps 76 FR 37408 (June 27, 2011); 76 FR 67037 (Oct. 31, 2011).	2015	$ 26.0M (2009$) **
2010 Gas Fired and Electric Storage Water Heaters 75 FR 20112 (April 16, 2010).	2015	$95.4M (2009$)
Walk-in Coolers and Freezers 79 FR 32050 (June 3, 2014)	2017	$33.6M (2012$)
Packaged Terminal Air Conditioners and Heat Pumps 80 FR 43162 (July 21, 2015).	2017	N/A ***
Dishwashers∞	2018	TBD
Commercial Warm-Air Furnaces∞ 80 FR 6181 (February 4, 2015).	2018	$19.9M (2013$)
Commercial Packaged Air Conditioners and Heat Pumps∞79 FR 58948 (September 18, 2014).	2019	$226.4M (2013$)
Furnace Fans 79 FR 38130 (July 3, 2014)	2019	$40.6M (2013$)
Miscellaneous Residential Refrigeration∞	2019	TBD
Commercial Water Heaters∞	2019	TBD
Commercial Packaged Boilers∞	2020	TBD
Residential Water Heaters∞	2021	TBD
Clothes Dryers∞	2022	TBD
Central Air Conditioners∞	2022	TBD
Room Air Conditioners∞	2022	TBD

* Conversion expenses for manufacturers of oil-fired furnaces and gas-fired and oil-fired boilers associated with the November 2007 final rule for residential furnaces and boilers are excluded from this figure. The 2011 direct final rule for residential furnaces sets a higher standard and earlier compliance date for oil-fired furnaces than the 2007 final rule. As a result, manufacturers will be required design to the 2011 direct final rule standard. The conversion costs associated with the 2011 direct final rule are listed separately in this table. EISA 2007 legislated higher standards and earlier compliance dates for residential boilers than were in the November 2007 final rule. As a result, gas-fired and oil-fired boiler manufacturers were required to design to the EISA 2007 standard beginning in 2012. The conversion costs listed for residential gas-fired and oil-fired boilers in the November 2007 residential furnaces and boilers final rule analysis are not included in this figure.

** Estimated industry conversion expense and approximate compliance date reflect a court-ordered April 24, 2014 remand of the residential non-weatherized and mobile home gas furnaces standards set in the 2011 Energy Conservation Standards for Residential Furnaces and Residential Central Air Conditioners and Heat Pumps. The costs associated with this rule reflect implementation of the amended standards for the remaining furnace product classes (*i.e.,* oil-fired furnaces).

*** This rule adopted the efficiency levels established in ASHRAE Standard 90.1–2013. DOE does not conduct economic analysis for this level, as it is the minimum level that DOE is statutorily required to adopt. ∞ The final rule for this energy conservation standard has not been published. The compliance date and analysis of conversion costs have not been finalized at this time. (If a value is provided for total industry conversion expense, this value represents an estimate from the NOPR.)

Some stakeholders have expressed concern regarding potential conflicts with other certification programs, in particular EPA ENERGY STAR requirements. DOE realizes that the cumulative effect of several regulations on an industry may significantly increase the burden faced by manufacturers who need to comply with multiple certification programs from different organizations and levels of government. However, the Department does not consider ENERGY STAR in its presentation of cumulative regulatory burden, because ENERGY STAR is a voluntary program and is not Federally mandated.

Some stakeholders also noted that The Clean Air Act has historically affected their products. The Clean Air Act defines the EPA's responsibilities

for protecting and improving the nation's air quality and the stratospheric ozone layer. For SPVU manufacturers, the most significant of these additional regulations are the EPA mandated phase-out of hydrochlorofluorocarbons (HCFCs). The Act demands on a quarterly basis that any person who produced, imported, or exported certain ozone-depleting substances, including HCFC refrigerants, must report the amount produced, imported, and exported. Additionally, effective January 1, 2015, selling, manufacturing, and using any ozone-depleting substance is banned unless such substance has been used, recovered, and recycled; is used and entirely consumed in the production of other chemicals; or is used as a refrigerant in appliances manufactured prior to January 1, 2020. Finally, production phase-outs will continue until January 1, 2030, when such production will be illegal. For HCFC–22, which is commonly used in older air-conditioning equipment, EPA regulations make it illegal to manufacture a new appliance using virgin HCFC–22 refrigerant or pre-charge any appliance or appliance component with HCFC–22 as of January 1, 2010. Additionally, HCFC–22 production will stop by January 1, 2020. These bans could trigger design changes to low GWP refrigerants.

3. National Impact Analysis

a. Significance of Energy Savings

To estimate the energy savings attributable to potential amended standards for SPVUs, DOE compared the energy consumption of those products under the ASHRAE base case to their anticipated energy consumption under each TSL. DOE also compared the energy consumption of SPVUs under the ASHRAE Standard 90.1–2013 efficiency levels to energy consumption of SPVUs under the EPCA base case (*i.e.,* the current Federal standard). The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2015–2044 for the ASHRAE level and 2019–2048 for higher efficiency levels). Table V.12 presents DOE's projections of the NES for the ASHRAE level and for each TSL considered for SPVUs. The savings were calculated using the approach described in section IV.G.1 of this final rule.

TABLE V.12—CUMULATIVE NATIONAL ENERGY SAVINGS FOR SPVUS SHIPPED IN 2015–2044 (ASHRAE) OR 2019–2048 (HIGHER)

	ASHRAE Standard 90.1–2013 *	Trial standard level ** (quads)			
		1	2	3	4
Primary energy	0.15	0.06	0.14	0.21	0.21
FFC energy	0.16	0.06	0.15	0.22	0.22

* Energy savings determined from comparing SPVU energy consumption at the ANSI/ASHRAE/IES Standard 90.1–2013 efficiency level to that at the Federal minimum efficiency level.

** Energy savings determined from comparing SPVU energy consumption at each TSL to that at the ASHRAE 90.1–2013 efficiency level.

Each TSL that is more stringent than the corresponding levels in ANSI/ASHRAE/IES Standard 90.1–2013 results in additional energy savings. The NES from adopting the ANSI/ASHRAE/IES Standard 90.1–2013 for SPVUs saves 0.16 quad over the Federal minimum standards.

OMB Circular A–4 [99] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine, rather than 30, years of product shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[100] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to SPVUs. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a 9-year analytical period are presented in Table V.13. The impacts are counted over the lifetime of SPVUs purchased in 2015–2023 for the ASHRAE level and for 2019–2027 for higher levels.

TABLE IV.13—CUMULATIVE NATIONAL ENERGY SAVINGS FOR SPVUS; 9 YEARS OF SHIPMENTS

[2015–2023 (ASHRAE) or 2019–2027 (Higher)]

	ASHRAE Standard 90.1–2013 *	Trial standard level ** (quads)			
		1	2	3	4
Primary energy	0.046	0.018	0.038	0.068	0.069
FFC energy	0.049	0.018	0.039	0.071	0.072

* Energy savings determined from comparing SPVU energy consumption at the ANSI/ASHRAE/IES Standard 90.1–2013 efficiency level to that at the Federal minimum efficiency level.

** Energy savings determined from comparing SPVU energy consumption at each TSL to that at the ASHRAE 90.1–2013 efficiency level.

[99] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis'' (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*).

[100] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for SPVAC and SPVHP equipment. In accordance with OMB's guidelines on regulatory analysis,[101] DOE calculated the NPV using both a 7-percent and a 3-percent real discount rate.

Table V.14 shows the consumer NPV results using the ASHRAE baseline with impacts counted over the lifetime of equipment purchased in 2019–2048. Results using the EPCA baseline can be found in chapter 10 of the final rule TSD.

TABLE V.14—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR SPVUS SHIPPED IN 2019–2048

Discount rate	Trial standard level ** (billion 2014$)			
	1	2	3	4
3 percent	0.20	0.38	(0.33)	(0.55)
7 percent	0.07	0.11	(0.27)	(0.43)

* Parentheses indicate negative values.

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.15. The impacts are counted over the lifetime of SPVU equipment purchased in 2019–2027. As mentioned previously, such results are presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.15—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR SPVUS: 9 YEARS OF SHIPMENTS 2019–2027

Discount rate	Trial standard level ** (billion 2014$)			
	1	2	3	4
3 percent	0.08	0.15	0.06	(0.15)
7 percent	0.04	0.06	(0.03)	(0.19)

* Parentheses indicate negative values.

The above results reflect the use of a constant price trend over the analysis period (see section IV.G.1.b of this document). DOE also conducted a sensitivity analysis that considered one scenario with price decrease and one scenario with a price increase. The results of these alternative cases are presented in appendix 10B of the final rule TSD. In the price increase case, the NPV of consumer benefits is lower than in the default case. In the price decrease case, the NPV of consumer benefits is higher than in the default case.

c. Indirect Impacts on Employment

DOE expects energy conservation standards for SPVUs to reduce energy bills for consumers of those products, with the resulting net savings being redirected to other forms of economic activity. These expected shifts in spending and economic activity could affect the demand for labor. As described in section IV.M of this document, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames (2019–2023), where these uncertainties are reduced.

The results suggest that the adopted standards are likely to have a negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the final rule TSD presents detailed results regarding anticipated indirect employment impacts.

4. Impact on Utility or Performance of Equipment

In performing the engineering analysis, DOE considered efficiency levels that may be achieved using design options that would not lessen the utility or performance of the individual classes of equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(IV)) As presented in section III.C of this document, DOE concluded that the efficiency levels adopted in this final rule are technologically feasible and would not reduce the utility or performance of SPVACs and SPVHPs. SPVAC and SPVHP manufacturers currently offer equipment that meets or exceeds the amended standard levels.

5. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a standard. It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. DOE transmitted a copy of its proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. In its assessment letter responding to DOE, received on March 2, 2015, DOJ expressed concerns that the proposed changes could have an effect on competition and urged DOE to take this into account in determining its final

[101] ''OMB Circular A–4, section E,'' U.S. Office of Management and Budget, September 2003. Available online at *http://www.whitehouse.gov/omb/circulars_a004_a-4*.

standards. Part of this concern was based on an understanding that the proposed standards would require manufacturers to increase the size and footprint of SPVUs, which may not be feasible or acceptable to consumers. In response to DOJ concerns, DOE notes that the technologies required to reach the adopted level are not proprietary, are understood by the industry, and are generally available to all manufacturers. In its engineering analysis, DOE concluded that the typical design path would require changes the size of the heat exchanger but would not affect the outer dimensions of the product. Due to the accessible nature of these technologies and equipment form factors, as well as their current, proven implementation through existing designs currently available in the marketplace, DOE has concluded that the standard levels included in this final rule will not result in the lessening of competition. DOE is publishing the Attorney General's assessment at the end of this final rule.

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 (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 final rule TSD presents the estimated reduction in generating capacity, relative to both the ASHRAE and EPCA base case, for the TSLs that DOE considered in this rulemaking.

Energy conservation from amended standards for SPVUs is expected to yield environmental benefits in the form of reduced emissions of air pollutants and GHGs. Table V.16 provides DOE's estimate of cumulative emissions reductions expected to result from the TSLs considered in this rulemaking using the ASHRAE baseline, while results using the EPCA baseline can be found in chapter 13 of the final rule TSD. The table includes both power sector emissions and upstream emissions. The emissions were calculated using the multipliers discussed in section IV.J. DOE reports annual emissions reductions for each TSL in chapter 13 of the final rule TSD.

TABLE V.16—CUMULATIVE EMISSIONS REDUCTIONS FOR SPVUS SHIPPED IN 2019–2048

	Trial standard level			
	1	2	3	4
Power Sector Emissions				
CO_2 (*million metric tons*)	3.65	8.39	12.8	12.9
SO_2 (*thousand tons*)	2.11	4.85	7.47	7.52
NO_X (*thousand tons*)	4.06	9.35	14.3	14.3
Hg (*tons*)	0.008	0.018	0.028	0.028
CH_4 (*thousand tons*)	0.303	0.697	1.07	1.08
N_2O (thousand tons)	0.043	0.099	0.152	0.153
Upstream Emissions				
CO_2 (*million metric tons*)	0.206	0.475	0.720	0.722
SO_2 (*thousand tons*)	0.038	0.088	0.134	0.134
NO_X (*thousand tons*)	2.95	6.82	10.32	10.3
Hg (*tons*)	0.000	0.000	0.000	0.000
CH_4 (*thousand tons*)	16.3	37.6	57.0	57.1
N_2O (thousand tons)	0.002	0.004	0.007	0.007
Total FFC Emissions				
CO_2 (*million metric tons*)	3.85	8.87	13.6	13.6
SO_2 (*thousand tons*)	2.15	4.94	7.60	7.66
NO_X (*thousand tons*)	7.01	16.2	24.6	24.7
Hg (*tons*)	0.01	0.02	0.03	0.03
CH_4 (*thousand tons*)	16.6	38.3	58.1	58.2
CH_4 (thousand *tons* CO_2eq)*	465	1,074	1,626	1,629
N_2O (thousand tons)	0.04	0.10	0.16	0.16
N_2O (*thousand tons* CO_2eq)*	11.9	27.3	41.9	42.2

* CO_2eq is the quantity of CO_2 that would have the same GWP.

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 considered TSLs for SPVUs. As discussed in section IV.K of this document, for CO_2, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values for CO_2 emissions reductions in 2015 resulting from that process (expressed in 2014$) are represented by $12.2/metric ton (the average value from a distribution that uses a 5-percent discount rate), $40.0/metric ton (the average value from a distribution that uses a 3-percent discount rate), $62.3/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $117/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). The values for later years are higher due to increasing damages (public health, economic and environmental) as the projected magnitude of climate change increases.

Table V.17 presents the global value of CO_2 emissions reductions at each TSL using the ASHRAE baseline, while results using the EPCA baseline are available in chapter 14 of the final rule TSD. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies

upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values; these results are presented in chapter 14 of the final rule TSD for both the ASHRAE and EPCA baselines.

TABLE V.17—ESTIMATES OF GLOBAL PRESENT VALUE OF CO2 EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2019–2048

TSL	SCC Case * million 2014$			
	5% Discount rate, average *	3% Discount rate, average *	2.5% Discount rate, average *	3% Discount rate, 95th percentile *
Power Sector Emissions				
1	24.9	115	183	350
2	56.8	263	418	801
3	89.8	410	650	1,248
4	90.8	413	655	1,258
Upstream Emissions				
1	1.38	6.41	10.2	19.6
2	3.16	14.7	23.5	45.0
3	4.95	22.8	36.2	69.4
4	4.99	22.9	36.3	69.7
Total FFC Emissions				
1	26.3	121	193	369
2	60.0	278	442	846
3	94.7	433	686	1,317
4	95.8	436	692	1,328

* For each of the four cases, the corresponding SCC value for emissions in 2015 is 12.0, $40.0, $62.3, and $117 per metric ton (2014$). The values are for CO_2 only (*i.e.,* not CO_{2eq} of other GHGs).

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other GHG emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed on reduced 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 rule the most recent values and analyses resulting from the interagency review process.

DOE also estimated the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from the considered TSLs for SPVUs. The dollar-per-ton value that DOE used is discussed in section IV.K of this document. Table V.18 presents the cumulative present values for NO_X emissions for each TSL using the ASHRAE baseline calculated using 7-percent and 3-percent discount rates. Results using the EPCA baseline are available in chapter 14 of the final rule TSD.

TABLE V.18—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR SPVUS SHIPPED IN 2019–2048

TSL	million 2014$	
	3% discount rate	7% discount rate
Power Sector Emissions		
1	14.3	5.69
2	32.8	12.8
3	51.4	21.0
4	51.8	21.4
Upstream Emissions		
1	10.3	3.99
2	23.7	9.01
3	36.8	14.7
4	37.0	14.9
Total FFC Emissions		
1	24.7	9.68
2	56.5	21.8
3	88.2	35.6
4	88.8	36.3

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6313(a)(6)(B)(ii)(VII)) No other factors were considered in this analysis.

8. Summary of National Economic Impacts

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the consumer savings calculated for each TSL considered in this rulemaking. Table V.19 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each TSL considered in this rulemaking using the ASHRAE baseline, at both a 7-percent and 3-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE V.19—NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	SCC Case $12.0/ Metric ton and medium NO_X value	SCC Case $40.0/ Metric ton and medium NO_X value	SCC Case $62.3/ Metric ton and medium NO_X value	SCC Case $117/ Metric ton and medium NO_X value
Consumer NPV at 3% Discount Rate Added with: (million 2014$)				
1	0.25	0.34	0.42	0.59
2	0.49	0.71	0.88	1.28
3	(0.14)	0.20	0.45	1.08
4	(0.37)	(0.03)	0.23	0.86
Consumer NPV at 7% Discount Rate Added with: (million 2014$)				
1	0.10	0.20	0.27	0.45
2	0.20	0.41	0.58	0.98
3	(0.14)	0.20	0.46	1.09
4	(0.30)	0.04	0.30	0.93

* These label values represent the global SCC in 2015, in 2014$.

In considering the above results, two issues are relevant. First, the national operating cost savings are domestic U.S. monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2019 to 2048. Because CO_2 emissions have a very long residence time in the atmosphere,[102] the SCC values in future years reflect future climate-related impacts that continue beyond 2100.

C. Conclusions

Any new or amended energy conservation standard for any class of SPVAC and SPVHP equipment must demonstrate that adoption of a uniform national standard more stringent than the amended ASHRAE Standard 90.1 for SPVAC and SPVHP equipment would result in significant additional conservation of energy, is technologically feasible and economically justified, and is supported by clear and convincing evidence. (42 U.S.C. 6313(a)(6)(A)(i)(II)) 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. 6313(a)(6)(B)(ii))

DOE considered the impacts of potential standards at each TSL, beginning with the maximum technologically feasible level, to determine whether that level met the evaluation criteria. If the max-tech level was not justified, DOE then considered the next most-efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified, results in significant additional conservation of energy, and is supported by clear and convincing evidence.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, tables in this section present a summary of the results of DOE's quantitative analysis for each TSL. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard and impacts on employment.

1. Benefits and Burdens of TSLs Considered for SPVU Standards

Table V.20 and Table V.21 summarize the quantitative impacts estimated for each TSL for SPVAC and SPVHP equipment using the ASHRAE baseline. The national impacts are measured over the lifetime of SPVAC and SPVHP equipment purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2019–2048). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results. The efficiency levels contained in each TSL are described in section V.A. Results for the amended standard level using the EPCA baseline can be found in Table V.23 through Table V.27.

TABLE V.20—SUMMARY OF ANALYTICAL RESULTS FOR SPVAC AND SPVHP EQUIPMENT: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
Cumulative FFC National Energy Savings (quads)				
	0.06	0.15	0.22	0.22
NPV of Consumer Costs and Benefits* (2014$ billion)**				
3% discount rate	0.20	0.38	(0.33)	(0.55)
7% discount rate	0.07	0.11	(0.27)	(0.43)

[102] The atmospheric lifetime of CO_2 is estimated of the order of 30–95 years. Jacobson, MZ, ''Correction to 'Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming,' '' *J. Geophys. Res.* 110. pp. D14105 (2005).

TABLE V.20—SUMMARY OF ANALYTICAL RESULTS FOR SPVAC AND SPVHP EQUIPMENT: NATIONAL IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4
Cumulative FFC Emissions Reduction (Total FFC Emissions)				
CO_2 (*million metric tons*)	3.85	8.87	13.6	13.6
SO_2 (*thousand tons*)	2.15	4.94	7.60	7.66
NO_X (*thousand tons*)	7.01	16.2	24.6	24.7
Hg (*tons*)	0.01	0.02	0.03	0.03
CH_4 (*thousand tons*)	16.6	38.3	58.1	58.2
CH_4 (*thousand tons CO_2eq*)*	465	1,074	1,626	1,629
N_2O (*thousand tons*)	0.04	0.10	0.16	0.16
N_2O (*thousand tons CO_2eq*)*	11.9	27.3	41.9	42.2
Value of Emissions Reduction (Total FFC Emissions)				
CO_2 (*2014$ billion*)**	0.03 to 0.37	0.06 to 0.85	0.09 to 1.32	0.10 to 1.33
NO_X—3% discount rate (*2014$ million*)	24.7	56.5	88.2	88.8
NO_X—7% discount rate (*2014$ million*)	9.68	21.8	35.6	36.3

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP) as the subject emission.
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.
*** Parentheses indicate negative values.
† Energy and emissions savings determined from comparing SPVU energy consumption and emissions at the ANSI/ASHRAE/IES Standard 90.1–2013 efficiency level to that at the Federal minimum efficiency level.

TABLE V.21—SUMMARY OF ANALYTICAL RESULTS FOR SPVAC AND SPVHP EQUIPMENT: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1*	TSL 2*	TSL 3*	TSL 4*
Manufacturer Impacts				
Industry NPV (2014$ million) (No-new-standards case INPV = 41.2)	35.7 to 36.7	33.9 to 37.0	26.3 to 34.8	5.0 to 20.4
Industry NPV *(% change)*	(13.3) to (10.9)	(17.9) to (10.3)	(36.3) to (15.7)	(87.8) to (50.6)
Consumer Average LCC Savings (2014$)				
SPVACs <65,000 Btu/h	115	174	130	(678)
SPVHPs <65,000 Btu/h	375	435	817	(153)
Consumer Median PBP (years)				
SPVACs <65,000 Btu/h	9.1	9.6	12.7	25.2
SPVHPs <65,000 Btu/h	4.5	5.8	6.2	14.4
% of Consumers that Experience Net Cost				
SPVACs <65,000 Btu/h	28	39	53	85
SPVHPs <65,000 Btu/h	0	2	4	69

* Parentheses indicate negative (−) values.

DOE first considered TSL 4, which represents the max-tech efficiency levels. TSL 4 would save an estimated 0.22 quads of energy, an amount DOE considers significant. Under TSL 4, the NPV of consumer benefit would be negative $0.43 billion using a discount rate of 7 percent, and negative $0.55 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 4 are 13.6 Mt of CO_2, 7.66 thousand tons of SO_2, 24.7 thousand tons of NO_X, 58.2 thousand tons of CH_4, and 0.16 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 4 ranges from $0.10 billion to $1.33 billion.

At TSL 4, the average LCC savings for SPVAC and SPVHP equipment are −$678 and −$153, respectively. On average, these consumers have a higher LCC over the lifetime of the equipment than consumers of less-efficient equipment. The median PBPs are 25.2 and 14.4 years for SPVAC and SPVHP consumers, respectively. The fraction of SPVAC and SPVHP consumers experiencing a net LCC cost are 85 and 69 percent, respectively.

At TSL 4, the projected change in INPV ranges from a decrease of $36.2 million to a decrease of $20.9 million, which represent a decrease of 87.8 percent and a decrease of 50.6 percent, respectively. DOE estimates 97% of models on the market would require redesign. Industry conversion costs are expected to total $40.9 million.

The Secretary concluded that at TSL 4 for SPVAC and SPVHP equipment, the benefits of energy savings, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the negative NPV of consumer benefits, economic burden on many consumers, and the impacts on manufacturers, including the conversion costs and profit margin impacts that could result in a large reduction in INPV. Consequently, the Secretary has concluded that TSL 4 is not economically justified.

DOE then considered TSL 3, which would save an estimated 0.22 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be negative $0.27 billion using a discount rate of 7 percent, and negative $0.33 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 13.6 Mt of CO_2, 7.60 thousand tons of SO_2, 24.6 thousand tons of NO_X, 58.1 thousand tons of CH_4, and 0.16 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 3 ranges from $0.09 billion to $1.32 billion.

At TSL 3, the average LCC savings for SPVAC and SPVHP equipment are $130 and $817, respectively. The median PBPs are 12.7 and 6.2 years for SPVAC and SPVHP consumers, respectively. The fraction of SPVAC and SPVHP consumers experiencing a net LCC cost are 53 and 4 percent, respectively.

At TSL 3, the projected change in INPV ranges from a decrease of $15.0 million to a decrease of $6.5 million, which represent decreases of 36.3 percent and 15.7 percent, respectively. DOE estimates 96 percent of models on the market would require redesign. Industry conversion costs are expected to total $19.8 million.

The Secretary concluded that at TSL 3 for SPVAC and SPVHP equipment, the benefits of energy savings, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on many SPVAC consumers, and the impacts on manufacturers, including the conversion costs and profit margin impacts that could result in a large reduction in INPV. Consequently, the Secretary has concluded that TSL 3 is not economically justified.

DOE then considered TSL 2, which would save an estimated 0.15 quads of energy, an amount DOE considers significant. Under TSL 2, the NPV of consumer benefit would be $0.11 billion using a discount rate of 7 percent, and $0.38 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 2 are 8.87 Mt of CO_2, 4.94 thousand tons of SO_2, 16.2 thousand tons of NO_X, 38.3 thousand tons of CH_4, and 0.10 thousand tons of N_20. The estimated monetary value of the CO_2 emissions reduction at TSL 2 ranges from $0.6 billion to $0.85 billion.

At TSL 2, the average LCC savings for SPVAC and SPVHP equipment are $174 and $435, respectively. The median PBPs are 9.6 and 5.8 years for SPVAC and SPVHP consumers, respectively. The fraction of SPVAC and SPVHP consumers experiencing a net LCC cost are 39 and 2 percent, respectively.

At TSL 2, the projected change in INPV ranges from a decrease of $7.4 million to a decrease of $4.3 million, which represent a decrease of 17.9 percent and a decrease of 10.3 percent, respectively. DOE estimates 71 percent of models on the market would require redesign. Industry conversion costs are expected to total $9.2 million.

After considering the analysis and weighing the benefits and burdens, the Secretary has concluded that at TSL 2 for SPVUs, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, the estimated monetary value of the emissions reductions, and positive average LCC savings would outweigh the negative impacts on some consumers and on manufacturers, including the conversion costs that could result in a reduction in INPV for manufacturers. The Secretary has concluded that TSL 2 would save a significant amount of energy, is technologically feasible and economically justified, and is supported by clear and convincing evidence.

Therefore, based on the above considerations, DOE adopts the energy conservation standards for SPVUs at TSL 2. Table V.22 presents the amended energy conservation standards for SPVUs. As mentioned previously, for SPVHPs greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h and for SPVUs greater than or equal to 135,000 Btu/h and less than 240,000 Btu/h, there are no models on the market, and, therefore, DOE had no basis with which to develop higher efficiency levels or conduct analyses. For SPVACs greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h, there are no models on the market higher than the ASHRAE 90.1–2013 level, and, therefore, DOE has no clear and convincing evidence with which to adopt higher levels. As a result, DOE is adopting amended standards for SPVUs equivalent to those in ASHRAE Standard 90.1–2013 for these four equipment classes, as required by law.

TABLE V.22—AMENDED ENERGY CONSERVATION STANDARDS FOR SPVUS

Equipment type	Cooling capacity	Efficiency level	Compliance date: Products manufactured on and after . . .
Single Package Vertical Air Conditioner.	<65,000 Btu/h	EER =11.0	September 23, 2019.
	≥65,000 Btu/h and <135,000 Btu/h	EER = 10.0	October 9, 2015.
	≥135,000 Btu/h and <240,000 Btu/h	EER = 10.0	October 9, 2016.
Single Package Vertical Heat Pump	<65,000 Btu/h	EER = 11.0 COP = 3.3	September 23, 2019.
	≥65,000 Btu/h and <135,000 Btu/h	EER = 10.0 COP = 3.0	October 9, 2015.
	≥135,000 Btu/h and <240,000 Btu/h	EER = 10.0 COP = 3.0	October 9, 2016.

Table V.23 through Table V.27 present the benefits and burdens on the consumer, the manufacturer, and the Nation in comparison to a base case including the current Federal standards (*i.e.,* the EPCA baseline), although only the incremental quantitative impacts from the ASHRAE baseline to the various TSL standard levels under consideration was used to amend these standards. The results compared to the ASHRAE baseline are also included for comparison.

TABLE V.23—CONSUMER IMPACT RESULTS FOR SPVU AMENDED STANDARDS (TSL 2) (BASELINE COMPARISON)

Equipment class	Baseline	Life-cycle cost, all customers (2014$)			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings (2014$)	% of consumers that experience			
						Net cost	No impact	Net benefit	
SPVACs <65 kBtu/h	ASHRAE	5,035	12,499	17,534	174	39	1	59	9.6
	EPCA	5,034	12,350	17,384	280	43	1	56	10.6
SPVHPs <65 kBtu/h	ASHRAE	5,697	31,887	37,584	435	2	1	96	5.8
	EPCA	5,696	30,968	36,664	392	22	1	77	9.9
SPVACs 65–135 kBtu/h	ASHRAE								
	EPCA	6,617	20,776	27,393	833	14	29	57	7.3
SPVHPs 65–135 kBtu/h	ASHRAE								
	EPCA	7,430	58,777	66,207	287	31	29	40	11.3

TABLE V.24—MANUFACTURER IMPACT ANALYSIS RESULTS FOR SPVU AMENDED STANDARDS (TSL 2) (BASELINE COMPARISON)

	ASHRAE baseline	EPCA baseline
Base Case INPV (2014$ millions)	41.2	38.8
Standards Case INPV (2014$ millions)	33.9 to 37.0	27.5 to 34.9
Change in INPV (% Change)	(17.9) to (10.3)	(29.1) to (10.0)

TABLE V.25—CUMULATIVE NATIONAL PRIMARY AND FULL-FUEL-CYCLE ENERGY SAVINGS AND NET PRESENT VALUE OF CUSTOMER BENEFIT FOR SPVU AMENDED STANDARDS (TSL 2) FOR UNITS SOLD IN 2019–2048

[Baseline comparison]

	ASHRAE baseline	EPCA baseline
National Primary Energy Savings (quads)	0.14	0.29
National FFC Energy Savings (quads)	0.15	0.31
NPV at 3% (billion 2014$)	0.38	0.82
NPV at 7% (billion 2014$)	0.11	0.22

TABLE V.26—CUMULATIVE EMISSIONS REDUCTION, GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION, AND PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR AMENDED STANDARDS (TSL 2) FOR SPVUS (BASELINE COMPARISON)

	Power sector and site emissions *		Upstream emissions		Total FFC emissions	
	ASHRAE baseline	EPCA baseline	ASHRAE baseline	EPCA baseline	ASHRAE baseline	EPCA baseline
Cumulative Emissions Reductions						
CO_2 (million metric tons)	8.39	17.6	0.475	0.996	8.87	18.6
SO_2 (thousand tons)	4.85	10.2	0.088	0.185	4.94	10.4
NO_X (thousand tons)	9.35	19.6	6.82	14.3	16.2	33.9
Hg (tons)	0.018	0.038	0.000	0.000	0.02	0.04
CH_4 (thousand tons)	0.697	1.46	37.6	78.8	38.3	80.3
N_2O (thousand tons)	0.099	0.207	0.004	0.009	0.10	0.22
Global Present Value of CO_2 Emissions Reduction, SCC Scenario ** (million 2014$)						
5% discount rate, average	56.8	120	3.16	6.67	60.0	127
3% discount rate, average	263	555	14.7	31.0	278	586
2.5% discount rate, average	418	882	23.5	49.4	442	932
3% discount rate, 95th percentile	801	1690	45.0	94.6	846	1785
Present Value of NO_X Emissions Reduction (million 2014$)						
3% discount rate	32.8	69.4	23.7	49.8	56.5	119
7% discount rate	12.8	27.4	9.01	19.2	21.8	46.6

* Includes site emissions associated with additional use of natural gas by more-efficient SPVUs.
** For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.0, $62.3 and $117 per metric ton (2014$).

TABLE V.27—SPVU AMENDED STANDARDS (TSL 2): NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS (BASELINE COMPARISON)

	(Billion 2014$)							
	SCC value of $12.0/metric ton CO_2* and medium value for NO_X		SCC value of $40.0/metric ton CO_2* and medium value for NO_X		SCC value of $62.3/metric ton CO_2* and medium value for NO_X		SCC value of $117/metric ton CO_2* and medium value for NO_X	
	ASHRAE baseline	EPCA baseline	ASHRAE baseline	EPCA baseline	ASHRAE baseline	EPCA baseline	ASHRAE baseline	EPCA baseline
Consumer NPV at 3% Discount Rate added with each SCC and NO_X value	0.49	1.06	0.71	1.52	0.88	1.87	1.28	2.72
Consumer NPV at 7% Discount Rate added with each SCC and NO_X value	0.20	0.40	0.41	0.86	0.58	1.20	0.98	2.06

Note: Parentheses indicate negative values.
* These label values represent the global SCC in 2015, in 2014$.

2. Summary of Benefits and Costs (Annualized) of the Amended Standards

The benefits and costs of the adopted standards can also be expressed in terms of annualized values. The annualized net benefit is the sum of (1) the annualized national economic value (expressed in 2014$) of the benefits from operating products that meet the adopted standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase costs, and (2) the annualized monetary value of the benefits of CO_2 and NO_X emission reductions.[103]

Table V.28 shows the annualized values for SPVUs under TSL 2, expressed in 2014$, compared to the ASHRAE baseline. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, (for which DOE used a 3-percent discount rate along with the SCC series that has a value of $40.0/t in 2015),[104] the estimated cost of the standards in this rule is $20 million per year in increased equipment costs, while the estimated annual benefits are $28 million in reduced equipment operating costs, $13 million in CO_2 reductions, and $1.6 million in reduced NO_X emissions. In this case, the net benefit amounts to $24 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series has a value of $40.0/t in 2015, the estimated cost of the standards is $24 million per year in increased equipment costs, while the estimated annual benefits are $43 million in reduced operating costs, $13 million in CO_2 reductions, and $2.7 million in reduced NO_X emissions. In this case, the net benefit amounts to $35 million per year.

TABLE V.28—ANNUALIZED BENEFITS AND COSTS OF ADOPTED STANDARDS (TSL 2) FOR SPVUS

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
		Million 2014$/year		
Benefits				
Consumer Operating Cost Savings	7%	28	26	28
	3%	43	39	44
CO_2 Reduction Value ($12.2/t case)**	5%	3.7	3.6	3.7
CO_2 Reduction Value ($40.0/t case)**	3%	13	13	14
CO_2 Reduction Value ($62.3/t case)**	2.5%	20	20	20
CO_2 Reduction Value ($117/t case)**	3%	41	41	41
NO_X Reduction Value†	7%	1.6	1.6	1.6
	3%	2.7	2.7	2.7
Total Benefits††	7% plus CO_2 range	33 to 71	31 to 68	34 to 71
	7%	43	41	43
	3% plus CO_2 range	49 to 86	45 to 83	50 to 87
	3%	59	55	60
Costs				
Consumer Incremental Product Costs	7%	20	25	19
	3%	24	32	24
Net Benefits				
Total††	7% plus CO_2 range	14 to 51	6 to 44	14 to 52
	7%	24	16	24
	3% plus CO_2 range	25 to 62	14 to 51	26 to 63

[103] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (2020, 2030, etc.), and then discounted the present value from each year to 2015. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year that yields the same present value.

[104] DOE used a 3-percent discount rate because the SCC values for the series used in the calculation were derived using a 3-percent discount rate (see section IV.K).

TABLE V.28—ANNUALIZED BENEFITS AND COSTS OF ADOPTED STANDARDS (TSL 2) FOR SPVUS—Continued

	3%	35	23	36

* This table presents the annualized costs and benefits associated with SPVUs shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the SPVUs purchased from 2019–2048. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2015* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect a constant rate in the Primary Estimate, an increasing rate in the Low Benefits Estimate, and a decline in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.2.a.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor.

† The $/ton values used for NO_X are described in section IV.K.

†† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with 3-percent discount rate ($40.0/t case). In the rows labeled ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that the adopted standards for SPVUs are intended to address are as follows:

(1) Insufficient information and the high costs of gathering and analyzing relevant information leads some consumers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases the benefits of more-efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of equipment that are not captured by the users of such equipment. These benefits include externalities related to public health, environmental protection and national energy security that are not reflected in energy prices, such as reduced emissions of air pollutants and GHGs that impact human health and global warming. DOE attempts to qualify some of the external benefits through use of SCC values.

The Administrator of the Office of Information and Regulatory Affairs (OIRA) in the OMB has determined that the proposed regulatory action is not a significant regulatory action under section (3)(f) of Executive Order 12866. Accordingly, this rule was not reviewed by OIRA.

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, OIRA has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Administrative Procedure Act

The Administrative Procedure Act, 5 U.S.C. 553, establishes the procedural requirements for rulemaking. It requires, generally, that an agency publish notice and provide opportunity for public comment before adopting a rule. In this final rule, DOE has adopted regulatory text applicable to packaged terminal air conditioners and packaged terminal heat pumps that corrects table number references in current regulatory text. This text is being adopted without providing prior notice and an opportunity for public comment pursuant to authority at 5 U.S.C. 553(b)(B), which authorizes an agency to waive those requirements when there is good cause to do so because such procedures are unnecessary, impracticable or contrary to the public interest. Because these corrections, merely correcting table references, are non-substantive in nature, DOE finds good cause to waive the requirement for providing prior notice and an opportunity for public comment as such procedures are unnecessary.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an final regulatory flexibility analysis (FRFA) for any rule that by law must be 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 (Aug. 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 (*www.energy.gov/gc/office-general-counsel*). DOE has prepared the following FRFA for the products that are the subject of this rulemaking.

For manufacturers of SPVACs and SPVHPs, the SBA has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by NAICS code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. SPVAC and SPVHP manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category.

1. Description and Estimated Number of Small Entities Regulated

DOE reviewed the potential standard levels considered in this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. To better assess the potential impacts of this rulemaking on small entities, DOE conducted a more focused inquiry of the companies that could be small business manufacturers of equipment covered by this rulemaking. During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved industry trade association membership directories (*e.g.,* AHRI), information from previous rulemakings, individual company Web sites, and market research tools (*e.g.,* Hoover's reports) to create a list of companies that manufacture or sell SPVAC and SPVHP equipment covered by this rulemaking. DOE also asked stakeholders and industry representatives if they were aware of any additional small manufacturers during manufacturer interviews and at DOE public meetings. DOE reviewed publicly available data and contacted various companies on its complete list of manufacturers, as necessary, to determine whether they met the SBA's definition of a small business manufacturer. DOE screened out companies that do not offer equipment impacted by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned and operated.

DOE identified nine companies that produce equipment covered under the SPVU energy conservation standard rulemaking. Three of the nine companies are foreign-owned and operated. Of the remaining six domestic businesses, two companies met the SBA definition of a ''small business.'' One small business manufacturer has the largest market share in the SPVU industry and approximately 37 percent of the active listings in the AHRI Directory.[105] Based on marketing literature and product offerings, the second small domestic manufacturer focuses on industrial capacities. However, no data on the product efficiency or market share was publicly available for the second small manufacturer.

2. Description and Estimate of Compliance Requirements

At the time of analysis, the domestic small manufacturer with the largest market share had 347 active listings. One hundred and twenty three of those listings, or 35 percent, would meet the standards. The other 65 percent of the listings would not meet the standard. The small manufacturer would need to either redesign those products or drop those products and move their customers to more-efficient offerings. However, DOE notes that the small manufacturer had more product listings than any other manufacturer that could meet the standard.

The domestic small manufacturer with the smaller market share had 40 active listings. However, this manufacturer is not a member of AHRI and does not publish any efficiency data on its product offerings. Thus, DOE was unable to determine what portion of products would require redesign for amended energy conservation standard. At the standard level, this manufacturer would need to redesign its entire product offering or leave the SPVU market.

If small manufacturers chose to redesign their products that do not meet the standard, they would need to make capital conversion and product conversion investments. DOE estimated an average total conversion cost of $1.0 million per manufacturer. DOE expects this investment, which is roughly 8 percent of an average manufacturer's annual revenue, to be made over the 4-year period between the publication of the final rule and the effective date of the standard. Since small businesses may have a greater difficulty obtaining credit or may obtain less favorable terms than larger businesses, the small manufacturers may face higher overall costs if they choose to finance the conversion costs resulting from the change in standard.

DOE notes that the small manufacturer with the larger market share produces more SPVU units than its larger competitors. The company could potentially spread the conversion costs over a larger number of units than its competitors. However, the small manufacturer did express concern in MIA interviews that such an effort would tie up their available engineering resources and prevent them from focusing on technology advancements and customer-driven feature requests. Larger manufacturers, which do not have the same shipment volumes as the small manufacturer, may have fewer engineers dedicated to SPVU equipment but potentially could marshal engineering and testing resources across their organization. The concern about adequate availability of engineering resources would also likely apply to the small manufacturer with the smaller market share.

Smaller manufacturers generally pay higher prices for purchased parts, such as BPM motors, relative to larger competitors. Even the small manufacturer with the larger market share and the highest number of SPVU shipments of any manufacturer in the industry, could pay higher prices for component than the larger competition. If their competitors have centralized sourcing, those companies could combine component purchases for SPVU product lines with purchases for other non-SPVU product lines and obtain higher volume discounts than those available to small manufacturers.

Due to the potential conversion costs, the potential engineering and testing effort, and the potential increases in component prices that result from a standard, DOE conducted this regulatory flexibility analysis. Based on DOE's analysis, including interviews

[105] Based on model listings in the AHRI directory accessed on June 6, 2012 (Available at: *http://www.ahridirectory.org/ahridirectory/pages/ac/defaultSearch.aspx*).

with manufacturers, the Department believes one of the identified small businesses would be able to meet the standard. That small manufacturer has the strong market share, technical expertise, and production capability to meet the amended standard. The company successfully competes in both the current baseline-efficiency and premium-efficiency market segments. No data on the efficiency or market share of the second small manufacturer is available to analyze.

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 this final rule.

4. Significant Alternatives to the Rule

The discussion above analyzes impacts on small businesses that would result from DOE's rule. In addition to the other TSLs being considered, the final rule TSD includes an analysis of the following policy alternatives: (1) No change in standard; (2) consumer rebates; (3) consumer tax credits; (4) manufacturer tax credits; (5) voluntary energy efficiency targets; (6) early replacement; and (7) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the adopted standards, DOE does not intend to consider these alternatives further because DOE has determined that the energy savings of these alternatives are significantly smaller than those that would be expected to result from adoption of the standards (ranging from approximately 0.01 to 0.5 percent of the energy savings from the adopted standards). Accordingly, DOE is declining to adopt any of these alternatives and is adopting the standards set forth in this document. (See chapter 17 of the final rule TSD for further detail on the policy alternatives DOE considered.)

Additional compliance flexibilities may be available through other means. For example, individual manufacturers may petition for a waiver of the applicable test procedure. Further, EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8 million may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard. Additionally, section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 430, subpart E, and part 1003 for additional details.

D. Review Under the Paperwork Reduction Act

Manufacturers of SPVACs and SPVHPs must certify to DOE that their equipment complies with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the DOE test procedures for SPVACs and SPVHPs, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including SPVACs and SPVHPs. See generally, 10 CFR part 429. The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

E. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the 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 app. B, B(1)–(5). The rule fits within this category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this rule is available at *http://cxnepa.energy.gov/*.

F. 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. DOE has examined this rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly

specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. 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 regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a),(b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf*.

DOE has concluded that although this final rule does not contain a Federal intergovernmental mandate, it may require expenditures of $100 million or more in any one year on the private sector. Such expenditures may include (1) investment in research and development and in capital expenditures by SPVU 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 SPVUs.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. (2 U.S.C. 1532(c)) The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the notice of final rulemaking and the ''Regulatory Impact Analysis'' section of the TSD for this final rule responds to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. (2 U.S.C. 1535(a)) DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(d), (f), and (o), 6313(e), and 6316(a), this final rule would establish amended energy conservation standards for SPVAC and SPVHP equipment that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for this final rule.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action, which sets forth amended energy conservation standards for SPVAC and SPVHP equipment, is not a significant energy action because the 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 this final rule.

M. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 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*.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Issued in Washington, DC, on August 28, 2015.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 431.97 is amended by:

■ a. Redesignating Table 8 in paragraph (e) as Table 10, and Table 9 in paragraph (f) as Table 11; and

■ b. Revising paragraph (d).

The revisions read as follows:

§ 431.97 Energy efficiency standards and their compliance dates.

* * * * *

(d)(1) Each single package vertical air conditioner and single package vertical heat pump manufactured on or after January 1, 2010, but before October 9, 2015 (for models ≥65,000 Btu/h and <135,000 Btu/h) or October 9, 2016 (for models ≥135,000 Btu/h and <240,000 Btu/h), must meet the applicable minimum energy conservation standard level(s) set forth in Table 7 of this section.

TABLE 7 TO § 431.97—MINIMUM EFFICIENCY STANDARDS FOR SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS

Equipment type	Cooling capacity	Sub-category	Efficiency level	Compliance date: products manufactured on and after . . .
Single package vertical air conditioners and single package vertical heat pumps, single-phase and three-phase.	<65,000 Btu/h	AC	EER = 9.0	January 1, 2010
		HP	EER = 9.0 COP = 3.0	January 1, 2010
Single package vertical air conditioners and single package vertical heat pumps.	≥65,000 Btu/h and <135,000 Btu/h.	AC	EER = 8.9	January 1, 2010
		HP	EER = 8.9 COP = 3.0	January 1, 2010
Single package vertical air conditioners and single package vertical heat pumps.	≥135,000 Btu/h and <240,000 Btu/h.	AC	EER = 8.6	January 1, 2010
		HP	EER = 8.6 COP = 2.9	January 1, 2010

(2) Each single package vertical air conditioner and single package vertical heat pump manufactured on and after October 9, 2015 (for models ≥65,000 Btu/h and <135,000 Btu/h) or October 9, 2016 (for models ≥135,000 Btu/h and <240,000 Btu/h), but before September 23, 2019 must meet the applicable minimum energy conservation standard level(s) set forth in Table 8 of this section.

TABLE 8 TO § 431.97—MINIMUM EFFICIENCY STANDARDS FOR SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS

Equipment type	Cooling capacity	Sub-category	Efficiency level	Compliance date: Products manufactured on and after . . .
Single package vertical air conditioners and single package vertical heat pumps, single-phase and three-phase.	<65,000 Btu/h	AC	EER = 9.0	January 1, 2010
		HP	EER = 9.0 ..... COP = 3.0	January 1, 2010
Single package vertical air conditioners and single package vertical heat pumps.	≥65,000 Btu/h and <135,000 Btu/h.	AC	EER = 10.0 ...	October 9, 2015
		HP	EER = 10.0 ... COP = 3.0	October 9, 2015
Single package vertical air conditioners and single package vertical heat pumps.	≥135,000 Btu/h and <240,000 Btu/h.	AC	EER = 10.0 ...	October 9, 2016
		HP	EER = 10.0 ... COP = 3.0	October 9, 2016

(3) Each single package vertical air conditioner and single package vertical heat pump manufactured on and after September 23, 2019 must meet the applicable minimum energy conservation standard level(s) set forth in Table 9 of this section.

TABLE 9 TO § 431.97—UPDATED MINIMUM EFFICIENCY STANDARDS FOR SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS

Equipment type	Cooling capacity	Sub-category	Efficiency level	Compliance date: products manufactured on and after . . .
Single package vertical air conditioners and single package vertical heat pumps, single-phase and three-phase.	<65,000 Btu/h	AC	EER = 11.0 ...	September 23, 2019.
		HP	EER = 11.0 ... COP = 3.3	September 23, 2019.
Single package vertical air conditioners and single package vertical heat pumps.	≥65,000 Btu/h and <135,000 Btu/h.	AC	EER = 10.0 ...	October 9, 2015.
		HP	EER = 10.0 ... COP = 3.0	October 9, 2015.
Single package vertical air conditioners and single package vertical heat pumps.	≥135,000 Btu/h and <240,000 Btu/h.	AC	EER = 10.0 ...	October 9, 2016.
		HP	EER = 10.0 ... COP = 3.0	October 9, 2016.

* * * * *

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

U.S. Department of Justice
Antitrust Division
William J. Baer
Assistant Attorney General
RFK Main Justice Building
950 Pennsylvania Ave. NW
Washington, DC 20530–0001
(202) 514–2401/(202) 616–2645 (Fax)

March 2, 2015

Anne Harkavy
Deputy General Counsel for Litigation
Regulation and Enforcement
U.S. Department of Energy
Washington, DC 20585

RE: SPVU Energy Conservation Standards

Dear Deputy General Counsel Harkavy:

I am responding to your December 12, 2014 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for, and a possible revised definition of, single package vertical air conditioners (SPVACs) and single package vertical heat pumps (SPVHPs), collectively referred to as single package vertical units (SPVUs).

Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General 's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR 0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing ce1tain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to manufacturer s and consumers.

We have reviewed the proposed standards, as well as DOE's tentative conclusion not to create a space-constrained equipment class for SPVUs, contained in the Notice of Proposed Rulemaking (79 FR 78614, December 30, 2014) (NOPR) and the related Technical Support Documents. We also have reviewed information provided by industry participants and have listened to the Webinar of the Public Meeting held on 2/06/2015.

Based on our review, it appears that many SPVU manufacturers are concerned about their ability to meet DOE's proposed energy conservation standards for SPVUs in the less than 65,000 Btu/h category, where DOE is recommending a standard more stringent than that set out by the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE). In particular, manufacturers are concerned that the costs of compliance may be prohibitive, and that higher costs may necessitate higher prices to consumers who may opt to switch to other potentially less efficient products or solutions. Manufacturers are also concerned that the proposed standards will require

them to increase the size and footp1int of SPVUs, which may not be feasible or acceptable to consumers, thereby potentially limiting the range of competitive alternatives available to consumers. Although the Department of Justice is not in a position to judge whether individual manufacturers will be able to meet the proposed standards, we have some concerns that these proposed changes could have an effect on competition and we urge the Department of Energy to take this into account in determining its final energy efficiency standards for SPVUs.

In addition, it appears that DOE intends to reclassify space-constrained SPVUs in conjunction with the promulgation of the proposed standards, which would subject these products to more stringent residential energy efficiency standards. Given the lack of analysis and data available in the record on this issue, we can offer no view on the likely competitive impact of this reclassification.

Sincerely,

William J. Baer

[FR Doc. 2015–23029 Filed 9–22–15; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9325 of September 18, 2015

National Farm Safety and Health Week, 2015

By the President of the United States of America

A Proclamation

Since the days of our Revolution when farmers across the Colonies took up arms in defense of our country, America's farmers and ranchers have played a critical role in shaping our progress and forging a better future for coming generations. Through centuries of hard work, they have supplied our Nation with products and services essential to the economic and physical well-being of our society. This week, we recognize all those serving on our farms, and we recommit to safeguarding their health and livelihoods.

Farmers and ranchers make tremendous contributions to the way of life our ancestors fought to establish, yet they face considerable hazards in the course of their daily responsibilities. To protect the safety of those working on America's farms, my Administration has taken steps to guarantee they have the knowledge, tools, and resources necessary to mitigate and reduce risks to themselves and their families. From handling hazardous chemicals and machinery to working in potentially dangerous areas such as silos or grain elevators, our Nation's farmers, ranchers, and farmworkers should be able to secure the prosperity of their land, their loved ones, and their country without sacrificing their own.

That is why the Federal Government has partnered with farm families, organizations, and businesses to ensure the well-being of those who work on farms. We have strengthened our commitment to those who provide nutrition, clothing, and energy to our people, including by developing nationwide training guidelines that aim to reduce the threats posed to America's next generation of farmers and ranchers. Each year, thousands of people are injured on farms and ranches in America, and I remain committed to pursuing pragmatic, responsible solutions to prevent these tragedies from occurring.

Across our country, those who work on farms bolster our economy and nourish our people by providing what we need at a most human level, helping to uphold America's founding creed: Out of many, we are one. This week, let us recognize the steadfast dedication and commitment of agricultural producers and their families, and let us reaffirm our resolve to promote their health and safety.

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 September 20 through September 26, 2015, as National Farm Safety and Health Week. I call upon the agencies, organizations, businesses, and extension services that serve America's agricultural workers to strengthen their commitment to promoting farm safety and health programs. I also urge Americans to honor our agricultural heritage and express appreciation to our farmers, ranchers, and farmworkers for their contributions to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–24348
Filed 9–22–15; 11:15 am]
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Presidential Documents

Proclamation 9326 of September 18, 2015

National Historically Black Colleges and Universities Week, 2015

By the President of the United States of America

A Proclamation

Ensuring all members of our American family have access to higher education is fundamental to our society. A college degree can help secure a place in the middle class and broaden horizons for people of every background and belief. For years prior to the Civil War, this promise was withheld from African Americans, and the lack of a structured higher education system often prohibited them from earning their rightful piece of the American dream. This week, we recognize the sacrifices made by those who fought for the right of all our Nation's students to have equal access to a quality education, and we recommit to carrying their legacy forward by pledging our support for Historically Black Colleges and Universities (HBCUs) and all who attend them.

Countless champions from every corner of our country banded together to create the first HBCUs to resolve injustices and enable more people to realize their full talents and abilities. Though the barriers to higher education for African Americans have not been completely broken down, more than 100 HBCUs across our country have educated millions of students. These institutions help build the foundation for our middle class—they are places where dreams take flight and where opportunities flourish. Generations of African Americans have learned and grown at HBCUs, which have made extraordinary contributions to academia and produced some of our Nation's finest thinkers and greatest innovators.

HBCUs are doing their part to help the United States reach our goal of having the highest proportion of college graduates in the world by 2020, because roughly half of the students that walk these halls of learning are the first in their families to go to college. Additionally, HBCUs are home to many who otherwise might not be able to afford a college education—over 70 percent of those enrolled at HBCUs are from low-income backgrounds. My Administration is dedicated to ensuring these institutions have the resources they need, and I have made clear that all Federal agencies are expected to assist with this mission and help all students grow and thrive. To further support our goals for this decade, we have committed hundreds of millions of dollars to strengthen HBCUs and provide financial aid for those who attend them, and earlier this year I announced a plan to open doors of opportunity for even more of our people by making community college free for responsible and hardworking students. In America, nobody should be denied an education because they do not have the resources to pay for it.

This week, we reaffirm our support for HBCUs and recognize the great impact they have had on students throughout history. Education is freedom—freedom to learn, to grow, and to achieve our highest goals and aspirations. Let us honor the heroes who helped extend this right to more people, and let us rededicate ourselves to defending it so that all of America's sons and daughters—no matter where they come from or what they look like—can fulfill their God-given 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 September 20 through September 26, 2015, as National Historically Black Colleges and Universities Week. I call upon educators, public officials, professional organizations, corporations, and all Americans to observe this week with appropriate programs, ceremonies, and activities that acknowledge the countless contributions these institutions and their alumni have made to our country.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

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