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Contents

Federal Register

Vol. 82, No. 200

Wednesday, October 18, 2017

Agriculture Department
See Grain Inspection, Packers and Stockyards Administration
See Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Fast Track Generic Clearance for Collection of Qualitative Feedback on Customer Satisfaction Surveys, 48476

Bureau of Consumer Financial Protection
PROPOSED RULES
Mortgage Servicing Rules Under Truth in Lending Act (Regulation Z), 48463–48469
NOTICES
Meetings:
Consumer Advisory Board, 48497–48498

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48514–48515

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Child and Family Services Plan, Annual Progress and Services Review, and Annual Budget Expenses Request and Estimated Expenditures, 48515

Coast Guard
RULES
Drawbridge Operations:
Delaware River, Pennsauken Township, NJ, 48419–48420
Safety Zones:
Cumberland River, Nashville, TN, 48420–48422
Ohio River, Cincinnati, OH, 48422–48424
Special Local Regulations:
Clinch River, Oak Ridge, TN, 48417–48419

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Commodity Futures Trading Commission
RULES
Comparability Determination for European Union:
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 48394–48413
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48496–48497

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 48498

Corporation for National and Community Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Request To Transfer Segal Education Award Amount, Accept/Decline Award Transfer Form, etc., 48498–48499

Defense Department
See Navy Department
NOTICES
Meetings:
Defense Health Board, 48499

Economic Development Administration
NOTICES
Trade Adjustment Assistance; Petitions, 48480

Education Department
RULES
Federal Student Aid Programs (Institutional Eligibility):
Foreign Institutions Affected by Natural Disasters, 48424–48425

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard, 48439–48442
Illinois; Redesignation of Chicago and Granite City Areas to Attainment of 2008 Lead Standard, 48448–48459
Illinois; Regional Haze Progress Report, 48431–48435
Michigan; Regional Haze Progress Report, 48435–48439
Minnesota; Regional Haze Progress Report, 48425–48431
Ohio; Redesignation of Fulton County Area to Attainment of 2008 Lead Standard, 48442–48448
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
District of Columbia; Interstate Transport Requirements for 2010 1-Hour Sulfur Dioxide Standard, 48472
Illinois; Redesignation of Chicago and Granite City Areas to Attainment of 2008 Lead Standard, 48475
Illinois; Regional Haze Progress Report, 48473–48474
Michigan; Regional Haze Progress Report, 48473
Minnesota; Regional Haze Progress Report, 48472–48473
Ohio; Redesignation of Fulton County Area to Attainment of 2008 Lead Standard, 48474–48475
NOTICES
Draft Documents Related to Review of Primary National Ambient Air Quality Standard for Sulfur Oxides, 48507–48508

Federal Aviation Administration
RULES
Special Conditions:
Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 Airplanes; Airplane Electronic-System Security Protection From Unauthorized Internal Access; Correction, 48394
TTF Aerospace Inc., Boeing Model 767–300F Series Airplane; Installation of Main-Deck Crew-Rest Compartment, 48389–48394

Federal Bureau of Investigation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
FBI Hazardous Devices School Application, 48529–48530

Federal Communications Commission
RULES
WRC–12 Implementation Report and Order; Corrections, 48459–48460
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48508–48513

Federal Deposit Insurance Corporation
NOTICES
Terminations of Receivership:
Putnam State Bank, Palatka, FL, 48513

Federal Energy Regulatory Commission
NOTICES
Applications:
New York Power Authority, 48501–48502
Pacific Gas and Electric Co., 48506
Turlock Irrigation District and Modesto Irrigation District, CA, 48500–48501, 48504–48505
Combined Filings, 48503, 48505–48507
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
CXA La Paloma, LLC, 48503–48504
Meetings:
Colonial Pipeline Co.; Technical Conference, 48502
Requests Under Blanket Authorizations:
Texas Gas Transmission, LLC, 48502–48503

Federal Maritime Commission
NOTICES
Agreements Filed, 48513

Federal Motor Carrier Safety Administration
NOTICES
Charter Renewals:
Motor Carrier Safety Advisory Committee, 48571–48572

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 48513–48514

Fiscal Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Disclaimer and Consent with Respect to United States Savings Bonds/Notes, 48591
Special Form of Assignment for U.S. Registered Securities, 48591

Fish and Wildlife Service
NOTICES
Endangered Species Recovery Permit Applications, 48525–48526

Food and Drug Administration
RULES
Medical Devices:
Clinical Chemistry and Clinical Toxicology Devices; Classification of Organophosphate Test System, 48413–48415
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Medical Devices; Device Tracking, 48516–48519
Center for Devices and Radiological Health:
Experiential Learning Program, 48515–48516

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Properties, 48591–48592

Foreign-Trade Zones Board
NOTICES
Production Activities:
Lockheed Martin Corp. Space Systems Co., Foreign-Trade Zone 123, Denver, CO, 48481–48482
Subzone Expansions; Applications:
Orgill, Inc., Foreign-Trade Zone 280, Ada and Canyon Counties, ID, 48481

Grain Inspection, Packers and Stockyards Administration
RULES
Scope of Sections 202(a) and (b) of Packers and Stockyards Act, 48594–48602
PROPOSED RULES
Unfair Practices and Undue Preferences in Violation of Packers and Stockyards Act, 48603–48604

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Industry and Security Bureau
NOTICES
Meetings:
Information Systems Technical Advisory Committee, 48482

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Freshwater Crawfish Tail Meat From the People's Republic of China, 48482–48483
Stainless Steel Bar From India, 48483–48485

Determinations of Sales at Less Than Fair Value:
Certain Aluminum Foil From the People's Republic of China; Correction, 48485

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain L-Tryptophan, L-Tryptophan Products, and Their Methods of Production, 48528–48529
Stainless Steel Bar From Brazil, India, Japan, and Spain, 48527–48528
Tapered Roller Bearings From China, 48527
Meetings; Sunshine Act, 48529

Justice Department
See Federal Bureau of Investigation

Labor Department
See Occupational Safety and Health Administration
See Workers Compensation Programs Office
NOTICES
Fiscal Year 2016 Service Contract Inventory, 48530–48531
Senior Executive Service Performance Review Board Members, 48530

Land Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Authorizing Grazing Use, 48526–48527

National Aeronautics and Space Administration
NOTICES
Charter Renewals:
International Space Station National Laboratory Advisory Committee, 48533–48534

National Archives and Records Administration
NOTICES
Records Schedules, 48534–48535

National Highway Traffic Safety Administration
NOTICES
Petitions for Decisions of Inconsequential Noncompliance:
Hyundai Motor America, 48573–48574
Volvo Trucks North America, 48572–48573

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 48519–48520, 48522–48523
National Eye Institute, 48523
National Institute of Allergy and Infectious Diseases, 48520, 48523
National Institute of Diabetes and Digestive and Kidney Diseases, 48521–48522
National Institute of Environmental Health Sciences, 48521

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Exchange of Flatfish in Bering Sea and Aleutian Islands Management Area, 48460–48462
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Southeast Region Vessel and Gear Identification Requirements, 48487–48488
Environmental Assessments; Availability, etc.:
Deepwater Horizon Oil Spill Texas Trustee Implementation Group Final 2017 Restoration Plan and Finding of No Significant Impact, 48485–48486
Meetings:
Caribbean Fishery Management Council; Cancellation, 48487
Mid-Atlantic Fishery Management Council, 48487
Permit Applications:
Marine Mammals; File No. 21315, 48488–48489

Navy Department
RULES
Certifications and Exemptions Under International Regulations for Preventing Collisions at Sea, 48415–48417
NOTICES
Exclusive Patent Licenses; Proposals:
Visible Welding, LLC, 48499–48500

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Domestic Licensing of Production and Utilization Facilities, 48539–48540
Agreement State Program Policy Statement; Correction, 48535–48539

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits, 48531–48532

Patent and Trademark Office
PROPOSED RULES
Removal of Rules Governing Trademark Interferences, 48469–48472
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Admission To Practice and Roster of Registered Patent Attorneys and Agents Admitted To Practice Before United States Patent and Trademark Office, 48492–48496
Patent Examiner Employment Application, 48491–48492
Representative and Address Provisions, 48489–48491
Substantive Submissions Made During Prosecution of Trademark Application, 48496

Personnel Management Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Alternative Annuity Election, 48540–48541

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Revision to Gas Distribution Annual Report, 48574–48575

Postal Regulatory Commission
NOTICES
New Postal Products, 48541

Postal Service
NOTICES
International Product Changes:
Global Plus 1E, 48541
Product Changes:
Priority Mail and First-Class Package Service Negotiated Service Agreement, 48542
Priority Mail Express Negotiated Service Agreement, 48541–48542
Priority Mail Negotiated Service Agreement, 48542

Presidential Documents
ADMINISTRATIVE ORDERS
Colombia; Continuation of National Emergency With Respect to Narcotics Traffickers (Notice of October 16, 2017), 48605–48607

Rural Utilities Service
NOTICES
Announcement of Loan Refinancing Procedures, and Deadlines for Refinancing of Federal Financing Bank Loans Pilot Program, 48476–48480

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48545
Applications:
Steadfast Alcentra Global Credit Fund and Steadfast Investment Adviser, LLC, 48557–48560
Self-Regulatory Organizations; Proposed Rule Changes:
Bats BZX Exchange, Inc., 48552–48553, 48560–48562
Bats EDGA Exchange, Inc., 48545–48550
Chicago Board Options Exchange, Inc., 48550–48552
Nasdaq ISE, LLC, 48542–48545
NASDAQ PHLX, LLC, 48556–48557
NASDAQ Stock Market, LLC, 48554–48556

Small Business Administration
NOTICES
Disaster Declarations:
Idaho; Public Assistance Only, 48562–48563
Wisconsin; Public Assistance Only, 48562

State Department
NOTICES
Registration for Diversity Immigrant Visa Program, 48563–48571

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
NOTICES
Orders Soliciting Community Proposals, 48575–48590

Treasury Department
See Fiscal Service
See Foreign Assets Control Office

U.S. Customs and Border Protection
NOTICES
Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties, 48523–48525

Workers Compensation Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48532–48533

Separate Parts In This Issue

Part II
Agriculture Department, Grain Inspection, Packers and Stockyards Administration, 48594–48604

Part III
Presidential Documents, 48605–48607

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Notices:

Notice of October 16, 2017 48607

9 CFR

201.....48594

Proposed Rules:

201.....48603

12 CFR

Proposed Rules:

1026.....48463

14 CFR

25 (2 documents) 48389, 48394

17 CFR

Ch. I.....48394

21 CFR

862.....48413

32 CFR

706.....48415

33 CFR

100.....48417

117.....48419

165 (2 documents) 48420, 48422

34 CFR

600.....48424

37 CFR

Proposed Rules:

2.....48469

40 CFR

52 (6 documents) 48425, 48431, 48435, 48439, 48442, 48448

81 (2 documents) 48442, 48448

Proposed Rules:

52 (6 documents) 48472, 48473, 48474, 48475

81 (2 documents) 48474, 48475

47 CFR

2.....48459

80.....48459

90.....48459

50 CFR

679.....48460

Rules and Regulations

Federal Register
Vol. 82, No. 200
Wednesday, October 18, 2017

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–0965; Special Conditions No. 25–702–SC]

Special Conditions: TTF Aerospace Inc., Boeing Model 767–300F Series Airplane; Installation of Main-Deck Crew-Rest Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 767–300F series airplane. This airplane, as modified by TTF Aerospace Inc., will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is a crew-rest compartment located in a Class E cargo compartment on the main deck of the airplane. 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: This action is effective on TTF Aerospace Inc. on October 18, 2017. Send your comments by December 4, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0965 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 or 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://www.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).

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 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: John Shelden, FAA, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2785; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The substance of these special conditions, as applied to the installation of crew-rest modules in the upper and lower lobes of the airplane, has been published in the **Federal Register** for public comment in several prior instances. In the past decade, comments were received in 2013 and 2014, but did not affect the substance of these special conditions. Also, in 2015, the FAA approved an exemption for a crew-rest module in a configuration very similar to this proposal. That exemption received no public comment. Therefore, the FAA finds it unnecessary to delay the effective date and that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

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 will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On September 28, 2016, TTF Aerospace Inc. applied for a supplemental type certificate for the installation of a crew-rest compartment on the main deck of Boeing Model 767–300F series airplanes. The Boeing Model 767–300F series airplane is a transport-category, wide-body freighter airplane with a maximum takeoff weight of approximately 412,000 lbs.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, TTF Aerospace Inc. must show that the Boeing Model 767–300F series airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A1NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 767–300F series airplane 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 applicant apply for a supplemental type certificate to modify any other model included on the same type certificate, to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 767–300F series airplane 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.

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 § 21.101.

Novel or Unusual Design Feature

The Boeing Model 767–300F series airplane, as modified by TTF Aerospace Inc., will incorporate the following novel or unusual design feature:

A crew-rest compartment installed in a Class E cargo compartment on the airplane main deck.

Discussion

The crew-rest compartment will be located in what is currently the Class E main-deck cargo compartment of Boeing Model 767–300F series airplanes. It will be designed as a one-piece, self-contained unit for installation in the forward portion of the cargo compartment. The crew-rest compartment will be attached to the existing cargo-restraint system, and will interface with the left-hand wall of the cargo compartment with a seal that will surround the door that currently provides passage to and from the cargo compartment. Crew-rest compartment occupancy will be limited to a maximum of four occupants.

The crew-rest compartment will contain approved seats or berths, able to withstand the maximum flight loads when occupied, for each occupant permitted in the crew-rest compartment, and it will only be occupied in flight, *i.e.,* not during taxi, takeoff or landing. A smoke-detection system, manual firefighting system, oxygen supply, and occupant amenities will be provided in the crew-rest compartment. The door will provide passage to and from the crew-rest compartment.

The FAA considers crew-rest compartment smoke- or fire-detection and fire-suppression systems (including airflow management features, which prevent hazardous quantities of smoke or fire-extinguishing agent from entering any other compartment occupied by crewmembers or passengers) complex in terms of paragraph 6d of Advisory Circular (AC) 25.1309–1A, ''System Design and Analysis.'' In addition, the FAA considers failure of the crew-rest compartment fire-protection system (*i.e.,* smoke- or fire-detection and fire-suppression systems), in conjunction with a crew-rest compartment fire, to be a catastrophic event. Based on the ''Depth of Analysis Flowchart'' shown in Figure 2 of AC 25.1309–1A, the depth of analysis should include both qualitative and quantitative assessments (reference paragraphs 8d, 9, and 10 of AC 25.1309–1A). In addition, it should be noted that flammable fluids, and other dangerous cargo are prohibited from the crew-rest compartment.

The requirements in these special conditions are intended to enable crewmembers quick entry to the crew-rest compartment to locate a fire source, and also inherently place limits on the size of the crew-rest area, as well as the amount of baggage that may be stored inside the crew-rest compartment. Baggage in the crew-rest compartment must be limited to the stowage of crew personal luggage, and the compartment must not be used for the stowage of cargo or supernumerary baggage. The design of a system that includes cargo or supernumerary baggage would require additional requirements to ensure safe operation.

The addition of galley equipment, or a kitchenette incorporating a heat source (*e.g.,* cook tops, microwaves, coffee pots, etc.) other than a conventional lavatory or kitchenette water heater, within the crew-rest compartment, would also require additional special conditions, and is prohibited until such conditions are approved. A water heater is acceptable without the need for additional special conditions.

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.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 767–300F series airplane. Should TTF Aerospace Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A1NM to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

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 Boeing Model 767–300F series airplanes modified by TTF Aerospace Inc. Special conditions 1a, 2b, 2c, and the operating procedures, warnings, alarms and alerts listed below must be added to the limitations section of the airplane flight manual.

(1) Occupancy of the crew-rest compartment is limited to the total number of installed sleeping berths and seats in the compartment. Each occupant permitted in the crew-rest compartment must be provided an approved seat or berth able to withstand the maximum flight loads when occupied. The maximum occupancy is four in the crew-rest compartment, accounting for two sleeping berths and two seats.

(a) An appropriate placard must be displayed in a conspicuous place at each entrance to the crew-rest compartment to indicate:

(i) The maximum number of occupants allowed;

(ii) That occupancy is restricted to crewmembers who are trained in evacuation procedures for the crew-rest compartment;

(iii) That occupancy is prohibited during taxi, takeoff, and landing;

(iv) That smoking is prohibited in the crew-rest compartment;

(v) That hazardous quantities of flammable fluids, or other dangerous cargo are prohibited from the crew-rest compartment;

(vi) That stowage in the crew-rest compartment must be limited to emergency equipment, airplane-supplied equipment (*e.g.,* bedding), and crew personal luggage; cargo and supernumerary baggage is not allowed.

(b) At least one ashtray must be located conspicuously on or near the entry side of any entrance to the crew-rest compartment.

(c) If access to the remainder of the Class E cargo compartment is required from the crew-rest compartment, doors must be designed to be easily opened from both within and outside of the crew-rest compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

(d) For all doors installed in the evacuation routes, they must be designed such that they do not allow anyone to be trapped inside the crew-rest compartment. If a locking mechanism is installed on an evacuation-route door, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening the door from the inside of the crew-rest compartment at any time.

(2) An emergency-evacuation route must be available for occupants of the crew-rest compartment to rapidly evacuate to the flight deck/supernumerary area. The crew-rest compartment access must be able to be closed from the flight deck/supernumerary area after evacuation. In addition—

(a) The route must be designed to minimize the possibility of blockage that might result from fire, mechanical or structural failure, or persons standing on top of or against the escape route. The use of evacuation routes must not be dependent on any powered device. If an evacuation route has low headroom, provisions must be made to prevent or protect crew-rest compartment occupants from head injury.

(b) Emergency-evacuation procedures, including the emergency evacuation of an incapacitated occupant from the crew-rest compartment, must be established. All of these procedures must be transmitted to the operators for incorporation into their training programs and appropriate operational manuals.

(c) The airplane flight manual, or other suitable means, must include a limitation requiring that crewmembers be trained in the use of evacuation routes.

(3) A means must be provided for the evacuation of an incapacitated person (representative of a 95th percentile male) from the crew-rest compartment to the supernumerary compartment. The evacuation must be demonstrated for all evacuation routes.

(4) The following signs and placards must be provided in the crew-rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58, except that a sign with reduced background area of no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (*e.g.,* white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one-inch wide background border around the letters would also be acceptable;

(b) An appropriate placard located near each exit defining the location and the operating instructions for each evacuation route;

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions; and

(d) The exit handles and evacuation-path operating-instruction placards must be illuminated to at least 160 micro lamberts under emergency lighting conditions.

(5) In the event of failure of the airplane's main power system, or of the normal crew-rest compartment lighting system, emergency illumination must automatically be provided for the crew-rest compartment. In addition—

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew-rest compartment to evacuate to the flight deck/supernumerary area by means of each evacuation route.

(d) The illumination level must be sufficient, with the privacy curtains in the closed position, for each occupant of the crew-rest compartment to locate an oxygen mask.

(6) A means must be provided for two-way voice communications between crewmembers on the flight deck and occupants of the crew-rest compartment.

(7) A means must be provided for manual activation of an aural emergency-alarm system, audible during normal and emergency conditions, to enable occupants on the flight deck to alert occupants of the crew-rest compartment of an emergency situation. Use of a public address or crew interphone system is acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must maintain power in-flight for at least ten minutes after the shutdown or failure of all engines and auxiliary power units (APUs), or the disconnection or failure of all power sources dependent on their continued operation of the engines and APUs.

(8) A readily detectable means must be provided, for seated or standing occupants of the crew-rest compartment, that indicates when seatbelts should be fastened. In the absence of seats, at least one means must be provided to accommodate anticipated turbulence (*e.g.,* sufficient handholds). Seatbelt-type restraints must be provided for berths, and must be compatible with occupant sleeping attitude during cruise conditions. A placard must be located on each berth, and require that seatbelts be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on a berth occupant's specific head location, a placard must identify the head location.

(9) In lieu of the requirements specified in § 25.1439(a) at Amendment 25–38, that pertain to isolated compartments, and to provide a level of safety equivalent to that which is provided to occupants of a small, isolated galley, the following equipment must be provided in the crew-rest compartment:

(a) At least one approved hand-held fire extinguisher, appropriate for the kinds of fires likely to occur;

(b) Two protective-breathing equipment (PBE) devices, approved to Technical Standard Order C116A or equivalent, suitable for firefighting, or one PBE for each hand-held fire extinguisher, whichever is greater; and

(c) One flashlight.

Note: Additional PBEs and fire extinguishers in specific locations, beyond the minimum numbers prescribed in special condition no. 9, may be required as a result of any egress analysis accomplished to satisfy special condition 2(a).

(10) A smoke- or fire-detection system (or systems) must be provided that monitors each occupiable area within the crew-rest compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew-rest compartment; and

(c) A warning in the main supernumerary area. This warning must be readily detectable by a supernumerary.

(11) The crew-rest compartment must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the

firefighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

(12) A means must be provided to exclude hazardous quantities of smoke or extinguishing agent, originating in the crew-rest compartment, from entering any other occupiable compartment. A means must also be provided to exclude hazardous quantities of smoke or extinguishing agent originating in the Class E cargo compartment from entering the crew-rest compartment. This means must include the time periods during the evacuation of the crew-rest compartment and, if applicable, when accessing the crew-rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or supernumeraries, when the access to the crew-rest compartment is opened during an emergency evacuation, must dissipate within five minutes after the access to the crew-rest compartment is closed. Hazardous quantities of smoke may not enter any other compartment occupied by supernumeraries or crewmembers during subsequent access to manually fight a fire in the crew-rest compartment (the amount of smoke entrained by a firefighter exiting the crew-rest compartment through the access is not considered hazardous). During the 1-minute smoke detection time, penetration of a small quantity of smoke from the crew-rest compartment, into an occupied area, is acceptable. Flight tests must be conducted to show compliance with this requirement. If a built-in fire-extinguishing system is used in lieu of manual firefighting, then the fire-extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by supernumeraries or crewmembers. The system must have adequate capacity to suppress any fire occurring in the crew-rest compartment, considering the fire threat, volume of the compartment, and the ventilation rate.

(13) In lieu of providing a supplemental oxygen system in accordance with § 25.1447(c)(1), a portable oxygen unit, meeting the requirements of special condition no. 14, must be immediately available for occupants of each seat and berth in the crew-rest compartment. An aural and visual warning must be provided to warn the occupants of the crew-rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push-button in the crew-rest compartment is pressed for reset. Procedures for decompression events must be established for crew-rest compartment occupants. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

(14) The portable oxygen unit must meet the performance requirements of either § 25.1443(a) or § 25.1443(b), or the equipment must be shown to protect the occupant from hypoxia at an activity level required to return to his or her seat following a rapid decompression to 25,000 feet cabin altitude. In addition, the portable oxygen equipment must:

(a) Meet § 25.1439(b)(1), (2), and (4), and

(b) be designed to prevent any inward leakage to the inside of the mask, and

(c) prevent any outward leakage causing significant increase in the oxygen content of the local atmosphere, and

(d) be sized adequately for continuous and uninterrupted use during worst-case flight duration following decompression, or must be of sufficient duration to allow the occupant to return to their seat, where additional oxygen is readily accessible for the remainder of the decompression event.

(15) If the airplane contains a destination area, such as a crewmember changing area, a portable oxygen unit, meeting the requirements of special condition no. 14, must be readily available for each occupant who may reasonably be expected to be in the destination area.

(a) An aural and visual warning must be provided to alert the occupants of the crew-rest compartment to don oxygen masks in the event of decompression or fire in the Class E cargo compartment, or in cases in which a decompression and subsequent climb are required. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push button in the crew-rest compartment is pressed for reset.

(b) Procedures for decompression events must be established for crew-rest compartment occupants. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals. In addition, a decompression panel must be incorporated into the crew-rest compartment construction.

(16) The following requirements apply to crew-rest compartments that are divided into sections by the installation of curtains or partitions:

(a) To accommodate sleeping occupants, an aural alert must be available that can be heard in each section of the crew-rest compartment. A visual indicator that occupants must don an oxygen mask is required in each section where seats or berths are installed. A minimum of one portable oxygen unit, meeting the requirements of special condition no. 14, is required for each seat or berth.

(b) A placard is required, adjacent each curtain that visually divides or separates, for privacy purposes, the crew-rest compartment into sections. The placard must require that the curtains remain open when the sections they create are unoccupied.

(c) For each crew-rest compartment section created by the installation of a curtain, the following requirements must be met with the curtain open or closed:

(i) Emergency illumination (special condition no. 5);

(ii) Emergency alarm system (special condition no. 7);

(iii) Fasten-seatbelt signal, or return-to-seat signal, as applicable (special condition no. 8); and

(iv) A smoke- or fire-detection system (special condition no. 10).

(d) Compartments visually divided, to the extent that evacuation could be affected, must have exit signs that direct occupants to the primary exit. The exit signs must be provided in each separate section of the crew-rest compartment, and must meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58. An exit sign with reduced background area, as described in special condition no. 4(a), may be used to meet this requirement.

(e) For sections within a crew-rest compartment that are created by the installation of a partition with a door separating the sections, the following requirements must be met with the door open or closed:

(i) It must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Removal of an incapacitated occupant from within this area must be considered. A secondary evacuation route from a small room, such as a changing area or lavatory designed for only one occupant for short duration, is not required. However, removal of an incapacitated occupant from within this area must be considered.

(ii) Each section must contain exit signs that meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58, directing occupants to the primary exit. An exit sign with reduced background area, as described in special condition no. 4(a), may be used to meet this requirement.

(iii) Special condition nos. 5 (emergency illumination), 7 (emergency alarm system), 8 (fasten-seatbelt signal, or return-to-seat signal, as applicable), and 10 (smoke- or fire-detection system) must be met with the door open or closed.

(iv) Special condition nos. 6 (two-way voice communication) and 9 (emergency firefighting and protective equipment) must be met independently for each separate section, except for lavatories or other small areas that are not intended to be occupied for extended duration.

(17) Where a waste-disposal receptacle is installed, it must be equipped with a built-in fire extinguisher designed to discharge automatically upon occurrence of a fire in the receptacle.

(18) Materials, including finishes or decorative surfaces applied to the materials, must comply with the flammability requirements of § 25.853 as amended by Amendment 25–116 or later. Seat cushions and mattresses must comply with the flammability requirements of § 25.853(c) as amended by Amendment 25–116 or later, and the test requirements of part 25, appendix F, part II, or other equivalent methods.

(19) When a crew-rest compartment is installed or enclosed as a removable module in part of a cargo compartment, or is located directly adjacent to a cargo compartment without an intervening cargo compartment wall, the following applies:

(a) Any wall of the module (container) forming part of the boundary of the reduced cargo compartment, subject to direct flame impingement from a fire in the cargo compartment and including any interface item between the module (container) and the airplane structure or systems, must meet the applicable requirements of § 25.855 at Amendment 25–60.

(b) Means must be provided so that the fire-protection level of the cargo compartment meets the applicable requirements of § 25.855 at Amendment 25–60, § 25.857 at Amendment 25–60, and § 25.858 at Amendment 25–54 when the module (container) is not installed.

(c) Use of an emergency-evacuation route must not require occupants of the crew-rest compartment to enter the cargo compartment as a means by which to return to the flight deck/supernumerary area.

(d) The aural warning in special condition no. 7 must sound in the crew-rest compartment in the event of a fire in the cargo compartment.

(20) All enclosed stowage compartments within the crew-rest compartment that are not limited to stowage of emergency equipment or airplane-supplied equipment (*e.g.,* bedding) must meet the design criteria provided in the table below. As indicated in the table, these special conditions do not address enclosed stowage compartments greater than 200 ft^3 in interior volume. The in-flight accessibility of very large, enclosed stowage compartments, and the subsequent impact on crewmembers' ability to effectively reach any part of the compartment with the contents of a hand-held fire extinguisher, requires additional fire-protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

STOWAGE COMPARTMENT INTERIOR VOLUMES

Fire protection features	Less than 25 ft^3	25 ft^3 to 57 ft^3	57 ft^3 to 200 ft^3
Materials of Construction [1]	Yes	Yes	Yes.
Detectors [2]	No	Yes	Yes
Liner [3]	No	No	Yes.
Locating Device [4]	No	Yes	Yes.

[1] *Compliant Materials of Construction:* The material used in constructing each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components (*i.e.,* 14 CFR part 25 Appendix F, Parts I, IV, and V) per the requirements of § 25.853. For compartments less than 25 $ft.^3$ in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] *Smoke or Fire Detectors:* Enclosed stowage compartments equal to or exceeding 25 ft^3 in interior volume must be provided with a smoke- or fire-detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication in the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew-rest compartment; and

(c) A warning in the supernumerary seating area.

[3] *Liner:* If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment, then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft^3 in interior volume but less than 57 ft^3 in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft^3 in interior volume but less than or equal to 200 ft^3, a liner must be provided that meets the requirements of § 25.855 at Amendment 25–60 for a Class B cargo compartment.

[4] *Fire-Location Detector:* Crew-rest compartments that contain enclosed stowage compartments exceeding 25 ft^3 interior volume and which are located away from one central location, such as the entry to the crew-rest compartment or a common area within the crew-rest compartment, would require additional fire-protection features or related devices to assist a firefighter in determining the location of a fire.

Issued in Renton, Washington, on October 12, 2017.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2017–22544 Filed 10–17–17; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–6359; Special Conditions No. 25–633–SC]

Special Conditions: Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 Airplanes; Airplane Electronic-System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; correction.

SUMMARY: This document corrects an error that appeared in Docket No. FAA–2015–6359, Special Conditions No. 25–633–SC, which was published in the **Federal Register** on August 22, 2016. The error is an incorrect word in the title of the final special conditions document.

DATES: The effective date of this correction is October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flight Crew Interface, AIR–671, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 2016, the **Federal Register** published a document designated as Docket No. FAA–2015–6359, Final Special Conditions No. 25–633–SC (81 FR 56474). The document issued special conditions pertaining to system security to protect against unauthorized access to digital systems architecture composed of several connected data networks that will have the capability to allow connectivity of the passenger-service computer systems to the airplane critical systems and data networks. As published, the document contained an error in the title of the special conditions document, stating ''Authorized'' where ''Unauthorized'' is correct.

Correction

In the final special conditions document (FR Doc. 2016–19994), published on August 22, 2016 (81 FR 56474), make the following correction.

On page 56474, first column, the special conditions title is corrected to read:

Special Conditions: Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 Airplanes; Airplane Electronic-System Security Protection from Unauthorized Internal Access

Issued in Renton, Washington, on October 12, 2017.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Chapter I

Comparability Determination for the European Union: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notification of determination.

SUMMARY: The following is the analysis and determination of the Commodity Futures Trading Commission (''Commission'') regarding a request by the European Commission (''EC'') that the Commission determine that laws and regulations applicable in the European Union (''EU'') provide a sufficient basis for an affirmative finding of comparability with respect to margin requirements for uncleared swaps applicable to certain swap dealers (''SDs'') and major swap participants (''MSPs'') registered with the Commission. As discussed in detail herein, the Commission has found the margin requirements for uncleared swaps under the laws and regulations of the EU comparable in outcome to those under the Commodity Exchange Act (''CEA'') and Commission regulations.

DATES: This determination was made and issued by the Commission on October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Matthew Kulkin, Director, 202–418–5213, *mkulkin@cftc.gov,* or Katherine S. Driscoll, Associate Chief Counsel, 202–418–5544, *kdriscoll@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to section 4s(e) of the CEA,[1] the Commission is required to promulgate margin requirements for uncleared swaps applicable to each SD and MSP for which there is no Prudential Regulator (collectively, ''Covered Swap Entities'' or ''CSEs'').[2] The Commission published final margin requirements for such CSEs in January 2016 (the ''Final Margin Rule'').[3]

Subsequently, on May 31, 2016, the Commission published in the **Federal Register** its final rule with respect to the cross-border application of the Commission's margin requirements for uncleared swaps applicable to CSEs (hereinafter, the ''Cross-Border Margin Rule'').[4] The Cross-Border Margin Rule sets out the circumstances under which a CSE is allowed to satisfy the requirements under the Final Margin Rule by complying with comparable foreign margin requirements (''substituted compliance''); offers certain CSEs a limited exclusion from the Commission's margin requirements; and outlines a framework for assessing whether a foreign jurisdiction's margin requirements are comparable in outcome to the Final Margin Rule (''comparability determinations''). The Commission promulgated the Cross-Border Margin Rule after close consultation with the Prudential Regulators and in light of comments

[1] 7 U.S.C. 1 *et seq.*

[2] *See* 7 U.S.C. 6s(e)(1)(B). SDs and MSPs for which there is a Prudential Regulator must meet the margin requirements for uncleared swaps established by the applicable Prudential Regulator. 7 U.S.C. 6s(e)(1)(A). *See also* 7 U.S.C. 1a(39) (defining the term ''Prudential Regulator'' to include: The Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The Prudential Regulators published final margin requirements in November 2015. *See* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015) (''Prudential Regulators' Final Margin Rule'').

[3] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016). The Final Margin Rule, which became effective April 1, 2016, is codified in part 23 of the Commission's regulations. *See* §§ 23.150—23.159 and 23.161. The Commission's regulations are found in Chapter I of Title 17 of the Code of Federal Regulations, 17 CFR parts 1 through 199.

[4] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016). The Cross-Border Margin Rule, which became effective August 1, 2016, is codified in part 23 of the Commission's regulations. *See* § 23.160.

from and discussions with market participants and foreign regulators.[5]

On November 22, 2016, the EC (the ''applicant'') submitted a request that the Commission determine that laws and regulations applicable in the EU provide a sufficient basis for an affirmative finding of comparability with respect to the Final Margin Rule.[6] The Commission's analysis and comparability determination for the EU regarding the Final Margin Rule is detailed below.

II. Cross-Border Margin Rule

A. Regulatory Objective of Margin Requirements

The regulatory objective of the Final Margin Rule is to further the congressional mandate to ensure the safety and soundness of CSEs in order to offset the greater risk to CSEs and the financial system arising from the use of swaps that are not cleared.[7] As the Commission has previously stated, the primary function of margin is to protect a CSE from counterparty default, allowing it to absorb losses and continue to meet its obligations using collateral provided by the defaulting counterparty. While the requirement to post margin protects the counterparty in the event of the CSE's default, it also functions as a risk management tool, limiting the amount of leverage a CSE can utilize by requiring that it have adequate eligible collateral to enter into an uncleared swap. In this way, margin serves as a first line of defense not only in protecting the CSE but in containing the amount of risk in the financial system as a whole, reducing the potential for contagion arising from uncleared swaps.[8]

However, the global nature of the swap market, coupled with the interconnectedness of market participants, also necessitate that the Commission recognize the supervisory interests of foreign regulatory authorities and consider the impact of its choices on market efficiency and competition, which the Commission believes are vital to a well-functioning global swap market.[9] Foreign jurisdictions are at various stages of implementing margin reforms. To the extent that other jurisdictions adopt requirements with different coverage or timelines, the Commission's margin requirements may lead to competitive burdens for U.S. entities and deter non-U.S. persons from transacting with U.S. CSEs and their affiliates overseas.

B. Substituted Compliance

To address these concerns, the Cross-Border Margin Rule provides that, subject to certain findings and conditions, a CSE is permitted to satisfy the requirements of the Final Margin Rule by complying with the margin requirements in the relevant foreign jurisdiction. This substituted compliance regime is intended to address the concerns discussed above without compromising the congressional mandate to protect the safety and soundness of CSEs and the stability of the U.S. financial system. Substituted compliance helps preserve the benefits of an integrated, global swap market by reducing the degree to which market participants will be subject to multiple sets of regulations. Further, substituted compliance builds on international efforts to develop a global margin framework.[10]

Pursuant to the Cross-Border Margin Rule, any CSE that is eligible for substituted compliance under § 23.160 [11] and any foreign regulatory authority that has direct supervisory authority over one or more CSEs and that is responsible for administering the relevant foreign jurisdiction's margin requirements may apply to the Commission for a comparability determination.[12]

The Cross-Border Margin Rule requires that applicants for a comparability determination provide copies of the relevant foreign jurisdiction's margin requirements [13] and descriptions of their objectives,[14] how they differ from the BCBS/IOSCO Framework,[15] and how they address the elements of the Commission's margin requirements.[16] The applicant must identify the specific legal and regulatory provisions of the foreign jurisdiction's margin requirements that correspond to each element and, if necessary, whether the relevant foreign jurisdiction's margin requirements do not address a particular element.[17]

C. Standard of Review for Comparability Determinations

The Cross-Border Margin Rule identifies certain key factors that the Commission will consider in making a comparability determination. Specifically, the Commission will consider the scope and objectives of the relevant foreign jurisdiction's margin requirements; [18] whether the relevant foreign jurisdiction's margin requirements achieve comparable outcomes to the Commission's

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[5] In 2014, in conjunction with re-proposing its margin requirements, the Commission requested comment on three alternative approaches to the cross-border application of its margin requirements: (i) A transaction-level approach consistent with the Commission's guidance on the cross-border application of the CEA's swap provisions, *see* Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations, 78 FR 45292 (July 26, 2013) (the ''Guidance''); (ii) an approach consistent with the Prudential Regulators' proposed cross-border framework for margin, *see* Margin and Capital Requirements for Covered Swap Entities, 79 FR 57348 (Sept. 24, 2014); and (iii) an entity-level approach that would apply margin rules on a firm-wide basis (without any exclusion for swaps with non-U.S. counterparties). *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 79 FR 59898 (Oct. 3, 2014). Following a review of comments received in response to this release, the Commission's Global Markets Advisory Committee (''GMAC'') hosted a public panel discussion on the cross-border application of margin requirements. *See* GMAC Meeting (May 14, 2015), transcript and webcast available at *http://www.cftc.gov/PressRoom/Events/opaevent_gmac051415.*

[6] The Commission understands that competent authorities in the individual EU Member States have direct supervisory authority over CSEs in their respective Member State with respect to the EU margin requirements (as defined below) and are responsible for administering those margin requirements. Nevertheless, given that the EU comprises the Member States and the EU margin requirements are directly applicable in the Member States, the Commission recognizes the EC as the relevant foreign regulatory authority for purposes of § 23.160(c)(1)(ii).

[7] *See* 7 U.S.C. 6s(e)(3)(A).

[8] *See* Final Margin Rule, 81 FR 689.

[9] In determining the extent to which the Dodd-Frank swap provisions apply to activities overseas, the Commission strives to protect U.S. interests, as determined by Congress in Title VII, and minimize conflicts with the laws of other jurisdictions, consistent with principles of international comity. *See* Guidance, 78 FR 45300–45301 (referencing the Restatement (Third) of Foreign Relations Law of the United States).

[10] In October 2011, the Basel Committee on Banking Supervision (''BCBS'') and the International Organization of Securities Commissions (''IOSCO''), in consultation with the Committee on Payment and Settlement Systems and the Committee on Global Financial Systems, formed a Working Group on Margining Requirements to develop international standards for margin requirements for uncleared swaps. Representatives of 26 regulatory authorities participated, including the Commission. In September 2013, the Working Group on Margin Requirements published a final report articulating eight key principles for non-cleared derivatives margin rules. These principles represent the minimum standards approved by BCBS and IOSCO and their recommendations to the regulatory authorities in member jurisdictions. *See* BCBS/IOSCO, Margin requirements for non-centrally cleared derivatives (updated March 2015) (''BCBS/IOSCO Framework''), available at *http://www.bis.org/bcbs/publ/d317.pdf.*

[11] *See* § 23.160(c)(1)(i).

[12] *See* § 23.160(c)(1)(ii).

[13] *See* § 23.160(c)(2)(v).

[14] *See* § 23.160(c)(2)(i).

[15] *See* § 23.160(c)(2)(iii). *See also* § 23.160(a)(3) (defining ''international standards'' as based on the BCBS–ISOCO Framework).

[16] *See* 17 CFR 23.160(c)(2)(ii) (identifying 12 particular elements of the Commission's margin requirements). Section 23.160(c)(2)(ii) largely tracks the elements of the BCBS/IOSCO Framework but breaks them down into their components as appropriate to ensure ease of application.

[17] *See id.*

[18] *See* § 23.160(c)(3)(i).

corresponding margin requirements; [19] and the ability of the relevant regulatory authority or authorities to supervise and enforce compliance with the relevant foreign jurisdiction's margin requirements.[20]

This process reflects an outcomes-based approach to assessing the comparability of a foreign jurisdiction's margin requirements. Instead of demanding strict uniformity with the Commission's margin requirements, the Commission evaluates the objectives and outcomes of the foreign margin requirements in light of foreign regulator(s)' supervisory and enforcement authority. Recognizing that jurisdictions may adopt different approaches to achieving the same outcome, the Commission will focus on whether the foreign jurisdiction's margin requirements are comparable to the Commission's in purpose and effect, not whether they are comparable in every aspect or contain identical elements.

In keeping with the Commission's commitment to international coordination on margin requirements for uncleared derivatives, the Commission believes that the standards it has established are fully consistent with the BCBS/IOSCO Framework.[21] Accordingly, where relevant to the Commission's comparability analysis, the BCBS/IOSCO Framework is discussed to explain certain internationally agreed upon concepts.

The Cross-Border Margin Rule provided a detailed discussion regarding the facts and circumstances under which substituted compliance for the requirements under the Final Margin Rule would be available and such discussion is not repeated here. CSEs seeking to rely on substituted compliance based on the comparability determinations contained herein are responsible for determining whether substituted compliance is available under the Cross-Border Margin Rule with respect to the CSE's particular status and circumstances.

D. Conditions to Comparability Determinations

The Cross-Border Margin Rule provides that the Commission may impose terms and conditions it deems appropriate in issuing a comparability determination.[22] Specific terms and conditions with respect to margin requirements are discussed in the Commission's determinations detailed below.

As a general condition to all determinations, however, the Commission requires notification of any material changes to information submitted to the Commission by the applicant in support of a comparability finding, including, but not limited to, changes in the relevant foreign jurisdiction's supervisory or regulatory regime. The Commission also expects that the relevant foreign regulator will enter into, or will have entered into, an appropriate memorandum of understanding or similar arrangement with the Commission in connection with a comparability determination.[23]

Finally, the Commission will generally rely on an applicant's description of the laws and regulations of the foreign jurisdiction in making its comparability determination. The Commission considers an application to be a representation by the applicant that the laws and regulations submitted are finalized,[24] that the description of such laws and regulations is accurate and complete, and that, unless otherwise noted, the scope of such laws and regulations encompasses the swaps activities [25] of CSEs [26] in the relevant jurisdictions.[27] Further, the Commission requires that an applicant would notify the Commission of any material changes to information submitted in support of a comparability determination (including, but not limited to, changes in the relevant supervisory or regulatory regime) as, depending on the nature of the change, the Commission's comparability determination may no longer be valid.[28]

III. Margin Requirements for Swaps Activities in the EU

As represented to the Commission by the applicant, margin requirements for swap activities in the EU are governed by the Regulatory Technical Standards for Risk-Mitigation Techniques for OTC Derivative Contracts Not Cleared by a Central Counterparty (''RTS'').[29] The RTS supplement the requirements of EMIR with a more detailed direction

[19] *See* § 23.160(c)(3)(ii). As discussed above, the Commission's Final Margin Rule is based on the BCBS/IOSCO Framework; therefore, the Commission expects that the relevant foreign margin requirements would conform to such Framework at minimum in order to be deemed comparable to the Commission's corresponding margin requirements.

[20] *See* § 23.160(c)(3)(iii). *See also* § 23.160(c)(3)(iv) (indicating the Commission would also consider any other relevant facts and circumstances).

[21] The Final Margin Rule was modified substantially from its proposed form to further align the Commission's margin requirements with the BCBS/IOSCO Framework and, as a result, the potential for conflict with foreign margin requirements should be reduced. For example, the Final Margin Rule raised the material swaps exposure level from $3 billion to the BCBS/IOSCO standard of $8 billion, which reduces the number of entities that must collect and post initial margin. *See* Final Margin Rule, 81 FR at 644. In addition, the definition of uncleared swap was amended to not include swaps cleared by derivatives clearing organizations that are not registered with the Commission but pursuant to Commission orders are permitted to clear for U.S. persons. *See id.* at 638. The Commission notes, however, that the BCBS/IOSCO Framework leaves certain elements open to interpretation (*e.g.,* the definition of ''derivative'') and expressly invites regulators to build on certain principles as appropriate. *See, e.g.,* Element 4 (eligible collateral) (national regulators should ''develop their own list of eligible collateral assets based on the key principle, taking into account the conditions of their own markets''); Element 5 (initial margin) (the degree to which margin should be protected would be affected by ''the local bankruptcy regime, and would vary across jurisdictions''); Element 6 (transactions with affiliates) (''Transactions between a firm and its affiliates should be subject to appropriate regulation in a manner consistent with each jurisdiction's legal and regulatory framework.'').

[22] *See* 17 CFR 23.160(c)(5).

[23] Under Commission regulations 23.203 and 23.606, CSEs must maintain all records required by the CEA and the Commission's regulations in accordance with Commission regulation 1.31 and keep them open for inspection by representatives of the Commission, the U.S. Department of Justice, or any applicable prudential regulator. *See* 17 CFR 23.203, 23.606. The Commission further expects that prompt access to books and records and the ability to inspect and examine a non-U.S. CSE will be a condition to any comparability determination.

[24] The Commission notes that finalized rules of the foreign jurisdiction must be in full force and effect before a CSE may rely on this comparability determination for purposes of substituted compliance.

[25] ''Swaps activities'' is defined in Commission regulation 23.600(a)(7) to mean, ''with respect to a registrant, such registrant's activities related to swaps and any product used to hedge such swaps, including, but not limited to, futures, options, other swaps or security-based swaps, debt or equity securities, foreign currency, physical commodities, and other derivatives.'' The Commission's regulations under 17 CFR part 23 are limited in scope to the swaps activities of CSEs.

[26] No CSE that is not legally required to comply with a law or regulation determined to be comparable may voluntarily comply with such law or regulation in lieu of compliance with the CEA and the relevant Commission regulation. Each CSE that seeks to rely on a comparability determination is responsible for determining whether it is subject to the laws and regulations found comparable.

[27] The Commission has provided the relevant foreign regulator(s) with opportunities to review and correct the applicant's description of such laws and regulations on which the Commission will base its comparability determination. The Commission relies on the accuracy and completeness of such review and any corrections received in making its comparability determinations. A comparability determination based on an inaccurate description of foreign laws and regulations may not be valid.

[28] 78 FR 45345.

[29] Regulation No. 2016/2251 of October 4, 2016 Supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council of July 4, 2012 on OTC Derivatives, Central Counterparties and Trade Repositories with Regard to Regulatory Technical Standards for Risk-Mitigation Techniques for OTC Derivative Contracts Not Cleared by a Central Counterparty (as corrected by Commission Delegated Regulation (EU) 2017/323 of January 20, 2017). Regulation (EU) No 648/2012 of the European Parliament and the Council of July 4, 2012 is more commonly known as the European Market Infrastructure Regulation or ''EMIR.''

with respect to margin requirements [30] and are directly applicable in all countries that are members of the EU (each country a ''Member State''). Article 12 of EMIR further gives Member States the authority to ''lay down the rules on penalties'' that apply to infringements of the RTS and to take all measures necessary to ensure that those rules are implemented.[31]

IV. Comparability Analysis

The following section describes the regulatory objectives of the Commission's requirements with respect to margin for uncleared swaps imposed by the CEA and the Final Margin Rule and a description of such requirements. Immediately following a description of the requirement(s) of the Final Margin Rule for which a comparability determination was requested by the applicant, the Commission provides a description of the foreign jurisdiction's comparable laws, regulations, or rules. The Commission then provides a discussion of the comparability of, or differences between, the Final Margin Rule and the foreign jurisdiction's laws, regulations, or rules.

A. Objectives of Margin Requirements

1. Commission Statement of Regulatory Objectives

The regulatory objectives of the Final Margin Rule are to ensure the safety and soundness of CSEs in order to offset the greater risk to CSEs and the financial system arising from the use of swaps that are not cleared. The primary function of margin is to protect a CSE from counterparty default, allowing it to absorb losses and continue to meet its obligations using collateral provided by the defaulting counterparty. While the requirement to post margin protects the counterparty in the event of the CSE's default, it also functions as a risk management tool, limiting the amount of leverage a CSE can incur by requiring that it have adequate eligible collateral to enter into an uncleared swap. In this way, margin serves as a first line of defense, not only in protecting the CSE, but in containing the amount of risk in the financial system as a whole, reducing the potential for contagion arising from uncleared swaps.[32]

2. EC Statement of Regulatory Objectives

The applicant states that, in the absence of clearing of OTC derivatives by a CCP, it is essential that counterparties apply robust risk-mitigation techniques to their bilateral relationships to reduce counterparty credit risk and to mitigate the potential systemic risk that could arise. Article 11 of EMIR prescribes risk-mitigation techniques for OTC derivative contracts not cleared by a CCP. The RTS supplement EMIR with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a CCP and take into account the Basel Committee-IOSCO margin framework for non-centrally cleared OTC derivatives and the Basel Committee guidelines for managing settlement risk in foreign exchange transactions.[33]

B. Products Subject to Margin Requirements

The Commission's Final Margin Rule applies only to uncleared swaps. Swaps are defined in section 1a(47) of the CEA [34] and Commission regulations.[35] ''Uncleared swap'' is defined for purposes of the Final Margin Rule in Commission regulation § 23.151 to mean a swap that is not cleared by a registered derivatives clearing organization, or by a clearing organization that the Commission has exempted from registration by rule or order pursuant to section 5b(h) of the Act.[36]

The EU's margin rules apply to OTC derivatives not cleared by a CCP (''non-centrally cleared OTC derivative'').[37] ''Derivative'' for purposes of the EU margin rules is defined in Article 2(5) of EMIR as a financial instrument as set out in points (4) to (10) of Section C of Annex I to MIFID [38] as implemented by Articles 38 and 39 of EU Regulation No. 1287/2006.[39] Initial margin need not be collected for physically-settled foreign exchange forwards, physically-settled foreign exchange swaps, or cross-currency swaps.[40] Regarding covered bonds for hedging purposes, no variation margin needs to be posted by a covered bond issuer or covered pool but must be collected from a counterparty in cash and returned to a counterparty when due, and no initial margin required.[41]

An OTC derivative is a derivative which is not executed on a regulated market or on a third-country market considered as equivalent to a regulated market.[42] While it is beyond the scope of this comparability determination to definitively map any differences between the definitions of ''swap'' and ''uncleared swap'' under the CEA and Commission regulations and the EU's definitions of ''OTC derivative'' and ''non-centrally cleared OTC derivative,'' the Commission believes that such definitions largely cover the same products and instruments.

However, because the definitions are not identical, the Commission recognizes the possibility that a CSE may enter into a transaction that is an uncleared swap as defined in the CEA and Commission regulations, but that is not a non-centrally cleared OTC

[30] Together, EMIR and RTS are referred to herein as the ''EU margin rules,'' ''the EU's margin regime,'' ''EU margin requirements'' or the ''laws of the EU.''

[31] *See* RTS, Article 40 and EMIR, Article 12(1).

[32] *See* Cross-Border Margin Rule, 81 FR 34819.

[33] *See* RTS, Explanatory Memorandum at 3.

[34] 7 U.S.C. 1a(47).

[35] *See, e.g.,* § 1.3(xxx), 17 CFR 1.3(xxx).

[36] 17 CFR 23.151.

[37] *See* EMIR, Article 11(1) and RTS, Recital (1). CCP is defined in Article 2(1) of EMIR to mean ''a legal person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer.''

[38] Under MiFID, such financial instruments are: (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash; (5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event); (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF; (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in C.6 and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls; (8) Derivative instruments for the transfer of credit risk; (9) Financial contracts for differences; (10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls. *See* MiFID, Annex I, Section C(4)–(10).

[39] Article 38 of EU Regulation No. 1287/2006 further defines the financial instruments described in Point (7) of Section C of Annex I to MiFID to generally be physically-settled FX forwards and swaps. Article 39 of EU Regulation No. 1287/2006 further refines the definition of financial instruments described in Point (10) of Section C of Annex I to MiFID to generally be exchanges of principal of currency swaps.

[40] *See* RTS, Article 27.

[41] *See* RTS, Article 30.

[42] *See* EMIR, Article 2(7).

derivative as defined under the laws of the EU. In such cases, the Final Margin Rule would apply to the transaction but the EU's margin rules would not apply and thus, substituted compliance would not be available. The CSE could not choose to comply with the EU's margin rules in place of the Final Margin Rule.

Likewise, if a transaction is a non-centrally cleared OTC derivative as defined under the laws of the EU but not an uncleared swap subject to the Final Margin Rule, a CSE could not choose to comply with the Final Margin Rule pursuant to this determination, unless the EU determines that it will permit the EU entity to follow the Commission's margin requirements. CSEs are solely responsible for determining whether a particular transaction is both an uncleared swap and a non-centrally cleared OTC derivative before relying on substituted compliance under the comparability determinations set forth below.

C. Entities Subject to Margin Requirements

As stated previously, the Commission's Final Margin Rule and Cross-Border Margin Rule apply only to CSEs, *i.e.,* SDs and MSPs registered with the Commission for which there is not a Prudential Regulator.[43] Thus, only such CSEs may rely on the determinations herein for substituted compliance, while CSEs for which there is a Prudential Regulator must look to the determinations of the Prudential Regulators.

CSEs are not required to collect and/or post margin with every uncleared swap counterparty. Under the Final Margin Rule, the initial margin obligations of CSEs apply only to uncleared swaps with counterparties that meet the definition of ''covered counterparty'' in § 23.151.[44] Such definition provides that a ''covered counterparty'' is a counterparty that is a financial end user[45] with material swaps exposure[46] or a swap entity[47] that enters into a swap with a CSE. The variation margin obligations of CSEs under the Final Margin Rule apply more broadly. Such obligations apply to counterparties that are swap entities and all financial end users, regardless of their level of material swaps exposure.[48]

As represented by the applicant, the EU's margin rules apply to all financial counterparties, which include investment firms, credit institutions, insurance companies, and alternative investment funds that are authorized or registered in accordance with various EU directives (''FC'').[49] CCPs not authorized as credit institutions are outside the scope of Article 11 of EMIR and CCPs authorized as credit institutions are exempt from the RTS.[50] The EU's margin rules also apply to non-financial counterparties (any EU entity other than an FC or a CCP[51]) (''NFC'') that are above a certain clearing threshold (''NFC+'').[52] Under the EU rules, no margin is required for non-centrally cleared OTC derivatives with NFCs that fall below the clearing threshold (''NFC-'') or non-EU entities that would be NFC-s if established in the EU.[53] However, under the EU margin rules, counterparties must take into account the different risk profiles of NFC-s when entering into non-centrally cleared OTC derivatives with such counterparties and determine whether or not the level of counterparty credit risk posed by those NFC-s needs to be mitigated through the exchange of collateral.[54] Like the Final Margin Rule, the EU margin rules include a threshold under which initial margin requirements will not apply, while the variation margin requirements apply more broadly.[55]

Given the definitional differences and differences in activity thresholds with respect to the scope of application of the Final Margin Rule and the EU's margin requirements, the Commission notes the possibility that the Final Margin Rule and the EU's margin rules may not apply to every uncleared swap that a CSE may enter into with a EU counterparty. For example, it appears possible that a financial end user with ''material swaps exposure'' would meet the definition of ''covered counterparty'' under the Final Margin Rule (and thus the initial and variation margin

[43] *See* 7 U.S.C. 6s(e)(1)(B). SDs and MSPs for which there is a Prudential Regulator must meet the margin requirements for uncleared swaps established by the applicable Prudential Regulator. 7 U.S.C. 6s(e)(1)(A). *See also* 7 U.S.C. 1a(39) (defining the term ''Prudential Regulator'' to include the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The Prudential Regulators published final margin requirements in November 2015. *See* Prudential Regulators' Final Margin Rule, 80 FR 74840 (Nov. 30, 2015).

[44] *See* § 23.152.

[45] *See* definition of ''Financial end user'' in § 23.150.

[46] *See* § 23.150, which states that ''material swaps exposure'' for an entity means that the entity and its margin affiliates have an average daily aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for June, July and August of the previous calendar year that exceeds $8 billion, where such amount is calculated only for business days. That provision further states that an entity shall count the average daily aggregate notional amount of an uncleared swap, an uncleared security-based swap, a foreign exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time. For purposes of this calculation, an entity shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that qualifies for an exemption under section 3C(g)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c–3(g)(4)) and implementing regulations or that satisfies the criteria in section 3C(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78–c3(g)(4)) and implementing regulations.

[47] ''Swap entity'' is defined in § 23.150 as a person that is registered with the Commission as a swap dealer or major swap participant pursuant to the Act.

[48] *See* § 23.153.

[49] *See* EMIR, Article 11 (Risk-Mitigation Techniques for OTC Derivative Contracts Not Cleared by a CCP). While the definition of ''financial counterparty'' under EMIR includes credit institutions authorized in accordance with Directive 2006/48/EU, CCPs that are authorized as credit institutions are exempted from the EU's margin rules. *See* RTS, Article 23. As explained in the RTS, since CCPs might be authorized as a credit institution according to Union legislation, it is necessary to excluded non-centrally cleared OTC derivative contracts that CCPs enter into during a default management process from the requirements of this Regulation since those contracts are already subject to the provisions of Commission Delegated Regulation (EU) No 153/2013 and therefore they are not subject to the provisions of these Regulations.

[50] *See* RTS, Article 23.

[51] *See* EMIR, Article 2(9).

[52] *See* EMIR, Article 11(3) (''[NFCs] . . . shall have risk-management procedures that require the timely, accurate and appropriately segregated exchange of collateral with respect to OTC derivative contracts that are entered into on or after the clearing threshold is exceeded.''). The clearing threshold values are measured by asset class as follows:

(a) EUR 1 billion in gross notional value for OTC credit derivative contracts;

(b) EUR 1 billion in gross notional value for OTC equity derivative contracts;

(c) EUR 3 billion in gross notional value for OTC interest rate derivative contracts;

(d) EUR 3 billion in gross notional value for OTC foreign exchange derivative contracts;

(e) EUR 3 billion in gross notional value for OTC commodity derivative contracts and other OTC derivative contracts not provided for under points (a) to (d).

See Article 11 of Commission Delegated Regulation (EU) No 149/2013 of December 19, 2012 Supplementing EMIR with Regard to Regulatory Technical Standards on Indirect Clearing Arrangements, the Clearing Obligation, the Public Register, Access to a Trading Venue, Non-Financial Counterparties, and Risk Mitigation Techniques for Uncleared OTC Derivatives (pursuant to Article 10(4)(b) of EMIR).

[53] *See* RTS, Article 24.

[54] *See* RTS, Recital (2).

[55] *See* RTS, Article 28, stating: Counterparties may provide in their risk management procedures that initial margins are not collected for all new OTC derivative contracts entered into within a calendar year where one of the two counterparties has an aggregate month-end average notional amount of non-centrally cleared OTC derivatives for the months March, April and May of the preceding year of below EUR 8 billion. The aggregate month-end average notional amount referred to in the first subparagraph shall be calculated at the counterparty level or at the group level where the counterparty belongs to a group.

requirements) while at the same time fall under the EU's clearing threshold (an NFC-) and not be subject the EU margin requirements. It may also be possible that the Final Margin Rule's definition of ''financial end user'' could capture an entity that is an NFC under the EU's margin regime.

With these differences in scope in mind, the Commission reiterates that no CSE may rely on substituted compliance unless it and its transaction are subject to both the Final Margin Rule and the EU's margin rules; a CSE may not voluntarily comply with the EU's margin rules where such law does not otherwise apply. Likewise, a CSE that is not seeking to rely on substituted compliance should understand that the EU's margin rules may apply to its counterparty irrespective of the CSE's decision to comply with the Final Margin Rule.

D. Treatment of Inter-Affiliate Derivative Transactions

The BCBS/IOSCO Framework recognizes that the treatment of inter-affiliate derivative transactions will vary between jurisdictions. Thus, the BCBS/IOSCO Framework does not set standards with respect to the treatment of inter-affiliate transactions. Rather, it recommends that regulators in each jurisdiction review their own legal frameworks and market conditions and put in place margin requirements applicable to inter-affiliate transactions as appropriate.[56]

1. Commission Requirements for Treatment of Inter-Affiliate Transactions

The Commission determined through its Final Margin Rule to provide rules for swaps between ''margin affiliates.'' In defining ''margin affiliate,'' those rules provide that a company is a margin affiliate of another company if: (1) Either company consolidates the other on a financial statement prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards; (2) both companies are consolidated with a third company on a financial statement prepared in accordance with such principles or standards; or (3) for a company that is not subject to such principles or standards, if consolidation as described in (1) or (2) would have occurred if such principles or standards had applied.[57]

With respect to swaps between margin affiliates, the Final Margin Rule, with one exception explained below, provides that a CSE is not required to collect initial margin [58] from a margin affiliate provided that the CSE meets the following conditions: (i) The swaps are subject to a centralized risk management program that is reasonably designed to monitor and to manage the risks associated with the inter-affiliate swaps; and (ii) the CSE exchanges variation margin with the margin affiliate.[59]

In an exception to the foregoing general rule, the Final Margin Rule does require CSEs to collect initial margin from non-U.S. affiliates that are financial end users that are not subject to initial margin collection requirements on their own outward-facing swaps with financial end users that are not comparable in outcome to the Final Margin Rule.[60] This provision is an important anti-evasion measure. It is designed to prevent the potential use of affiliates to avoid collecting initial margin from third parties. For example, suppose that an unregistered non-U.S. affiliate of a CSE enters into a swap with a financial end user and does not collect initial margin. Suppose further that the affiliate then enters into a swap with the CSE. Effectively, the risk of the swap with the third party would have been passed to the CSE without any initial margin. The rule would require this affiliate to post initial margin with the CSE in such cases. The rule would further require that the CSE collect initial margin even if the affiliate routed the trade through one or more other affiliates.[61]

The Commission has stated that its inter-affiliate initial margin requirement is consistent with its goal of harmonizing its margin rules as much as possible with the BCBS/IOSCO Framework. Such Framework, for example, states that the exchange of initial and variation margin by affiliated parties ''is not customary'' and that initial margin in particular ''would likely create additional liquidity demands.'' [62] With an understanding that many authorities, such as those in Europe and Japan, are not expected to require initial margin for inter-affiliate swaps, the Commission recognized that requiring the posting and collection of initial margin for inter-affiliate swaps generally would be likely to put CSEs at a competitive disadvantage to firms in other jurisdictions.

The Final Margin Rule however, does require CSEs to exchange variation margin with affiliates that are SDs, MSPs, or financial end users (as is also required under the Prudential Regulators' rules).[63] The Commission stated that marking open positions to market each day and requiring the posting or collection of variation margin reduces the risks of inter-affiliate swaps.

2. Requirement for Treatment of Inter-Affiliate Derivatives Under the Laws of the EU

Under Article 11 of EMIR, the EU's margin requirements generally apply to intragroup transactions as defined in Article 3 of EMIR. Such ''intragroup transactions'' are defined differently for intragroup transactions in relation to an FC (''FC Intragroup Transactions'') [64] and intragroup transactions in relation to an NFC (''NFC Intragroup Transactions'' and, together with FC Intragroup Transactions, ''Intragroup Transactions'').[65] What the EU defines

[56] *See* BCBS/IOSCO Framework, Element 6: Treatment of transactions with affiliates.

[57] § 23.151.

[58] ''Initial margin'' is margin exchanged to protect against a potential future exposure and is defined in § 23.151 to mean the collateral, as calculated in accordance with § 23.154 that is collected or posted in connection with one or more uncleared swaps.

[59] *See* § 23.159(a).

[60] *See* § 23.159(c).

[61] *See id.*

[62] *See* BCBS/IOSCO Framework, Element 6: Treatment of transactions with affiliates.

[63] *See* § 23.159(b); *see also* Prudential Regulators' Final Margin Rule, 80 FR 74909.

[64] Article 3(2) of EMIR defines an ''intragroup transaction'' for an FC to be:

(a) An OTC derivative contract entered into with another counterparty which is part of the same group, provided that the following conditions are met:

(i) The financial counterparty is established in the Union or, if it is established in a third country, the Commission has adopted an implementing act under Article 13(2) in respect of that third country;

(ii) the other counterparty is a financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements;

(iii) both counterparties are included in the same consolidation on a full basis; and

(iv) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;

(b) an OTC derivative contract entered into with another counterparty where both counterparties are part of the same institutional protection scheme, referred to in Article 80(8) of Directive 2006/48/EC, provided that the condition set out in point (a)(ii) of this paragraph is met;

(c) an OTC derivative contract entered into between credit institutions affiliated to the same central body or between such credit institution and the central body, as referred to in Article 3(1) of Directive 2006/48/EC; or

(d) an OTC derivative contract entered into with a non-financial counterparty which is part of the same group provided that both counterparties are included in the same consolidation on a full basis and they are subject to an appropriate centralised risk evaluation, measurement and control procedures and that counterparty is established in the Union or in a third-country jurisdiction for which the Commission has adopted an implementing act as referred to in Article 13(2) in respect of that third country.

[65] Article 3(1) of EMIR defines an ''intragroup transaction'' for an NFC to be:

[A]n OTC derivative contract entered into with another counterparty which is part of the same

Continued

as Intragroup Transactions is generally in keeping with the Commission's definition of ''margin affiliate'' for purposes of the Final Margin Rule, discussed above.

For Intragroup Transactions between counterparties established in the same Member State, no margin requirements will apply, but only as long as there is no legal impediment to the prompt transfer of own funds or repayment of liabilities between counterparties.[66] A legal impediment to the prompt transfer of own funds and repayment of liabilities shall be deemed to exist where there are actual or foreseen restrictions of a legal nature.[67]

For Intragroup Transactions between counterparties established in different Member States, the EU margin rules generally provide, depending on the nature and location of the counterparties, that such Intragroup Transactions may be excluded from the EU margin requirements but only if, in addition to there being no current or legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties, the counterparties (i) have risk management procedures that are sound, robust, and consistent with the level of complexity of the derivative transaction, and (ii) in keeping with the procedures established under the RTS,[68] the counterparties have notified the relevant competent authority [69] or authorities of the intention to use the exemption and the authority or authorities have reached a positive decision to allow the exemption.[70] The counterparties to an exempted Intragroup Transaction must publicly disclose information about the exemption.[71]

Where one of the two counterparties in the group is domiciled in a third-country for which an equivalence determination under Article 13(2) of EMIR has not yet been provided, the group has to exchange variation and appropriately segregated initial margins for all the Intragroup Transactions with the subsidiaries in those third-countries.[72] However, the requirements are delayed for three years in these cases.[73] This is to allow enough time for completion of the process to produce the equivalence determinations, while not requiring an inefficient allocation of resources to the groups with subsidiaries domiciled in third-countries.[74] Where an equivalence decision has been made, counterparties may then apply for an exemption pursuant to the timing and process established under EMIR and the RTS.[75]

3. Commission Determination

Having compared the outcomes of the EU's margin requirements applicable to Intragroup Transactions to the outcomes of the Commission's corresponding margin requirements applicable to inter-affiliate swaps, the Commission finds that the treatment of inter-affiliate transactions under the Final Margin Rule and under the EU's margin requirements are comparable in outcome.

A CSE entering into a transaction with a consolidated affiliate under the Final Margin Rule would be required to exchange variation margin in accordance with §§ 23.151 through 23.161, and in certain circumstances, collect initial margin in accordance with § 23.159(c). The Commission continues to deem this provision an important anti-evasion measure, designed to prevent the potential use of affiliates to avoid collecting initial margin from third parties.[76] In adopting its Final Margin Rule, the Commission recognized that, in absence of proper anti-evasion measures, a CSE could import risk from another jurisdiction, one with potentially less stringent margin protections, through inter-affiliate trades.[77] In analyzing the EU's margin rules, the Commission specifically notes that the EU margin rules will apply to inter-affiliate trades involving an affiliate that is established in a third-country (non-EU) jurisdiction, unless specifically excluded. Any exclusion from the EU margin rules is subject to an application process, which would require a finding that the relevant non-EU jurisdiction's margin requirements are equivalent. This comparability requirement provides protection to the consolidated entity, as the consolidated entity would not be able to import risk from third country jurisdictions that are not equivalent, without posting and collecting initial margin and exchanging variation margin. Therefore, the Commission believes that the EU's review process for finding comparability in third-country jurisdictions addresses the Commission's anti-evasion concerns relating to inter-affiliate transactions.

In addition, where a CSE and its inter-affiliate counterparty are subject to the Commission's margin requirements and the EU's margin requirements, all of the EU's margin requirements would apply, including the requirement to exchange variation margin, absent meeting the specific conditions detailed above. Other than where the two counterparties are established in the same Member State, those specific conditions involve a process of applying to the relevant Member State competent authority(ies) [78] and receiving a positive determination from either or both competent authorities [79] or upon notification to the relevant Member State competent authority(ies) and agreement of those competent authorities.[80] All exemptions are also predicated on the absence of any current or foreseen practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties [81] and on the

group provided that both counterparties are included in the same consolidation on a full basis and they are subject to an appropriate centralised risk evaluation, measurement and control procedures and that counterparty is established in the Union or, if it is established in a third country, the Commission has adopted an implementing act under Article 13(2) in respect of that third country.

[66] *See* EMIR, Article 11(5); *see also* RTS, Article 33 (Applicable Criteria for the Legal Impediment to the Prompt Transfer of Own Funds and Repayment of Liabilities).

[67] *See* RTS, Article 33. Such restrictions include:

(a) Currency and exchange controls;

(b) a regulatory, administrative, legal or contractual framework that prevents mutual financial support or significantly affects the transfer of funds within the group;

(c) any of the conditions on the early intervention, recovery and resolution as referred to in Directive 2014/59/EU of the European Parliament and of the Council (1) are met, as a result of which the competent authority foresees an impediment to the prompt transfer of own funds or repayment of liabilities;

(d) the existence of minority interests that limit decision-making power within entities that form the group;

(e) the nature of the legal structure of the counterparty, as defined in its statutes, instruments of incorporation and internal rules.

See RTS, Article 33(a)–(e).

[68] *See* RTS, Article 32.

[69] *See* EMIR, Article 2(13) for the definition of ''competent authority'' for purposes of the RTS.

[70] *See* EMIR, Article 11(6) to (10).

[71] *See* EMIR, Article 11(11).

[72] *See* RTS, Recital (40).

[73] *See* RTS, Articles 36 and 37.

[74] *See* RTS, Recital (40).

[75] *See* RTS, Articles 36 and 37.

[76] *See* Final Margin Rule, 81 FR 674.

[77] *See id.*

[78] RTS, Recital (37) states:

When a counterparty notifies the relevant competent authority regarding its intention to take advantage of the exemption of intragroup transactions, in order for the competent authority to decide whether the conditions for the exemption are met, the counterparty should provide a complete file including all relevant information necessary for the competent authority to complete its assessment.

[79] *See* EMIR, Article 11(6), (8), and (10).

[80] *See* EMIR, Article 11(7) and (9).

[81] *See* EMIR, Article 11(6)–(10). In addition, RTS, Recital (39) states:

In order for the exemption for intragroup transactions to be applicable, it must be certain that no legislative, regulatory, administrative or other mandatory provisions of applicable law could legally prevent the intragroup counterparties from meeting their obligations to transfer monies or repay liabilities or securities under the terms of the intragroup transactions. Similarly, there should be no operational or business practices of the intragroup counterparties or the group that could

existence of adequately sound and robust risk management practices that are consistent with the level of complexity of the derivatives transaction.[82]

E. Methodologies for Calculating the Amounts of Initial and Variation Margin

As an overview, the methodologies for calculating initial and variation margin as agreed under the BCBS/IOSCO Framework state that the margin collected from a counterparty should (i) be consistent across entities covered by the requirements and reflect the potential future exposure (initial margin) and current exposure (variation margin) associated with the particular portfolio of non-centrally cleared derivatives, and (ii) ensure that all counterparty risk exposures are covered fully with a high degree of confidence.

With respect to the calculation of initial margin, as a minimum the BCBS/IOSCO Framework generally provides that:

- Initial margin requirements will not apply to counterparties that have less than EUR 8 billion of gross notional in outstanding derivatives.
- Initial margin may be subject to a EUR 50 million threshold applicable to a consolidated group of affiliated counterparties.
- All margin transfers between parties may be subject to a de-minimis minimum transfer amount not to exceed EUR 500,000.
- The potential future exposure of a non-centrally cleared derivative should reflect an extreme but plausible estimate of an increase in the value of the instrument that is consistent with a one-tailed 99% confidence interval over a 10-day horizon, based on historical data that incorporates a period of significant financial stress.
- The required amount of initial margin may be calculated by reference to either (i) a quantitative portfolio margin model or (ii) a standardized margin schedule.
- When initial margin is calculated by reference to an initial margin model, the period of financial stress used for calibration should be identified and applied separately for each broad asset class for which portfolio margining is allowed.
- Models may be either internally developed or sourced from the counterparties or third-party vendors but in all such cases, models must be approved by the appropriate supervisory authority.
- Quantitative initial margin models must be subject to an internal governance process that continuously assesses the value of the model's risk assessments, tests the model's assessments against realized data and experience, and validates the applicability of the model to the derivatives for which it is being used.
- An initial margin model may consider all of the derivatives that are approved for model use that are subject to a single legally enforceable netting agreement.
- Initial margin models may account for diversification, hedging, and risk offsets within well-defined asset classes such as currency/rates, equity, credit, or commodities, but not across such asset classes and provided these instruments are covered by the same legally enforceable netting agreement and are approved by the relevant supervisory authority.
- The total initial margin requirement for a portfolio consisting of multiple asset classes would be the sum of the initial margin amounts calculated for each asset class separately.
- Derivatives for which a firm faces zero counterparty risk require no initial margin to be collected and may be excluded from the initial margin calculation.
- Where a standardized initial margin schedule is appropriate, it should be computed by multiplying the gross notional size of a derivative by the standardized margin rates provided under the BCBS/IOSCO Framework and adjusting such amount by the ratio of the net current replacement cost to gross current replacement cost (NGR) pertaining to all derivatives in a legally enforceable netting set. The BCBS/IOSCO Framework provides the following standardized margin rates:[83]

Asset class	Initial margin requirement (% of notional exposure)
Credit:	
0–2 year duration	2
2–5 year duration	5
5+ year duration	10
Commodity	15
Equity	15
Foreign exchange	6
Interest rate:	
0–2 year duration	1
2–5 year duration	2
5+ year duration	4
Other	15

- For a regulated entity that is already using a schedule-based margin to satisfy requirements under its required capital regime, the appropriate supervisory authority may permit the use of the same schedule for initial margin purposes, provided that it is at least as conservative.
- The choice between model- and schedule-based initial margin calculations should be made consistently over time for all transactions within the same well defined asset class.
- Initial margin should be collected at the outset of a transaction, and collected thereafter on a routine and consistent basis upon changes in measured potential future exposure, such as when trades are added to or subtracted from the portfolio.
- In the event that a margin dispute arises, both parties should make all necessary and appropriate efforts, including timely initiation of dispute resolution protocols, to resolve the dispute and exchange the required amount of initial margin in a timely fashion.

With respect to the calculation of variation margin, as a minimum the BCBS/IOSCO Framework generally provides that:

- The full amount necessary to fully collateralize the mark-to-market exposure of the non-centrally cleared derivatives must be exchanged.
- Variation margin should be calculated and exchanged for derivatives subject to a single, legally enforceable netting agreement with sufficient frequency (*e.g.,* daily).
- In the event that a margin dispute arises, both parties should make all necessary and appropriate efforts, including timely initiation of dispute resolution protocols, to resolve the dispute and exchange the required amount of variation margin in a timely fashion.

1. Commission Requirement for Calculation of Initial Margin

In keeping with the BCBS/IOSCO Framework described above, with respect to the calculation of initial

result in funds not being available to meet payment obligations as they fall due on a day-to-day basis, or in prompt electronic transfer of funds not being possible.

[82] RTS, Recital (38) states:

For a group to be deemed to have adequately sound and robust risk management procedures, a number of conditions have to be met. The group should ensure a regular monitoring of the intragroup exposures, and the timely settlement of the obligations resulting from the intragroup OTC derivative contracts should be guaranteed based on the monitoring and liquidity tools at group level that are consistent with the complexity of the intragroup transactions.

[83] *See* BCBS/IOSCO Framework.

margin, the Commission's Final Margin Rule generally provides that:

- Initial margin is intended to address potential future exposure, *i.e.,* in the event of a counterparty default, initial margin protects the non-defaulting party from the loss that may result from a swap or portfolio of swaps, during the period of time needed to close out the swap(s).[84]
- Potential future exposure is to be an estimate of the one-tailed 99% confidence interval for an increase in the value of the uncleared swap or netting portfolio of uncleared swaps due to an instantaneous price shock that is equivalent to a movement in all material underlying risk factors, including prices, rates, and spreads, over a holding period equal to the shorter of 10 business days or the maturity of the swap or netting portfolio.[85]
- The required amount of initial margin may be calculated by reference to either (i) a risk-based margin model or (ii) a table-based method.[86]
- All data used to calibrate the initial margin model shall incorporate a period of significant financial stress for each broad asset class that is appropriate to the uncleared swaps to which the initial margin model is applied.[87]
- CSEs shall obtain the written approval of the Commission or a registered futures association to use a model to calculate the initial margin required.[88]
- An initial margin model may calculate initial margin for a netting portfolio of uncleared swaps covered by the same eligible master netting agreement.[89]
- An initial margin model may reflect offsetting exposures, diversification, and other hedging benefits for uncleared swaps that are governed by the same eligible master netting agreement by incorporating empirical correlations within the following broad risk categories, provided the CSE validates and demonstrates the reasonableness of its process for modeling and measuring hedging benefits: Commodity, credit, equity, and foreign exchange or interest rate.[90]
- Empirical correlations under an eligible master netting agreement may be recognized by the model within each broad risk category, but not across broad risk categories.[91]
- If the initial margin model does not explicitly reflect offsetting exposures, diversification, and hedging benefits between subsets of uncleared swaps within a broad risk category, the CSE shall calculate an amount of initial margin separately for each subset of uncleared swaps for which such relationships are explicitly recognized by the model and the sum of the initial margin amounts calculated for each subset of uncleared swaps within a broad risk category will be used to determine the aggregate initial margin due from the counterparty for the portfolio of uncleared swaps within the broad risk category.[92]
- Where a risk-based model is not used, initial margin must be computed by multiplying the gross notional size of a derivative by the standardized margin rates provided under § 23.154(c)(i) [93] and adjusting such amount by the ratio of the net current replacement cost to gross current replacement cost (NGR) pertaining to all derivatives under the same eligible master netting agreement.[94]
- A CSE shall not be deemed to have violated its obligation to collect or post initial margin if, *inter alia,* it makes timely initiation of dispute resolution mechanisms, including pursuant to § 23.504(b)(4).[95]

2. Commission Requirements for Calculation of Variation Margin

In keeping with the BCBS/IOSCO Framework described above, with respect to the calculation of variation margin, the Commission's Final Margin Rule generally provides that:

- Each business day, a CSE must calculate variation margin amounts for itself and for each counterparty that is an SD, MSP, or financial end user. Such variation margin amounts must be equal to the cumulative mark-to-market change in value to the CSE of each uncleared swap, adjusted for any variation margin previously collected or posted with respect to that uncleared swap.[96]
- Variation margin must be calculated using methods, procedures, rules, and inputs that to the maximum extent practicable rely on recently-executed transactions, valuations provided by independent third parties, or other objective criteria.[97]
- CSEs may comply with variation margin requirements on an aggregate basis with respect to uncleared swaps that are governed by the same eligible master netting agreement.[98]
- A CSE shall not be deemed to have violated its obligation to collect or post variation margin if, *inter alia,* it makes timely initiation of dispute resolution mechanisms, including pursuant to § 23.504(b)(4).[99]

3. EU Requirements for Calculation of Initial Margin

In keeping with the BCBS/IOSCO Framework, with respect to the calculation of initial margin, the EU's margin requirements generally provide:

- Initial margin protects counterparties against potential losses which could stem from movements in the market value of the derivatives position occurring between the last exchange of variation margin before the default of a counterparty and the time that the OTC derivatives are replaced or the corresponding risk is hedged.[100] It is the collateral collected by a counterparty to cover its current and potential future exposure in the interval between the last collection of margin and the liquidation of positions or hedging of market risk following a default of the other counterparty.[101]
- The assumed variations in the value of the non-centrally cleared OTC derivative contracts within the netting set for the calculation of initial margins using an initial margin model shall be based on a one-tailed 99% confidence interval over a margin period of risk (''MPOR'') of at least 10 days.[102]
- Counterparties shall calculate the amount of initial margin to be collected using either a standardized approach or an initial margin model or both.[103]
- Parameters used in initial margin models shall be calibrated, at least annually, based on historical data from a time period with a minimum duration of three years and a maximum duration of five years.
- The data used for calibrating the parameters of initial margin models shall include the most recent continuous period from the date on which the calibration is performed and at least 25% of those data shall be

[84] *See* Final Margin Rule, 81 FR 683.
[85] *See* § 23.154(b)(2)(i).
[86] *See* § 23.154(a)(1)(i) and (ii).
[87] *See* § 23.154(b)(2)(ii).
[88] *See* § 23.154(b)(1)(i).
[89] *See* § 23.154(b)(2)(v).
[90] *See id.*
[91] *See id.*
[92] *See* § 23.154(b)(2)(vi).
[93] The standardized margin rates provided in § 23.154(c)(i) are, in all material respects, the same as those provided under the BCBS/IOSCO Framework. *See supra* note 83 and table in accompanying text.
[94] *See* § 23.154(c).
[95] *See* § 23.152(d)(2)(i).
[96] *See* § 23.155(a).
[97] *See id.*
[98] *See* § 23.153(d)(1).
[99] *See* § 23.153(e)(2)(i).
[100] *See* RTS, Recital (3).
[101] *See* RTS, Article 1.
[102] *See* RTS, Article 15(1).
[103] *See* RTS, Article 11(1).

representative of a period of significant financial stress (stressed data).[104]

- Where a counterparty uses an initial margin model, that model may be developed by any of, or both, counterparties or by a third party agent.
- Where a counterparty uses an initial margin model developed by a third party agent, the counterparty shall remain responsible for ensuring that that model complies with the EU's margin rules.[105]
- Initial margin models shall only include non-centrally cleared OTC derivative contracts within the same netting set.[106]
- Initial margin models may provide for diversification, hedging and risk offsets arising from the risks of the contracts within the same netting set, provided that the diversification, hedging or risk offset is only carried out within the same underlying asset class as referred to in these requirements.
- Diversification, hedging, and risk offsets may only be carried out within the following underlying asset classes: (a) Interest rates, currency and inflation; (b) equity; (c) credit; (d) commodities and gold; (e) other.[107]
- In the event of a dispute over the amount of initial margin due, counterparties shall provide at least the part of the initial margin amount that is not being disputed within the same business day of the calculation date determined in accordance with Article 9(3).[108]

4. EU Requirements for Calculation of Variation Margin

In keeping with the BCBS/IOSCO Framework, with respect to the calculation of variation margin, the EU's margin requirements generally provide:

- FCs and NFC+s shall mark-to-market on a daily basis the value of outstanding contracts. Where market conditions prevent marking-to-market, reliable and prudent marking-to-model shall be used.[109]
- The amount of variation margin to be collected by a counterparty shall be the aggregation of the values calculated for purposes of variation margin of all contracts in the netting set, minus the value of all variation margin previously collected, minus the net value of each contract in the netting set at the point of entry into the contract, and plus the value of all variation margin previously posted.[110]
- In the event of a dispute over the amount of variation margin due, counterparties shall provide at least the part of the variation margin amount that is not being disputed.[111]

5. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission has determined that the amounts of initial and variation margin calculated under the methodologies required under the EU's margin rules would be similar to those calculated under the methodologies required under the Final Margin Rule. Specifically, under the Final Margin Rule and the EU's margin rules:

- The definitions of initial and variation margin are similar, including the description of potential future exposure agreed under the BCBS/IOSCO Framework;
- Margin models and/or a standardized margin schedule may be used to calculate initial margin;
- Criteria for historical data to be used in initial margin models is similar;
- Eligibility for netting is similar;
- Correlations may be recognized within broad risk categories, but not across such risk categories;
- The required method of calculating initial margin using standardized margin rates is essentially identical; and
- The proscribed standardized margin rates are essentially identical.

Accordingly, the Commission finds that the methodologies for calculating the amounts of initial and variation margin for non-centrally cleared OTC derivatives under the laws of the EU are comparable in outcome to those of the Final Margin Rule.

F. Process and Standards for Approving Margin Models

Pursuant to the BCBS/IOSCO Framework, initial margin models may be either internally developed or sourced from counterparties or third-party vendors but in all such cases, models must be approved by the appropriate supervisory authority.[112]

1. Commission Requirement for Margin Model Approval

In keeping with the BCBS/IOSCO Framework, the Final Margin Rule generally requires:

- CSEs shall obtain the written approval of the Commission or a registered futures association to use a model to calculate the initial margin required.[113]
- The Commission or a registered futures association will approve models that demonstrate satisfaction of all of the requirements for an initial margin model set forth above in Section IV(E)(1), in addition to the requirements for annual review;[114] control, oversight, and validation mechanisms;[115] documentation;[116] and escalation procedures.[117]
- CSEs must notify the Commission and the registered futures association in writing 60 days prior to extending the use of an initial margin model to an additional product type; making any change to the model that would result in a material change in the CSE's assessment of initial margin requirements; or making any material change to modeling assumptions.
- The Commission or the registered futures association may rescind its approval, or may impose additional conditions or requirements if the Commission or the registered futures association determines, in its discretion, that a model no longer complies with the requirements for an initial margin model summarized above in Section IV(E)(1).

2. EU Requirement for Approval of Margin Models

The EU's margin rules generally require:

- Upon request, counterparties using a non-standardized initial margin model shall provide the competent authorities with any documentation relating to the risk management procedures relating to such model at any time.[118]

3. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission has determined that the EU margin rules' requirement that an FC/NFC+ make documentation supporting an initial model available to a competent authority at any time is comparable in outcome to, the regulatory approval requirements of the Final Margin Rule. While the Commission recognizes that keeping documents open to regulatory review is not the same as requiring specific pre-approval from a regulator, the EC has represented that competent authorities within the Member States responsible for supervising FCs and, where applicable NFC+s, as part of their ongoing prudential regulation and supervision will enforce applicable

[104] *See* RTS, Article 16(1) and (2).
[105] *See* RTS, Article 14.
[106] *See* RTS, Article 17(1) and (2).
[107] *See* RTS, Article 17(1) and (2).
[108] *See* RTS, Article 13(3).
[109] *See* EMIR, Article 11(2); RTS, Article 9.
[110] *See* EMIR, Article 11(2); RTS, Article 10.
[111] *See* RTS, Article 12(3).
[112] *See* BCBS/IOSCO Framework Requirement 3.3.
[113] *See* § 23.154(b)(1)(i).
[114] *See* § 23.154(b)(4), discussed further below.
[115] *See* § 23.154(b)(5), discussed further below.
[116] *See* § 23.154(b)(6), discussed further below.
[117] *See* § 23.154(b)(7), discussed further below.
[118] *See* RTS, Article 2(6).

legislation and control whether the models adopted by these entities comply with the requirements under the EU margin rules. Furthermore, Article 12 of EMIR grants the competent authorities in each Member State the authority to impose fines in case of infringement of the rules promulgated under EMIR, such as the RTS.[119] Such infringement could include an FC's or NFC+'s violations of the provisions under Section 4 of the RTS that establish the general requirements for initial margin models.[120]

G. Timing and Manner for Collection or Payment of Initial and Variation Margin

1. Commission Requirement for Timing and Manner for Collection or Payment of Initial and Variation Margin

With respect to the timing and manner for collection or posting of initial margin, the Final Margin Rule generally provides that:

- Where a CSE is required to collect initial margin, it must be collected on or before the business day after execution of an uncleared swap, and thereafter the CSE must continue to hold initial margin in an amount equal to or greater than the required initial margin amount as re-calculated each business day until such uncleared swap is terminated or expires.
- Where a CSE is required to post initial margin, it must be posted on or before the business day after execution of an uncleared swap, and thereafter the CSE must continue to post initial margin in an amount equal to or greater than the required initial margin amount as re-calculated each business day until such uncleared swap is terminated or expires.
- Required initial margin amounts must be posted and collected by CSEs on a gross basis (*i.e.,* amounts to be posted may not be set-off against amounts to be collected from the same counterparty).

With respect to the timing and manner for collection or posting of variation margin, the Final Margin Rule generally provides that:

- Where a CSE is required to collect variation margin, it must be collected on or before the business day after execution of an uncleared swap, and thereafter the CSE must continue to collect the required variation margin amount, if any, each business day as re-calculated each business day until such uncleared swap is terminated or expires.[121]
- Where a CSE is required to post variation margin, it must be posted on or before the business day after execution of an uncleared swap, and thereafter the CSE must continue to post the required variation margin amount, if any, each business day as re-calculated each business day until such uncleared swap is terminated or expires.[122]

With respect to both initial and variation margin, a CSE shall not be deemed to have violated its obligation to collect or post margin if, *inter alia,* it makes timely initiation of dispute resolution mechanisms, including pursuant to § 23.504(b)(4).[123]

2. EU Requirements for Timing and Manner for Collection of Initial and Variation Margin

With respect to the timing and manner for collection or posting of initial margin, the EU's margin rules generally provide that:

- Counterparties shall calculate initial margin no later than the business day following one of these events: (a) Where a new non-centrally cleared OTC derivative contract is executed or added to the netting set; (b) where an existing non-centrally cleared OTC derivative contract expires or is removed from the netting set; (c) where an existing non-centrally cleared OTC derivative contract triggers a payment or a delivery other than the posting and collecting of margins; (d) where the initial margin is calculated in accordance with the standardized approach and an existing contract is reclassified in terms of the asset category referred to by the RTS as a result of reduced time to maturity; (e) where no calculation has been performed in the preceding 10 business days.[124]
- The posting counterparty shall provide the initial margin within the same business day of the calculation date.[125]
- Where two counterparties are located in the same time-zone, the calculation shall be based on the netting set of the previous business day.[126]
- Where two counterparties are not located in the same time-zone, the calculation shall be based on the transactions in the netting set which are entered into before 16:00 hours of the previous business day of the time-zone where it is first 16:00 hours.[127]
- In the event of a dispute over the amount of initial margin due, counterparties shall provide at least the part of the initial margin amount that is not being disputed within the same business day of the calculation date.[128]

With respect to the timing and manner for collection or posting of variation margin, the EU's margin rules generally provide that:

- Counterparties shall calculate variation margin at least on a daily basis.[129]
- The posting counterparty shall provide the variation margin as follows: (a) Within the same business day of the calculation date; (b) where certain conditions are met,[130] within two business days of the calculation date.[131]
- In the event of a dispute over the amount of variation margin due,

[119] *See* RTS, Article 40.

[120] The applicant noted that, in a November 23, 2016 report to the European Parliament and the Council on areas where further action is necessary to ensure that the objectives of EMIR are fulfilled ''in a more appropriate, efficient and effective manner,'' on the issue of margin model approval, the EC stated:

[W]ith respect to *non-cleared* transactions, some respondents, notably financial institutions, noted the absence of a clear mandate for initial margin models to be endorsed by authorities, which could lead to uncertainty among market participants as to whether their calculations are considered by authorities to be fully compliant with regulations. *A mandate for initial margin models to be endorsed by authorities could promote certainty for market participants and authorities alike.*

See November 23, 2016 Report from the EC to the European Parliament and the Council under Article 85(1) of EMIR on OTC Derivatives, Central Counterparties and Trade Repositories, section 4.1.2 (emphasis included), at *http://ec.europa.eu/finance/financial-markets/docs/derivatives/161123-report_en.pdf.*

[121] *See* § 23.153(a).

[122] *See* § 23.153(b).

[123] *See* § 23.153(e)(2)(i).

[124] *See* RTS, Article 9(2).

[125] *See* RTS, Article 13(2).

[126] *See* RTS, Article 9(3)(a).

[127] *See* RTS, Article 9(3)(b).

[128] *See* RTS, Article 13(3).

[129] *See* RTS, Article 9(1).

[130] The provision of variation margin within two business of the calculation date may only be applied to the following: (a) Netting sets comprising derivative contracts not subject to initial margin requirements in accordance with this Regulation, where the posting counterparty has provided, at or before the calculation date of the variation margin, an advance amount of eligible collateral calculated in the same manner as that applicable to initial margins in accordance with Article 15, for which the collecting counterparty has used a margin period of risk (MPOR) at least equal to the number of days in between and including the calculation date and the collection date; (b) netting sets comprising contracts subject to initial margin requirements in accordance with this Regulation, where the initial margin has been adjusted in one of the following ways: (i) By increasing the MPOR referred to in Article 15(2) by the number of days in between, and including, the calculation date determined in accordance with Article 9(3) and the collection date determined in accordance with paragraph 1 of this Article; (ii) by increasing the initial margin calculated in accordance with the standardised approach referred to in Article 11 using an appropriate methodology taking into account a MPOR that is increased by the number of days in between, and including, the calculation date determined in accordance with Article 9(3) and the collection date determined in accordance with paragraph 2 of this Article. For the purposes of point (a), in case no mechanism for segregation is in place between the two counterparties, those counterparties may offset the amounts to be provided.

[131] *See* RTS, Article 12(1).

counterparties shall provide at least the part of the variation margin amount that is not being disputed.[132]

3. Commission Determination

Having compared the EU's margin requirements applicable to the timing and manner of collection and payment of initial and variation margin to the Commission's corresponding margin requirements, the Commission finds that the EU's margin requirements are, despite apparent differences in certain respects, comparable in outcome.

Under the Final Margin Rule, where initial margin is required, a CSE must calculate the amount of initial margin each business day. The EU's margin rules only require initial margin to be calculated after certain events, including the addition or removal of a non-centrally cleared OTC derivative from the netting set or at least within 10 days after the last initial margin calculation. While this is different from the Final Margin Rule's requirement that the amount of initial margin be calculated each business day, the EC has explained that the more sophisticated counterparties subject to the EU margin rules actively operate in non-centrally cleared OTC derivatives to the point where the RTS requirement to recalculate whenever there is a change to the netting set will in practice require these types of counterparties to recalculate daily. Because of this, the EC views the 10-day allowance under Article 9(2)(e) of the RTS as a backstop only and one that is likely to be exercised only in the case of a static portfolio. The Commission believes that as a result of these entities still exchanging variation margin, and thereby eliminating current exposure, this difference will be mitigated.

With respect to the timing of collecting/posting margin, the Final Margin Rule requires CSEs to collect/post any required margin amount within one business day of calculation which, under the Final Margin Rule, must occur daily. In contrast, the EU's margin rules allow for a variation margin posting date within two business days of the calculation date (T+2) when certain conditions are met.[133] As explained in the Recitals to the RTS, additional time for posting of variation margin is allowed only where compensated by an adjustment to initial margin by an adequate recalculation of MPOR.[134] Where initial margin is required, an adequate recalculation of MPOR under the RTS would occur by increasing the MPOR by the number of days in between, and including, the calculation and collection dates or by increasing the initial margin calculated with the standardized approach taking into account a MPOR increased by the number of days in between, and including, the calculation and collection dates.[135] Where no initial margin requirements apply, additional time is permitted for posting of variation margin if the posting counterparty has provided, at or before the variation margin calculation date, an advance amount of eligible collateral calculated in the same manner as required for initial margin with an MPOR at least equal to the number of days in between, and including, the calculation and collection dates.[136]

While the RTS conditions to a delay in the exchange of variation margin do not make the EU's rule in this area the same as the Final Margin Rule, they do serve to mitigate the potential risks, as described above, by increasing the initial margin's MPOR by the corresponding number of days associated with a delay in the exchange of variation margin. Furthermore, although the EU's allowance for a delay of up to 10 days to recalculate initial margin is not the same as the Final Margin Rule's daily recalculation requirement, as detailed above, the EC has represented that, in practice, it expects the most sophisticated counterparties subject to the EU margin rules to recalculate initial margin on a daily basis. Thus, the Commission finds that the requirements of the EU margin rules with respect to the timing and manner for collection or payment of initial and variation margin are comparable in outcome to the Final Margin Rule.

H. Margin Threshold Levels or Amounts

The BCBS/IOSCO Framework provides that initial margin could be subject to a threshold not to exceed EUR 50 million. The threshold is applied at the level of the consolidated group to which the threshold is being extended and is based on all non-centrally cleared derivatives between the two consolidated groups.

Similarly, to alleviate operational burdens associated with the transfer of small amounts of margin, the BCBS/IOSCO Framework provides that all margin transfers between parties may be subject to a de-minimis minimum transfer amount not to exceed EUR 500,000.

1. Commission Requirement for Margin Threshold Levels or Amounts

In keeping with the BCBS/IOSCO Framework, with respect to margin threshold levels or amounts the Final Margin Rule generally provides that:

- CSEs may agree with their counterparties that initial margin may be subject to a threshold of no more than $50 million applicable to a consolidated group of affiliated counterparties.[137]
- CSEs are not required to collect or to post initial or variation margin with a counterparty until the combined amount of initial margin and variation margin to be collected or posted is greater than $500,000 (*i.e.,* a minimum transfer amount).[138]

2. EU Requirement for Margin Threshold Levels or Amounts

In keeping with the BCBS/IOSCO Framework, with respect to margin threshold levels or amounts, the EU's margin requirements generally provide that:

- Counterparties may provide in their risk management procedures that initial margin collected is reduced by an amount up to EUR 50 million where neither counterparty belongs to any group or the counterparties are part of different groups; or EUR 10 million where both counterparties belong to the same group.[139]
- Counterparties may provide in their risk management procedures that no collateral is collected from a counterparty where the amount due from the last collection of collateral is equal to or lower than the amount agreed by the counterparties. The minimum transfer amount shall not exceed EUR 500,000 or the equivalent amount in another currency.[140]

3. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission has determined that the EU requirements for margin threshold levels or amounts, in the case of FCs and NFC+s, are comparable in outcome to those required by the Final Margin Rule, in the case of CSEs.

The Commission notes that at current exchange rates, EUR 50 million is approximately $59 million, while EUR 500,000 is approximately $588,000. Although these amounts are greater than those permitted by the Final Margin Rule, the Commission recognizes that

[132] *See* RTS, Article 12(3).

[133] *See* RTS, Article 12(2).

[134] *See* RTS, Recital (20).

[135] *See* RTS, Article 12(2)(b).

[136] *See* RTS, Recital (20) and Article 12(2)(a).

[137] *See* § 23.154(a)(3) and definition of ''initial margin threshold'' in § 23.151.

[138] *See* § 23.152(b)(3).

[139] *See* RTS, Article 29(1).

[140] *See* RTS, Article 25(1).

exchange rates will fluctuate over time and thus the Commission finds that such requirements under the laws of the EU are comparable in outcome to those of the Final Margin Rule.

I. Risk Management Controls for the Calculation of Initial and Variation Margin

1. Commission Requirement for Risk Management Controls for the Calculation of Initial and Variation Margin

With respect to risk management controls for the calculation of initial margin, the Final Margin Rule generally provides that:

- CSEs are required to have a risk management unit pursuant to § 23.600(c)(4). Such risk management unit must include a risk control unit tasked with validation of a CSE's initial margin model prior to implementation and on an ongoing basis, including an evaluation of the conceptual soundness of the initial margin model, an ongoing monitoring process that includes verification of processes and benchmarking by comparing the CSE's initial margin model outputs (estimation of initial margin) with relevant alternative internal and external data sources or estimation techniques, and an outcomes analysis process that includes back testing the model.[141]
- In accordance with § 23.600(e)(2), CSEs must have an internal audit function independent of the business trading unit and the risk management unit that at least annually assesses the effectiveness of the controls supporting the initial margin model measurement systems, including the activities of the business trading units and risk control unit, compliance with policies and procedures, and calculation of the CSE's initial margin requirements under this part.[142]
- At least annually, such internal audit function shall report its findings to the CSE's governing body, senior management, and chief compliance officer.[143]

With respect to risk management controls for the calculation of variation margin, the Final Margin Rule generally provides that:

- CSEs must maintain documentation setting forth the variation methodology with sufficient specificity to allow a counterparty, the Commission, a registered futures association, and any applicable prudential regulator to calculate a reasonable approximation of the margin requirement independently.
- CSEs must evaluate the reliability of its data sources at least annually, and make adjustments, as appropriate.
- CSEs, upon request of the Commission or a registered futures association, must provide further data or analysis concerning the variation methodology or a data source, including: (a) The manner in which the methodology meets the requirements of the Final Margin Rule; (b) a description of the mechanics of the methodology; (c) the conceptual basis of the methodology; (d) the empirical support for the methodology; and (e) the empirical support for the assessment of the data sources.

2. EU Requirement for Risk Management Controls for the Calculation of Initial and Variation Margin

With respect to risk management controls for the calculation of initial margin, the EU's margin requirements generally provide that:

- Counterparties shall establish an internal governance process to assess the appropriateness of the initial margin model on a continuous basis, including all of the following: (a) An initial validation of the model by suitably qualified persons who are independent from the persons developing the model; (b) a follow up validation whenever a significant change is made to the initial margin model and at least annually; and (c) a regular audit process to assess the following: (i) The integrity and reliability of the data sources; (ii) the management information system used to run the model; (iii) the accuracy and completeness of data used; (iv) the accuracy and appropriateness of volatility and correlation assumptions.[144]
- The documentation of the risk management procedures relating to the initial margin model shall meet all of the following conditions: (a) It shall allow a knowledgeable third-party to understand the design and operational detail of the initial margin model; (b) it shall contain the key assumptions and the limitations of the initial margin model; (c) it shall define the circumstances under which the assumptions of the initial margin model are no longer valid.[145]
- Counterparties shall document all changes to the initial margin model. That documentation shall also detail the results of the validations carried out after those changes.[146]

3. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission has determined that the EU requirements applicable to FCs and NFC+s pertaining to risk management controls for the calculation of initial and variation margin are substantially the same as the corresponding requirements under the Final Margin Rule. Specifically, the Commission finds that under both the EU's requirements and the Final Margin Rule, a CSE is required to establish a unit that is tasked with comprehensively managing the entity's use of an initial margin model, including establishing controls and testing procedures. Accordingly, the Commission finds that the EU's requirements pertaining to risk management controls over the use of initial margin models are comparable in outcome to the controls required by the Final Margin Rule.

J. Eligible Collateral for Initial and Variation Margin

As explained in the BCBS/IOSCO Framework, to ensure that counterparties can liquidate assets held as initial and variation margin in a reasonable amount of time to generate proceeds that could sufficiently protect collecting entities from losses on non-centrally cleared derivatives in the event of a counterparty default, assets collected as collateral for initial and variation margin purposes should be highly liquid and should, after accounting for an appropriate haircut, be able to hold their value in a time of financial stress. Such a set of eligible collateral should take into account that assets which are liquid in normal market conditions may rapidly become illiquid in times of financial stress. In addition to having good liquidity, eligible collateral should not be exposed to excessive credit, market and FX risk (including through differences between the currency of the collateral asset and the currency of settlement). To the extent that the value of the collateral is exposed to these risks, appropriately risk-sensitive haircuts should be applied. More importantly, the value of the collateral should not exhibit a significant correlation with the creditworthiness of the counterparty or the value of the underlying non-centrally cleared derivatives portfolio in such a way that would undermine the effectiveness of the protection offered by the margin collected. Accordingly, securities issued by the counterparty or its related entities should not be accepted as collateral. Accepted

[141] *See* § 23.154(b)(5).

[142] *See* § 23.154(b)(5)(iv).

[143] *See* § 23.154(b)(5)(iv).

[144] *See* RTS, Article 1.

[145] *See* RTS, Article 18(2).

[146] *See* RTS, Article 18(3).

collateral should also be reasonably diversified.

1. Commission Requirement for Eligible Collateral for Initial and Variation Margin

With respect to eligible collateral that may be collected or posted to satisfy an initial margin obligation, the Final Margin Rule generally provides that CSEs may collect or post: [147]

- Cash denominated in a major currency, being United States Dollar (USD); Canadian Dollar (CAD); Euro (EUR); United Kingdom Pound (GBP); Japanese Yen (JPY); Swiss Franc (CHF); New Zealand Dollar (NZD); Australian Dollar (AUD); Swedish Kronor (SEK); Danish Kroner (DKK); Norwegian Krone (NOK); any other currency designated by the Commission; or any currency of settlement for a particular uncleared swap.
- A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of Treasury.
- A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a U.S. government agency (other than the U.S. Department of Treasury) whose obligations are fully guaranteed by the full faith and credit of the U.S. government.
- A security that is issued by, or fully guaranteed as to the payment of principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to SDs subject to regulation by a prudential regulator.
- A publicly-traded debt security issued by, or an asset-backed security fully guaranteed as to the timely payment of principal and interest by, a U.S. Government-sponsored enterprise that is operating with capital support or another form of direct financial assistance received from the U.S. government that enables the repayments of the U.S. Government-sponsored enterprise's eligible securities.
- A security that is issued by, or fully guaranteed as to the payment of principal and interest by, the Bank for International Settlements, the International Monetary Fund, or a multilateral development bank as defined in § 23.151.
- Other publicly-traded debt that has been deemed acceptable as initial margin by a prudential regulator as defined in § 23.151.
- A publicly-traded common equity security that is included in the Standard & Poor's Composite 1500 Index (or any other similar index of liquid and readily marketable equity securities as determined by the Commission) or an index that a CSE's supervisor in a foreign jurisdiction recognizes for purposes of including publicly traded common equity as initial margin under applicable regulatory policy, if held in that foreign jurisdiction.
- Securities in the form of redeemable securities in a pooled investment fund representing the security-holder's proportional interest in the fund's net assets and that are issued and redeemed only on the basis of the market value of the fund's net assets prepared each business day after the security-holder makes its investment commitment or redemption request to the fund, if the fund's investments are limited to securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury, and immediately-available cash funds denominated in U.S. dollars; or securities denominated in a common currency and issued by, or fully guaranteed as to the payment of principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20% risk weight under the capital rules applicable to SDs subject to regulation by a Prudential Regulator, and immediately-available cash funds denominated in the same currency; and assets of the fund may not be transferred through securities lending, securities borrowing, repurchase agreements, reverse repurchase agreements, or other means that involve the fund having rights to acquire the same or similar assets from the transferee.
- Gold.
- A CSE may not collect or post as initial margin any asset that is a security issued by: The CSE or a margin affiliate of the CSE (in the case of posting) or the counterparty or any margin affiliate of the counterparty (in the case of collection); a bank holding company, a savings and loan holding company, a U.S. intermediate holding company established or designated for purposes of compliance with 12 CFR 252.153, a foreign bank, a depository institution, a market intermediary, a company that would be any of the foregoing if it were organized under the laws of the United States or any State, or a margin affiliate of any of the foregoing institutions; or a nonbank financial institution supervised by the Board of Governors of the Federal Reserve System under Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323).[148]
- The value of any eligible collateral collected or posted to satisfy initial margin requirements must be reduced by the following haircuts: an 8% discount for initial margin collateral denominated in a currency that is not the currency of settlement for the uncleared swap, except for eligible types of collateral denominated in a single termination currency designated as payable to the non-posting counterparty as part of an eligible master netting agreement; and the discounts set forth in the following table: [149]

STANDARDIZED HAIRCUT SCHEDULE

Cash in same currency as swap obligation	0.0
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(iv) of this section): Residual maturity less than one-year	0.5
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(iv) of this section): Residual maturity between one and five years	2.0
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(iv) of this section): Residual maturity greater than five years	4.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(iv) of this section): Residual maturity less than one-year	1.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(iv) of this section): Residual maturity between one and five years	4.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(iv) of this section): Residual maturity greater than five years	8.0
Equities included in S&P 500 or related index	15.0

[147] *See* § 23.156(a)(1).

[148] *See* § 23.156(a)(2).

[149] *See* § 23.156(a)(3).

STANDARDIZED HAIRCUT SCHEDULE—Continued

Equities included in S&P 1500 Composite or related index but not S&P 500 or related index	25.0
Gold	15.0

With respect to eligible collateral that may be collected or posted to satisfy a variation margin obligation, the Final Margin Rule generally provides that CSEs may collect or post: [150]

- With respect to uncleared swaps with an SD or MSP, only immediately available cash funds that are denominated in: U.S. dollars, another major currency (as defined in § 23.151), or the currency of settlement of the uncleared swap.
- With respect to any other uncleared swaps for which a CSE is required to collect or post variation margin, any asset that is eligible to be posted or collected as initial margin, as described above.
- The value of any eligible collateral collected or posted to satisfy variation margin requirements must be reduced by the same haircuts applicable to initial margin described above.[151]

Finally, CSEs must monitor the value and eligibility of collateral collected and posted: [152]

- CSEs must monitor the market value and eligibility of all collateral collected and posted, and, to the extent that the market value of such collateral has declined, the CSE must promptly collect or post such additional eligible collateral as is necessary to maintain compliance with the margin requirements of §§ 23.150 through 23.161.
- To the extent that collateral is no longer eligible, CSEs must promptly collect or post sufficient eligible replacement collateral to comply with the margin requirements of §§ 23.150 through 23.161.

2. EU Requirement for Eligible Collateral for Initial and Variation Margin

With respect to eligible collateral that may be collected to satisfy an initial or variation margin obligation, the EU's margin requirements generally provide that counterparties may collect: [153]

- Cash in the form of money credited to an account in any currency, or similar claims for the repayment of money, such as money market deposits.
- Gold.
- Debt securities issued by Member States' central governments or central banks.
- Debt securities issued by Member States' regional governments or local authorities whose exposures are treated as exposures to the central government of that Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013.
- Debt securities issued by Member States' public sector entities whose exposures are treated as exposures to the central government, regional government or local authority of that Member State in accordance with Article 116(4) of Regulation (EU) No 575/2013.
- Debt securities issued by multilateral development banks listed in Article 117(2) of Regulation (EU) No 575/2013.
- Debt securities issued by the international organizations listed in Article 118 of Regulation (EU) No 575/2013.
- Debt securities issued by third countries' governments or central banks.
- Where the assets are not issued by the posting counterparty, not issued by entities that are part of the same group as the posting counterparty, or not otherwise subject to any wrong way risk, a counterparty may collect:
  - Debt securities issued by Member States' regional governments or local authorities whose exposures are not treated as exposures to the central government of that Member State;
  - Debt securities issued by Member States' public sector entities whose exposures are treated as exposures to the central government, regional government, or local authority of that Member State;
  - Debt securities issued by third countries' regional governments or local authorities whose exposures are treated as exposures to the central government, regional government, or local authority of that third country;
  - Debt securities issued by third countries' regional governments or local authorities whose exposures are not treated as exposures to the central government, regional government, or local authority of that third country;
  - Debt securities issued by credit institutions or investment firms including bonds referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council;
  - Corporate bonds;
  - The most senior tranche of a securitization, as defined in Article 4(61) of Regulation (EU) No 575/2013, that is not a re-securitization as defined in Article 4(63) of that Regulation;
  - Convertible bonds provided that they can be converted only into equities which are included in an index specified pursuant to point (a) of Article 197 (8) of Regulation (EU) No 575/2013;
  - Equities included in an index specified pursuant to point (a) of Article 197(8) of Regulation (EU) No 575/2013;
  - A counterparty may only use units or shares in undertakings for collective investments in transferable securities (UCITS) as eligible collateral where all the following conditions are met: (a) The units or shares have a daily public price quote; (b) the UCITS are limited to investing in assets that are eligible in accordance with Article 4(1); (c) the UCITS meet the criteria laid down in Article 132(3) of Regulation (EU) No 575/2013. For the purposes of point (b), UCITS may use derivative instruments to hedge the risks arising from the assets in which they invest. In addition, where a UCITS invests in shares or units of other UCITS, these conditions shall also apply to those UCITS.[154]
  - Where a UCITS or any of its underlying UCITS do not only invest in assets that are eligible collateral under the RTS, only the value of the unit or share of the UCITS that represents investment in eligible assets may be used as eligible collateral.[155]
  - Where non-eligible assets of a UCITS can have a negative value, the value of the unit or share of the UCITS that may be used as eligible collateral shall be determined by deducting the maximum negative value of the non-eligible assets from the value of eligible assets.[156]
- Counterparties must assess the credit quality of certain asset classes.[157]
- Counterparties shall adjust the value of collected collateral in accordance with either a methodology prescribed by the RTS [158] or a methodology using their own volatility estimates.[159]
- There are certain concentration limits for collateral collected as initial margin.[160]

[150] *See* § 23.156(b)(1).
[151] *See* § 23.156(b)(2).
[152] *See* § 23.156(c).
[153] *See* RTS, Article 4.
[154] *See* RTS, Article 5(1).
[155] *See* RTS, Article 5(2).
[156] *See* RTS, Article 5(3).
[157] *See* RTS, Article 6.
[158] *See* RTS, Annex III.
[159] *See* RTS, Article 21.
[160] *See* RTS, Article 8.

If a counterparty chooses to not use its own volatility estimates, the value of any eligible collateral collected or posted to satisfy initial margin requirements must be reduced by the following haircuts: [161]

Cash in same currency as swap obligation	0.0
Debt securities issued by entities describe in Article 4(1)(c) to (e) and (h) to (k): Residual maturity less than one-year	0.5
Debt securities issued by entities describe in Article 4(1)(c) to (e) and (h) to (k): Residual maturity between one and five years	2.0
Debt securities issued by entities describe in Article 4(1)(c) to (e) and (h) to (k): Residual maturity greater than five years	4.0
Debt securities issued by entities describe in Article 4(1)(f), (g) and (l) to (n): Residual maturity less than one-year	1.0
Debt securities issued by entities describe in Article 4(1)(f), (g) and (l) to (n): Residual maturity between one and five years	4.0
Debt securities issued by entities describe in Article 4(1)(f), (g) and (l) to (n): Residual maturity greater than five years	8.0
Securitization positions meeting the criteria in Article 4(1)(o): Residual maturity of less than one year	2.0
Securitization positions meeting the criteria in Article 4(1)(o): Residual maturity between one and five years	8.0
Securitization positions meeting the criteria in Article 4(1)(o): Residual maturity of more than five years	16.0
Equities included in main indices, bonds convertible to equities in main indices, and gold	15.0

In addition to the foregoing, under the EU's margin requirements, for the purpose of exchanging initial margin, all cash and non-cash collateral posted in a currency other than the currency in which the payments in case of early termination or default have to be made in accordance with the single derivative contract, the relevant exchange of collateral agreement or the relevant credit support annex (''termination currency''). Each of the counterparties may choose a different termination currency. Where the agreement does not identify a termination currency, the haircut shall apply to the market value of all the assets posted as collateral.[162]

3. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission finds that the EU's requirements pertaining to assets eligible for posting or collecting by FCs and NFC+s as collateral for non-centrally cleared OTC derivatives, while different than the Final Margin Rule in some respects, are comparable in outcome to the Final Margin Rule.

For example, under the EU margin regime, cash in the form of a claim for the repayment of money, such as money market deposits, is eligible collateral while under the Final Margin Rule it is not. However, although the EU margin regime and Final Margin Rule take different approaches on this point, the Commission did recognize the need for flexibility provided to counterparties by money market funds when it allowed for the use of redeemable securities in a pooled investment fund that holds only securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury, and cash funds denominated in U.S. dollars.[163]

The EU's requirements are also different with respect to the eligible collateral for variation margin for non-centrally cleared OTC derivatives between FC/NFC+s that are CSEs and FC/NFC+s that are SDs and MSPs (including other CSEs). For uncleared swaps with an SD or MSP, the Final Margin Rule only permits variation margin to be posted or collected as immediately available cash funds that are denominated in U.S. dollars, another major currency (as defined in § 23.151), or the currency of settlement of the uncleared swap, while the EU's margin requirements would permit any form of eligible collateral (as described above). The Commission did state in the Final Margin Rule, however, that requiring variation margin to be posted or collected as immediately available cash funds is ''consistent with regulatory and industry initiatives to improve standardization and efficiency in the OTC swaps market.'' [164] Thus, in outcome, an SD or MSP that is also subject to the EU margin rules likely would, in the normal course of business, be exchanging variation margin in immediately available cash funds.

Other differences concern corporate bonds, the most senior tranche of a securitization, and convertible bonds that can be converted only into equities listed on specific indexes, all of which are allowed under the EU margin rules but not under the Final Margin Rule. However, the EU margin rules do address the inherent risk posed by these assets by including additional safeguards when using these types of collateral. Regarding corporate bonds and convertible bonds, a counterparty subject to the EU margin rules must assess the credit quality of the assets using a specified internal rating or a credit quality assessment issued by a recognized External Credit Assessment Institution (''ECAI'').[165] Regarding the most senior tranche of a securitization, a counterparty must use an ECAI's credit quality assessment to assess the tranche's credit quality.[166]

The EU's margin rules on eligible collateral also differ from the Final Margin Rule in ways that make the EU rules more stringent than the Final Margin Rule. For example, the EU margin rules require a larger haircut than the Final Margin Rule on government, central bank, and corporate debt where a credit quality assessment, as required under Article of the RTS, indicates low credit quality for such debt.[167] In addition, the EU's margin rules impose concentration limits for initial margin.[168]

While not identical, the Commission finds that the forms of eligible collateral for initial and variation margin under the laws of the EU provide protections that are comparable in outcome, as explained above, to the forms of eligible collateral mandated by the Final Margin Rule. Specifically, the Commission finds that the EU's margin regime ensures that assets collected as collateral for initial and variation margin purposes are highly liquid and able to hold their value in a time of financial stress. Because under the EU's margin regime a non-defaulting party would be able to liquidate assets held as initial and variation margin in a reasonable amount of time to generate proceeds that could sufficiently protect collecting entities from losses on uncleared swaps in the event of a counterparty default, the Commission finds the EU's margin regime with respect to the forms of eligible collateral for initial and variation margin for uncleared swaps is comparable in outcome to the Final Margin Rule.

K. Requirements for Custodial Arrangements, Segregation, and Rehypothecation

As explained in the BCBS/IOSCO Framework, the exchange of initial margin on a net basis may be

[161] *See* RTS, Annex II.

[162] *See* RTS, Annex II, Table 3.

[163] *See* Final Margin Rule, 81 FR 636, 665.

[164] *See id.* at 668.

[165] *See* RTS, Article 6(1).

[166] *See* RTS, Article 6(2).

[167] *See* RTS, Articles 6 and 7.

[168] *See* RTS, Article 8.

insufficient to protect two market participants with large gross derivatives exposures to each other in the case of one firm's failure. Thus, the gross initial margin between such firms should be exchanged.[169]

Further, initial margin collected should be held in such a way as to ensure that (i) the margin collected is immediately available to the collecting party in the event of the counterparty's default, and (ii) the collected margin must be subject to arrangements that protect the posting party to the extent possible under applicable law in the event that the collecting party enters bankruptcy.[170]

1. Commission Requirement for Custodial Arrangements, Segregation, and Rehypothecation

In keeping with the principles set forth in the BCBS/IOSCO Framework, with respect to custodial arrangements, segregation, and rehypothecation, the Final Margin Rule generally requires that:

- All assets posted by or collected by CSEs as initial margin must be held by one or more custodians that are not the CSE, the counterparty, or margin affiliates of the CSE or the counterparty.[171]
- CSEs must enter into an agreement with each custodian holding initial margin collateral that:
  - Prohibits the custodian from rehypothecating, repledging, reusing, or otherwise transferring (through securities lending, securities borrowing, repurchase agreement, reverse repurchase agreement or other means) the collateral held by the custodian;
  - May permit the custodian to hold cash collateral in a general deposit account with the custodian if the funds in the account are used to purchase an asset that qualifies as eligible collateral (other than equities, investment vehicle securities, or gold), such asset is held in compliance with § 23.157, and such purchase takes place within a time period reasonably necessary to consummate such purchase after the cash collateral is posted as initial margin; and
  - Is a legal, valid, binding, and enforceable agreement under the laws of all relevant jurisdictions including in the event of bankruptcy, insolvency, or a similar proceeding.[172]
- A posting party may substitute any form of eligible collateral for posted collateral held as initial margin.[173]
- A posting party may direct reinvestment of posted collateral held as initial margin in any form of eligible collateral.[174]
- Collateral that is collected or posted as variation margin is not required to be held by a third party custodian and is not subject to restrictions on rehypothecation, repledging, or reuse.[175]

2. EU Requirement for Custodial Arrangements, Segregation, and Rehypothecation

In keeping with the principles set forth in the BCBS/IOSCO Framework, with respect to custodial arrangements, segregation, and rehypothecation, the EU's margin rules generally require that:

- Cash collected as initial margin must be maintained in cash accounts at central banks or credit institutions which fulfill all of the following conditions: (i) They are authorized in accordance with Directive 2013/36/EU or are authorized in a third country whose supervisory and regulatory arrangements have been found to be equivalent in accordance with Article 142(2) of Regulation (EU) No 575/2013; and (ii) they are neither the posting nor the collecting counterparties, nor part of the same group as either of the counterparties.[176]
- Any collateral posted as initial or variation margin may be substituted by alternative collateral where all of the following conditions are met: (a) The substitution is made in accordance with the terms of the collateral agreement between the counterparties; (b) the alternative collateral is eligible under the RTS; (c) the value of the alternative collateral is sufficient to meet all margin requirements after applying any relevant haircut.[177]
- Initial margin shall be protected from the default or insolvency of the collecting counterparty by segregating it in either or both of the following ways: (a) On the books and records of a third party-holder or custodian; (b) via other legally binding arrangements.[178]
- Counterparties shall ensure that non-cash collateral exchanged as initial margin is segregated as follows: (a) Where collateral is held by the collecting counterparty on a proprietary basis, it shall be segregated from the rest of the proprietary assets of the collecting counterparty; (b) where collateral is held by the posting counterparty on a non-proprietary basis, it shall be segregated from the rest of the proprietary assets of the posting counterparty; (c) where collateral is held on the books and records of a custodian or other third party holder, it shall be segregated from the proprietary assets of that third-party holder or custodian.[179]
- The collecting counterparty shall not rehypothecate, repledge nor otherwise reuse the collateral collected as initial margin.[180]
- A third party holder may use the initial margin received in cash for reinvestment purposes.[181]

3. Commission Determination

The Commission notes that in one respect, the EU's margin requirements with respect to custodial arrangements are less stringent than those of the Final Margin Rule. Under the Final Margin Rule, all assets posted by or collected by CSEs as initial margin must be held by one or more custodians that are not the CSE, the counterparty, or margin affiliates of the CSE or the counterparty.[182] The EU's margin rules do not prohibit an FC or NFC+ from using an affiliated entity as custodian to hold initial margin other than cash collected from counterparties.

However, the EC has highlighted in its application that Article 19(3) of the RTS, which governs how initial margin must be held, leads with the requirement that ''initial margin shall be protected from the default or insolvency of the collecting counterparty.'' As the applicant further represented, the EC and the European Supervisory Authorities favor the use of third-party holders or custodians for non-cash collateral but recognize through Article 19(3)(b) of the RTS that the legal framework in the EU and, in particular, the Financial Collateral Directive,[183] allows Member States to authorize other specific legally binding arrangements with equivalent finality and protection. An example, according to the applicant, would be a third-country trust bank that, while not necessarily recognized as a custodian in the EU or individual Member State, may offer equivalent collateral protection, both legally and operationally.

To further encourage the use of arrangements that protect initial margin from the default or insolvency of a counterparty, FCs and NFC+s subject to the EU margin regime must get legal certainty (either by way of an internal

[169] *See* BCBS/IOSCO Framework, Key principle 5.

[170] *See id.*

[171] *See* § 23.157(a) and (b).

[172] *See* § 23.157(c)(1) and (2).

[173] *See* § 23.157(c)(3).

[174] *See id.*

[175] *See* Final Margin Rule, 81 FR at 672.

[176] *See* RTS, Article 19(1)(e).

[177] *See* RTS, Article 19(2).

[178] *See* RTS, Article 19(3).

[179] *See* RTS, Article 19(5).

[180] *See* RTS, Article 20(1).

[181] *See* RTS, Article 20(2).

[182] *See* § 23.157(a) and (b).

[183] *See http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02002L0047-20140702&from=EN.*

and independent opinion or via an external independent third party) as to whether the segregation requirements have been met.[184] In addition, the RTS require counterparties to provide documentation to their competent authority upon request supporting that the segregation arrangements in all relevant jurisdictions meet these requirements. The RTS also require counterparties subject to the EU margin regime to have procedures that ensure ongoing compliance with these requirements, particularly to show that initial margin is freely transferable to the posting counterparty in a timely manner in case of default of the collecting counterparty.[185]

Accordingly, despite the differences in required custodial arrangements, the Commission has determined that the EU's margin requirements applicable to FCs and NFC+s pertaining to custodial arrangements, segregation, and rehypothecation are comparable in outcome to the corresponding requirements under the Final Margin Rule. Specifically, the Commission finds that under both the EU's requirements and the Final Margin Rule, a CSE/FC/NFC+ is required to segregate the initial margin posted by its counterparties under terms that ensure initial margin is protected from the default or insolvency of the collecting counterparty and freely transferable to the posting counterparty in a timely manner in case of any such default. Both regimes also prohibit the rehypothecation of initial margin. Accordingly, the Commission finds that the EU's requirements pertaining to custodial arrangements, segregation, and rehypothecation are comparable in outcome to those required by the Final Margin Rule.

L. Requirements for Margin Documentation

1. Commission Requirement for Margin Documentation

With respect to requirements for documentation of margin arrangements, the Final Margin Rule generally provides that:

- CSEs must execute documentation with each counterparty that provides the CSE with the contractual right and obligation to exchange initial margin and variation margin in such amounts, in such form, and under such circumstances as are required by the Final Margin Rule.[186]
- The margin documentation must specify the methods, procedures, rules, inputs, and data sources to be used for determining the value of uncleared swaps for purposes of calculating variation margin; describe the methods, procedures, rules, inputs, and data sources to be used to calculate initial margin for uncleared swaps entered into between the CSE and the counterparty; and specify the procedures by which any disputes concerning the valuation of uncleared swaps, or the valuation of assets collected or posted as initial margin or variation margin may be resolved.[187]

2. EU Requirement for Margin Documentation

With respect to requirements for documentation of margin arrangements, the EU's margin rules generally provide that the terms of all necessary agreements to be entered into by counterparties, at the latest, at the moment in which a non-centrally cleared OTC derivative contract is concluded. Such documentation shall include the terms of the netting agreement and the terms of the exchange of collateral agreement, and (a) any payment obligations arising between counterparties; (b) the conditions for netting payment obligations; (c) events of default or other termination events of the non-centrally cleared OTC derivative contracts; (d) all calculation methods used in relation to payment obligations; (e) the conditions for netting payment obligations upon termination, (f) the transfer of rights and obligations upon termination; (g) the governing law of the transactions of the non-centrally cleared OTC derivative contracts.[188]

3. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission has determined that the EU's margin requirements pertaining to margin documentation are substantially the same as the margin documentation requirements under the Final Margin Rule. Specifically, the Commission finds that under both the EU's requirements and the Final Margin Rule, a CSE/FC/NFC+ is required to enter into documentation with each OTC derivative/swap counterparty that sets forth the method for calculating and transferring initial and variation margin. Accordingly, the Commission finds that the EU's requirements pertaining to margin documentation are comparable in outcome to those required by the Final Margin Rule.

M. Cross-Border Application of the Margin Regime

1. Cross-Border Application of the Final Margin Rule

The general cross-border application of the Final Margin Rule, as set forth in the Cross-Border Margin Rule, is discussed in detail in Section II above. However, §§ 23.160(d) and (e) of the Cross-Border Margin Rule also provide certain alternative requirements for uncleared swaps subject to the laws of a jurisdiction that does not reliably recognize close-out netting under a master netting agreement governing a swap trading relationship, or that has inherent limitations on the ability of a CSE to post initial margin in compliance with the custodial arrangement requirements [189] of the Final Margin Rule.[190]

Section 23.160(d) generally provides that where a jurisdiction does not reliably recognize close-out netting, the CSE must treat the uncleared swaps covered by a master netting agreement on a gross basis with respect to collecting initial and variation margin, but may treat such swaps on a net basis with respect to posting initial and variation margin.[191]

Section 23.160(e) generally provides that where certain CSEs are required to transact with certain counterparties in uncleared swaps through an establishment in a jurisdiction where, due to inherent limitations in legal or operational infrastructure, it is impracticable to require posted initial margin to be held by an independent custodian pursuant to § 23.157, the CSE is required to collect initial margin in cash (as described in § 23.156(a)(1)(i)) and post and collect variation margin in cash, but is not required to post initial margin. In addition, the CSE is not required to hold the initial margin collected with an unaffiliated custodian.[192] Finally, the CSE may only enter into such affected transactions up to 5% of its total uncleared swap notional outstanding in each broad category of swaps described in § 23.154(b)(2)(v).

2. Cross-Border Application of EU's Margin Regime

With respect to cross-border transactions, the EU's margin requirements generally provide that the

[184] *See* RTS, Article 19(6).

[185] *See* RTS, Article 19(1)(g).

[186] *See* § 23.158(a).

[187] *See* § 23.158(b).

[188] *See* RTS, Article 2(g).

[189] *See* § 23.157 and Section IV(K) above.

[190] *See* § 23.160(d) and (e). Paragraph (d) of the rule addresses requirements for non-netting jurisdictions, and paragraph (e) addresses jurisdictions where compliance with custodial arrangement requirements is unavailable.

[191] *See id.*

[192] *See* §§ 23.160(e) and 23.157(b).

EC may, in order to avoid duplicative and conflicting requirements in respect of derivatives transactions, adopt implementing acts declaring that the legal, supervisory, and enforcement arrangements of a non-EU country are equivalent to the margin requirements for non-centrally cleared OTC derivatives in Article 11 or EMIR.[193] An implementing act determining equivalence shall imply that counterparties entering into a transaction within the scope of EMIR will be deemed to have fulfilled their requirements where at least one of the counterparties is established in the third country in respect of which the implementing act has been adopted, and with respect to the requirements to which the implementing act applies.[194]

With respect to non-centrally cleared OTC derivatives subject to the laws of a jurisdiction where legal enforceability of netting agreements or collateral protection cannot be ensured, the EU's margin regime provides that:

- Where counterparties enter into a netting or an exchange of collateral agreement, they shall perform an independent legal review of the enforceability of those agreements. The review may be conducted by an internal independent unit or by an independent third party.[195]
- Counterparties shall perform an independent legal review in order to verify that the segregation arrangement meets the requirements of the RTS. The review may be conducted by an internal independent unit or by an independent third party.[196]
- Counterparties established in the EU may provide in their risk management procedures that variation and initial margins are not required to be posted for non-centrally cleared OTC derivative contracts concluded with counterparties established in a third-country for which any of the following apply: (a) The legal review referred to in Article 2(3) of the RTS confirms that the netting agreement and, where used, the exchange of collateral agreement cannot be legally enforced with certainty at all times; (b) the legal review referred to in Article 19(6) of the RTS confirms that the segregation requirements of the RTS cannot be met. For the purposes of subparagraph (a), counterparties established in the EU shall collect margin on a gross basis.[197]
- Counterparties established in the EU may provide in their risk management procedures that variation and initial margins are not required to be posted or collected for contracts concluded with counterparties established in a third-country where all of the following conditions apply: (a) The legal review referred to in Article 2(3) of the RTS confirms that the netting agreement and, where used, the exchange of collateral agreement cannot be legally enforced with certainty at all times and, where applicable, the legal review referred to in Article 19(6) of the RTS confirms that the segregation requirements of the RTS cannot be met; (b) the legal reviews confirm that collecting collateral in accordance with this RTS is not possible, even on a gross basis; and (c) the OTC derivatives in a counterparty's portfolio from counterparties in non-netting jurisdictions is below 2.5%.[198]

3. Commission Determination

Based on the foregoing and the representations of the applicant, the Commission finds that the EU's margin regime with respect to its cross-border application is comparable in outcome to that of the Final Margin Rule as set forth in the Cross-Border Margin Rule.

First, the Commission recognizes that the EU's margin regime permits substituted compliance to substantially the same extent as the Cross-Border Margin Rule. For example, where a CSE finds itself subject to both the Final Margin Rule and the EU's margin regime, it may be possible under an EC equivalence determination that such CSE's compliance with the Final Margin Rule will have fulfilled the corresponding obligation under the EU's margin regime.

Second, with respect to transactions subject to the laws of a non-netting jurisdiction or a jurisdiction where collateral protection cannot be ensured, the EU's margin regime requires that margin be collected on a gross basis and, where that is not possible, that the FC/NFC+ limit their dealings in such jurisdiction to 2.5% of the OTC derivatives in the FC/NFC+'s portfolio. While this framework for non-centrally cleared OTC derivatives transacted with counterparties in these types of jurisdictions is not identical to the Final Margin Rule on this subject, the Commission recognizes that the conditions requiring that margin be collected on a gross basis or, where that is not possible, such transactions be subject to a conservative limit, will serve to mitigate the potential risks associated with these types of transactions. The RTS also provides that ''these treatments would be considered sufficiently prudent, because there are also other risk-mitigation techniques as an alternative to margins.'' [199] Moreover, before a counterparty may even consider collecting margin on a gross basis or be permitted to transact with counterparties in a non-netting jurisdiction up to any level, the EU margin rules obligate counterparties to conduct a legal review on the enforceability of netting agreements in the third-country jurisdiction and to obtain a negative independent legal review.[200]

The Commission also notes that a CSE, including a CSE that would be operating under a substituted compliance determination, is required to have a risk management program pursuant § 23.600, and thus the Commission has the authority to inquire as to the adequacy of the risk management covering uncleared swaps in non-netting jurisdictions.

Having considered the similarities and differences described above, the Commission finds that: (1) The availability of reciprocity of substituted compliance available from the EU makes the EU margin regime comparable in outcome in this respect to that of the Final Margin Rule and the Cross-Border Margin Rule; and (2) the conditions that would allow an FC/NFC+ to engage in up to 2.5% of its OTC derivatives portfolio in jurisdictions that do not recognize non-netting agreements or where collateral protection cannot be ensured, including that a counterparty must obtain a negative independent legal opinion about the enforceability of netting agreements before even considering trading with counterparties in non-netting jurisdictions, plus other risk-mitigation techniques that FC/NFC+s must have, make the EU margin regime comparable in outcome in this respect to that of the Final Margin Rule and the Cross-Border Margin Rule. Accordingly, the Commission finds the cross-border aspects of the EU's margin regime comparable in outcome to those of the Commission.

N. Supervision and Enforcement

The Commission has a long history of regulatory cooperation with the Member State competent authorities, including cooperation in the regulation of registrants of the Commission that are also FCs.[201] These competent

[193] *See* EMIR, Article 13(2).

[194] *See* EMIR, Article 13(3).

[195] *See* RTS, Article 2(3).

[196] *See* RTS, Article 19(6).

[197] *See* RTS, Article 31(1).

[198] *See* RTS, Article 31(2) and (3).

[199] *See* RTS, Recital (18).

[200] *See* RTS, Article 31(2).

[201] To facilitate this cooperation, the Commission has concluded memoranda of understanding with many of the competent authorities. *See* the Commission's Web site at *http://www.cftc.gov/*

authorities, as noted above, are responsible for supervising FCs as part of their ongoing prudential regulation and supervision of such FCs, will enforce the RTS, which are directly applicable in the Member States, and will take all measures necessary to ensure that those rules are implemented. Thus, the Commission finds that the EC, through the competent authorities, has the necessary powers to supervise, investigate, and discipline entities for compliance with its margin requirements and recognizes the relevant competent authorities' ongoing efforts to detect and deter violations of, and ensure compliance with, the margin requirements applicable in the EU.

V. Conclusion

As detailed above, the Commission has noted several differences between the Final Margin Rule and the EU margin rules. However, having considered the scope and objectives of the margin requirements for uncleared swaps under the laws of the EU,[202] whether such margin requirements achieve comparable outcomes to the Commission's corresponding margin requirements,[203] and the ability of the Member State competent authorities to supervise and enforce compliance with the margin requirements for non-centrally cleared OTC derivatives under the laws of the EU,[204] the Commission has determined that the EU margin rules are comparable in outcome to the Final Margin Rule.

As noted above, the Final Margin Rule's regulatory objective is to ensure the safety and soundness of CSEs in order to offset the greater risk to CSEs and the financial system arising from the use of swaps that are not cleared. The EU margin rules require counterparties to apply robust risk-mitigation techniques to their bilateral relationships to reduce counterparty credit risk and to mitigate the potential systemic risk that could arise. Moreover, the EU margin rules achieve comparable outcomes to the Final Margin Rule in the following specific areas: The products and entities subject to the EU's margin requirements; the treatment of inter-affiliate derivative transactions; the methodologies for calculating the amounts of initial and variation margin; the process and standards for approving models for calculating initial and variation margin models; the timing and manner in which initial and variation margin must be collected and/or paid; any threshold levels or amounts; risk management controls for the calculation of initial and variation margin; eligible collateral for initial and variation margin; the requirements of custodial arrangements, including segregation of margin and rehypothecation; margin documentation requirements; and the cross-border application of the EU's margin regime. Finally, based on the long history of regulatory cooperation between the Commission and Member State competent authorities with supervisory and enforcement authority under the RTS, the Commission finds that the EC, through the competent authorities, has the necessary powers to supervise, investigate, and discipline entities for compliance with its margin requirements, and recognizes the relevant authorities' ongoing efforts to detect and deter violations of, and ensure compliance with, the margin requirements applicable in the EU.

Accordingly, a CSE that is subject to both the Final Margin Rule and the EU's margin rules with respect to an uncleared swap that is also a non-centrally cleared OTC derivative may rely on substituted compliance for all aspects of the Final Margin Rule and the Cross-Border Margin Rule. Any such CSE that, in accordance with this comparability determination, complies with the EU margin rules, would be deemed to be in compliance with the Final Margin Rule but would remain subject to the Commission's examination and enforcement authority.[205]

Issued in Washington, DC, on October 13, 2017, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Appendix to Comparability Determination for the European Union: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Commission Voting Summary

On this matter, Chairman Giancarlo and Commissioners Quintenz and Behnam voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017–22616 Filed 10–17–17; 8:45 am]

BILLING CODE 6351–01–P

International/MemorandaofUnderstanding/index.htm.

[202] *See* § 23.160(c)(3)(i).

[203] *See* § 23.160(c)(3)(ii). As discussed above, the Commission's Final Margin Rule is based on the BCBS/IOSCO Framework; therefore, the Commission expects that the relevant foreign margin requirements would conform to such Framework at minimum in order to be deemed comparable in outcome to the Commission's corresponding margin requirements.

[204] *See* § 23.160(c)(3)(iii). *See also* § 23.160(c)(3)(iv) (indicating the Commission would also consider any other relevant facts and circumstances).

[205] *See* § 23.160(c)(4).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 862

[Docket No. FDA–2017–N–5160]

Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Classification of the Organophosphate Test System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the organophosphate test system into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the organophosphate test system's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective October 18, 2017. The classification was applicable on August 8, 2013.

FOR FURTHER INFORMATION CONTACT: Steven Tjoe, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4550, Silver Spring, MD, 20993–0002, 301–796–5866.

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the organophosphate test system as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to

these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act to a predicate device that does not require premarket approval (see 21 U.S.C. 360c(i)). We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k) and 21 CFR part 807.

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval (PMA) application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence'').

Instead, sponsors can use the less burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

For this device, FDA issued an order on May 2, 2013, finding the Quantitation of Organophosphate Metabolites in Urine by LC/MS/MS (liquid chromatography-tandem mass spectrometry (the two ''MS'' next to each other denote ''tandem'')) not substantially equivalent to a predicate not subject to PMA. Thus, the device remained in class III in accordance with section 513(f)(1) of the FD&C Act when we issued the order.

On May 31, 2013, Elizabeth Hamelin, on behalf of the Centers for Disease Control and Prevention, Division of Laboratory Sciences/National Center for Environmental Health, submitted a request for classification of the Quantitation of Organophosphate Metabolites in Urine by LC/MS/MS. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on August 8, 2013, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 862.3652. We have named the generic type of device organophosphate test system, and it is identified as a device intended to measure organophosphate metabolites quantitatively in human urine from individuals who have signs and symptoms consistent with cholinesterase poisoning. The data obtained by this device is intended to aid in the confirmation and investigation of organophosphate exposure.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—ORGANOPHOSPHATE TEST SYSTEM RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
False Positive	(1) The distribution of these devices is limited to laboratories with experienced personnel who are trained to measure and evaluate organophosphate exposure and guide public health response. (2) Analytical testing must demonstrate the device has appropriate performance characteristics, including adequate precision and accuracy across the measuring range and near medical decision points.
False Negative	(1) The distribution of these devices is limited to laboratories with experienced personnel who are trained to measure and evaluate organophosphate exposure and guide public health response. (2) Analytical testing must demonstrate the device has appropriate performance characteristics, including adequate precision and accuracy across the measuring range and near medical decision points.
Public Health Risk from Incorrect Test Results.	(1) The distribution of these devices is limited to laboratories with experienced personnel who are trained to measure and evaluate organophosphate exposure and guide public health response. (2) Analytical testing must demonstrate the device has appropriate performance characteristics, including adequate precision and accuracy across the measuring range and near medical decision points.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k).

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120.

List of Subjects in 21 CFR Part 862

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 862 is amended as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

■ 1. The authority citation for part 862 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 862.3652 to subpart D to read as follows:

§ 862.3652 Organophosphate test system.

(a) *Identification.* An organophosphate test system is a device intended to measure organophosphate metabolites quantitatively in human urine from individuals who have signs and symptoms consistent with cholinesterase poisoning. The data obtained by this device is intended to aid in the confirmation and investigation of organophosphate exposure.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The distribution of these devices is limited to laboratories with experienced personnel who are trained to measure and evaluate organophosphate exposure and guide public health response.

(2) Analytical testing must demonstrate the device has appropriate performance characteristics, including adequate precision and accuracy across the measuring range and near medical decision points.

Dated: October 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–22590 Filed 10–17–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972, as amended (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG)(Admiralty and Maritime Law) has determined that USS MICHAEL MONSOOR (DDG 1001) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective October 18, 2017 and is applicable beginning October 3, 2017.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Kyle Fralick, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MICHAEL MONSOOR (DDG 1001) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 2(a)(i), pertaining to the location of the forward masthead light at a height not less than 6 meters above the hull; Annex I, paragraph 2(g) pertaining to the placement of sidelights above the hull of the vessel; Rule 30(a)(i) and Annex I, paragraph 2(k) pertaining to the vertical separation between anchor lights, and the location of the forward anchor light at a height of not less than 6 meters above the hull; Annex I, paragraph 3(a), pertaining to the horizontal separation between the forward and after masthead lights; Annex I, paragraph 2(i)(iii), pertaining to the vertical spacing of task lights; and Annex I, paragraph 3(c), pertaining to the task lights placed at a horizontal distance of not less than 2 meters from the fore and aft centerline of the vessel. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by:

■ a. In Table One, adding in alphanumerical order by vessel number, an entry for USS MICHAEL MONSOOR (DDG 1001);

■ b. In Table Three, adding in alphanumerical order by vessel number, an entry for USS MICHAEL MONSOOR (DDG 1001);

■ c. In Table Four, under paragraph 15, adding in alphanumerical order by vessel number, an entry for USS MICHAEL MONSOOR (DDG 1001);

■ d. In Table Four, under paragraph 19, adding in alphanumerical order by vessel number, an entry for USS MICHAEL MONSOOR (DDG 1001);

■ e. In Table Four, under paragraph 22 adding, in alphanumerical order by vessel number, an entry for USS MICHAEL MONSOOR (DDG 1001); and

■ f. In Table Five, adding, in alphanumerical order by vessel number, an entry for USS MICHAEL MONSOOR (DDG 1001).

The additions read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height § 2(a)(i)Annex 1
* * * * *	*	*
USS MICHAEL MONSOOR	DDG	2.33
* * * * *	*	*

* * * * *

TABLE THREE

Vessel	Number	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters 3(b) annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(K) annex 1	Anchor lights relationship of aft light to forward light in meters 2(K) annex 1
USS MICHAEL MONSOOR	DDG 1001	.....	.....	.....	.....	.....	5.3	2.99 below.
*	*	*	*	*	*	*	*	

* * * * * 15. * * *

* * * * *

TABLE FOUR

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * * * *	*	* *
USS MICHAEL MONSOOR	DDG 1001	FWD Lower: [1]0.33 meters. FWD Middle: [1]0.31 meters. FWD Upper: [1]0.30 meters. AFT Lower: [1]1.05 meters. AFT Middle: [1]1.05 meters. AFT Upper: [1]1.05 meters.
* * * * *	*	* *

[1] On DDG 1000, the ship does not have a traditional mast. To achieve the effect of a ''single, all-around light,'' multiple sets of task lights are embedded into each of the four faces of the ship's superstructure. Except when viewing the ship from dead ahead, dead astern or broadside, two deckhouse surfaces are visible; consequently, two sets of task lights are visible simultaneously. Because the deckhouse surfaces are sloped, unless the lights are viewed dead-on, the three task lights do not present as being in a vertical line.

* * * * * 19. * * *

Vessel	Number	Distance in meters of sidelights above maximum allowed height
USS MICHAEL MONSOOR	DDG 1001	2.23 PORT. 2.52 STBD.
* * * * * * *		

* * * * * 22. * * *

Vessel	Number	Vertical Separation of the task light array is not equally spaced, the separation between the middle and lower task light exceed the separation between the upper and middle light by
* * * * * * *		
USS MICHAEL MONSOOR	DDG 1001	FWD: 0.01 meter. AFT: 0.00 meter. PORT: 0.17 meter. STBD: 0.24 meter.
* * * * * * *		

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions; annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship; annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light; annex I, sec.3(a)	Percentage horizontal separation attained
* * * * * * *					
USS MICHAEL MONSOOR	DDG 1001	X	X	X	77.2
* * * * * * *					

Approved: October 3, 2017.

A.S. Janin,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: October 10, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy,Federal Register Liaison Officer.

[FR Doc. 2017–22577 Filed 10–17–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2017–0858]

RIN 1625–AA08

Special Local Regulation; Clinch River, Oak Ridge, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for all navigable waters of the Clinch River from mile marker (MM) 49.5 to MM 54.0. This action is necessary to provide for the safety of life on these navigable waters near Oak Ridge, TN during the Secret City Head Race. Entry into, transiting through, or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective from 6 a.m. through 6 p.m. on October 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0858 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Petty Officer Vera Max, Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615–736–5421, email *MSDNashville@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish the special local regulation by October 21, 2017 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to protect the persons and property from the dangers associated with the race.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Secret City Head Race from 6 a.m. through 6 p.m. on October 21, 2017 will be a safety concern for all navigable waters on the Clinch River extending from mile marker (MM) 49.5 to MM 54.0. The purpose of this rulemaking is to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 6 a.m. through 6 p.m. on October 21, 2017 for all navigable waters on the Clinch River from MM 49.5 to MM 54.0. The duration of the regulated area is intended to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. Vessel traffic will be able to safely navigate through the affected area before and after the scheduled event. Moreover, the Coast Guard will issue Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation, may be small entities, for the reasons stated in section V. A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a special local regulation lasting twelve hours on one day extending less than five miles of the Clinch River from MM 49.5 to MM 54.0. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T08–0858 to read as follows:

§ 100.35T08–0858 Special Local Regulation; Clinch River, Oak Ridge, TN.

(a) *Location.* All navigable waters of the Clinch River between mile marker (MM) 49.5 and MM 54.0, Oak Ridge, TN.

(b) *Effective period.* This section will be enforced from 6 a.m. through 6 p.m. on October 21, 2017.

(c) *Special local regulations.* (1) Entry into this area is prohibited unless authorized by Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

(2) Persons or vessels desiring entry into or passage through the area must request permission from the COTP or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16 or by telephone at 1–800–253–7465.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the special local regulation, as well as any changes in the dates and times of enforcement.

Dated: October 10, 2017.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port, Sector Ohio Valley.

[FR Doc. 2017–22595 Filed 10–17–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0257]

Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ. This deviation will test the remote operation capability of the drawbridge to determine whether the bridge can be safely operated from a remote location. This deviation will allow the bridge to be remotely operated from the Conrail South Jersey dispatch center in Mount Laurel, NJ, instead of being operated by an on-site bridge tender.

DATES: This deviation is effective from 8 a.m. on October 21, 2017 through 7:59 a.m. on April 19, 2018.

Comments and related material must reach the Coast Guard on or before January 15, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0257 using Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email Mr. Hal R. Pitts, Fifth Coast Guard District (dpb); telephone (757) 398–6222, email *Hal.R.Pitts@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

On April 12, 2017, we published a notice in the **Federal Register** entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' announcing a temporary deviation from the regulations, with request for comments (see 82 FR 17562). The purpose of the deviation was to test the newly installed remote operational capabilities of the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ, owned and operated by Conrail Shared Assets. The installation of the remote capabilities did not change the operational schedule of the bridge.[1]

During the initial test deviation performed from 8 a.m. on April 24, 2017, through 7:59 a.m. on October 21, 2017, the bridge owner identified deficiencies in the remote operation center procedures, bridge to vessel communications, and equipment redundancy. Comments concerning these deficiencies were submitted to the docket and provided to the Coast Guard and bridge owner by representatives from the Mariners' Advisory Committee for the Bay and River Delaware.

During the initial test deviation, we also published a notice of proposed rulemaking (NPRM) in the **Federal Register**, entitled, ''Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ'' (see 82 FR 29800). In the NPRM, we stated that we are proposing to modify the operating regulation that governs the DELAIR

[1] A full description of the remote operational system is outlined in the aforementioned publication, which can be found at *http://regulations.gov.* (see **ADDRESSES** for more information).

Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ. This proposed regulation would allow the bridge to be remotely operated from the Conrail South Jersey dispatch center in Mount Laurel, NJ, instead of being operated by an on-site bridge tender. In the NPRM, we also stated we would not change the operating schedule of the bridge. The comment period for the notice and NPRM closed on August 18, 2017, and we received a total of fourteen comments. The Coast Guard will adjudicate all comments at the completion of this test.

The bridge owner implemented policies and provided training to address the procedural and communications deficiencies and implemented backup systems to mitigate potential equipment and systems failures. These changes were not fully evaluated during the test deviation ending October 21, 2017. Therefore, the Coast Guard has decided to issue a second test deviation to complete the evaluation of the changes incorporated into the remote operation system.

This test deviation will commence at 8 a.m. on October 21, 2017, and conclude at 7:59 a.m. on April 19, 2018. During the test deviation, a bridge tender will be stationed on-site at the bridge and will be able to immediately take local control of the bridge, as required.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacynotice.*

Documents mentioned in this notice as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: October 13, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017–22639 Filed 10–17–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0817]

RIN 1625–AA00

Safety Zone; Cumberland River, Nashville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Cumberland River extending from mile marker (MM) 190.7 to MM 191.1. This action is necessary to provide for the safety of life on these navigable waters near Nashville, TN, during the Light the Night Walk fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 8:15 p.m. through 8:30 p.m. on October 20, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0817 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Jonathan Braddy, MSD Nashville, U.S. Coast Guard; telephone 615–736–5421, email *Jonathan.G.Braddy@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Sector Ohio Valley
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by October 20, 2017 because of the safety issues involved and there is insufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to public interest in ensuring the safety of spectators and vessels during the event because immediate action is necessary to prevent possible loss of life and property. Broadcast Notices to Mariners (BNM) and sharing information with the waterway users will update mariners of the restrictions, requirements, and enforcement times during this temporary situation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port, Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks display from 8:15 p.m. through 8:30 p.m. on October 20, 2017 will be a safety concern for all navigable waters of the Cumberland River extending from mile marker (MM) 190.7 to MM 191.1. The purpose of this rule is to ensure safety of life on the navigable waters in the temporary safety zone before, during, and after the Light the Night Walk Fireworks Display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 8:15 p.m. through 8:30 p.m. on October 20, 2017. The temporary safety zone will cover all navigable waters of the Cumberland River extending from MM 190.7 to MM 191.1. The duration of the temporary safety zone is intended to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the temporary safety zone without obtaining permission from the COTP or a designated representative. Entry requests will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 1–800–253–7475 or can be reached by VHF–FM channel 16. Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the temporary safety zone. The temporary safety zone will only be in effect for fifteen minutes and covers an area of the waterway stretching less than one mile. Mariners may request authorization from the COTP or a designated representative to transit the temporary safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental Federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for Federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulated area that would prohibit

entry to unauthorized vessels. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T08–0817 to read as follows:

§ 165.T08–0817 Safety zone; Cumberland River, Nashville, TN.

(a) *Location.* The following area is a temporary safety zone area: All navigable waters of the Cumberland River between mile marker (MM) 190.7 and MM 191.1, Nashville, TN.

(b) *Effective period.* This temporary safety zone will be enforced from 8:15 p.m. through 8:30 p.m. on October 20, 2017.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or telephone at 1–800–253–7465

(2) Persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

Dated: October 10, 2017.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port, Sector Ohio Valley.

[FR Doc. 2017–22592 Filed 10–17–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0913]

RIN 1625–AA00

Safety Zone; Ohio River, Cincinnati, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River extending from mile marker (MM) 469.5 to MM 470.1. This action is necessary to provide for the safety of life on the navigable waters near Cincinnati, OH, during the Arthur Rozzi Pyrotechnics display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective from 7:45 p.m. through 8:45 p.m. on October 19, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0913 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Joshua Herriott, Sector Ohio Valley, U.S. Coast Guard; telephone 502–779–5343, email *Joshua.R.Herriott@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This action is necessary to ensure the safety of life during the Arthur Rozzi Pyrotechnics display. It is impracticable to publish an NPRM because the Coast Guard must establish this safety zone by October 19, 2017 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to public interest in ensuring the safety of spectators and vessels during the event because immediate action is necessary to prevent possible loss of life and property. Broadcast Notices to Mariners (BNM) and sharing information with the waterway users will update mariners of the restrictions, requirements and enforcement times during this temporary situation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks display from 7:45 p.m. through 8:45 p.m. on October 19, 2017 will be a safety concern for all navigable waters of the Ohio River extending from mile marker (MM) 469.5 to MM 470.1. The purpose of this rule is to ensure safety of life on the navigable waters in the temporary safety zone before, during, and after the Arthur Rozzi Pyrotechnics Display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 7:45 p.m. through 8:45

p.m. on October 19, 2017. The temporary safety zone will cover all waters of the Ohio River extending from MM 469.5 to MM 470.1. The duration of the temporary safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the temporary safety zone without obtaining permission from the COTP or a designated representative.

Requests to enter the safety zone will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 1–800–253–7475 or can be reached by VHF–FM channel 16. Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the temporary safety zone. The temporary safety zone will only be in effect for one hour and covers an area of the waterway extending less than one mile. The Coast Guard expects minimum adverse impact to mariners from the temporary safety zone activation as the event has been advertised to the public. Also, mariners may request authorization from the COTP or a designated representative to transit the temporary safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental Federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for Federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulated area that would prohibit entry for one hour and covers an area of the waterway extending less than one mile on the Ohio River. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T08–0913 to read as follows:

§ 165.T08–0913 Safety zone; Ohio River, Cincinnati, OH.

(a) *Location.* The following area is a safety zone: All navigable waters of the Ohio River between mile marker (MM) 469.5 and MM 470.1 in Cincinnati, OH.

(b) *Effective period.* This temporary safety zone will be enforced from 7:45 p.m. through 8:45 p.m. on October 19, 2017.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to deviate from this safety zone regulation and enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

Dated: October 10, 2017.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port, Sector Ohio Valley.

[FR Doc. 2017–22594 Filed 10–17–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Part 600

Federal Student Aid Programs (Institutional Eligibility); Foreign Institutions Affected by Natural Disasters

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Identification of inapplicable regulatory provisions.

SUMMARY: The Secretary is identifying as temporarily inapplicable certain regulatory provisions determining whether an educational institution qualifies in whole or in part as an eligible institution of higher education under the Higher Education Act of 1965, as amended (HEA), to provide relief to foreign institutions affected by Hurricane Irma and Hurricane Maria.

DATES: The regulatory provisions identified in this document are inapplicable from October 18, 2017, through the earlier of June 30, 2019, or the date that an affected foreign institution can resume operation in its home country.

FOR FURTHER INFORMATION CONTACT: Wendy Macias, U.S. Department of Education, 400 Maryland Ave. SW., Room 6C111, Washington, DC 20202. Telephone: (202) 203–9155 or by email: *Wendy.Macias@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The regulations at 34 CFR 600.51(c) state, ''A foreign institution must comply with all requirements for eligible and participating institutions except when made inapplicable by the HEA or when the Secretary, through publication in the **Federal Register**, identifies specific provisions as inapplicable to foreign institutions.'' Under this authority, the Secretary is identifying as inapplicable the regulatory provisions listed below from 34 CFR part 600, which determine whether an educational institution qualifies in whole or in part as an eligible institution of higher education under the HEA, and may apply to participate in programs authorized by the HEA.

We are taking this action to provide relief to foreign institutions affected by Hurricane Irma or Hurricane Maria. This action allows a foreign institution that can no longer operate in its home country due to the effects of Hurricane Irma or Hurricane Maria to temporarily operate in another country, contingent upon the foreign institution receiving approval from the Secretary for the relocation after providing:

- The plan and timeline for the temporary relocation, including details of the program offerings and an agreement with any institution at which the affected institution will temporarily relocate;
- Approval of the plan and timeline for the temporary relocation from the foreign institution's accrediting body, including an agreement by that accrediting body to visit and monitor operations at the temporary location;
- Documentation from the government of the country where the temporary campus will be located that the foreign institution will be allowed to operate the temporary location for the period of time specified in the timeline; and
- Any additional information the Secretary requires for approval.

The Secretary reserves the right to revoke through written notice her approval of a foreign institution for relocation upon evidence of waste, fraud, or abuse.

The Secretary is identifying as inapplicable the following regulations:

1. 34 CFR 600.52, definition of a ''foreign institution,'' paragraph (1)(i), requiring that a foreign institution not be located in a State;

2. 34 CFR 600.52, definition of a ''foreign institution,'' paragraph (1)(ii), requiring that, with the exception of the clinical training portion of a foreign medical, veterinary, or nursing program, a foreign institution (1) have no U.S. locations; (2) have no written arrangements, within the meaning of § 668.5, with institutions or organizations located in the United States for students enrolling at the foreign institution to take courses from institutions located in the United States; and (3) does not permit students to enroll in any course offered by the foreign institution in the United States, including research, work, internship, externship, or special studies within the United States, except that independent research done by an individual student in the United States for not more than one academic year is permitted if it is conducted during the dissertation phase of a doctoral program under the guidance of faculty, and the research can only be performed in a facility in the United States;

3. 34 CFR 600.52, definition of a ''foreign institution,'' paragraph (1)(iii), requiring a foreign institution to be legally authorized by the education ministry, council, or equivalent agency of the country in which the institution is located to provide an educational

program beyond the secondary education level;

4. 34 CFR 600.52, definition of a ''foreign institution,'' paragraph (1)(iv), requiring a foreign institution to award degrees, certificates, or other recognized educational credentials in accordance with § 600.54(e) that are officially recognized by the country in which the institution is located;

5. 34 CFR 600.52, definition of a ''foreign institution,'' paragraph (2), requiring that, if an educational enterprise enrolls students both within a State and outside a State, and the number of students who would be eligible to receive title IV, HEA program funds attending locations outside a State is at least twice the number of students enrolled within a State, the locations outside a State must apply to participate as one or more foreign institutions and must meet all requirements of the definition of a ''foreign institution,'' and the other requirements applicable to foreign institutions;

6. 34 CFR 600.54(d)(1), requiring the additional locations of a foreign institution to separately meet the definition of a ''foreign institution'' in 34 CFR 600.52 if the additional location is located outside of the country in which the main campus is located, except as provided for the clinical training portion of a program of a foreign graduate medical school, veterinary school, or nursing school;

7. 34 CFR 600.55(a)(2)(iii), requiring that, as part of its clinical training, a foreign graduate medical school does not offer more than two electives consisting of no more than eight weeks per student at a site located in a foreign country other than the country in which the main campus is located or in the United States, unless that location is included in the accreditation of a medical program accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA);

8. 34 CFR 600.55(b)(1)(i), requiring that a foreign graduate medical school be approved by an accrediting body that is legally authorized to evaluate the quality of graduate medical school educational programs and facilities in the country where the school is located; and

9. 34 CFR 600.55(h), requiring that a foreign graduate medical program offered to U.S. students:

• Must be located in the country in which the main campus of the school is located, except for the clinical training portion of the program, and must be in a country whose medical school accrediting standards are comparable to U.S. standards as determined by the NCFMEA, except for exempt clinical training sites in 34 CFR 600.55(h)(3)(ii), or clinical sites located in the United States.

• Unless a clinical training site is an exempt clinical training site under 34 CFR 600.55(h)(3)(ii), for students to be eligible to receive Direct Loan funds at any part of the clinical training portion of the program located in a foreign country other than the country where the main campus of the foreign graduate medical school is located or in the United States: (i) The school's medical accrediting agency must have conducted an on-site evaluation and approved the clinical training site, and (ii) the clinical instruction must be offered in conjunction with programs offered to students enrolled in accredited schools located in that approved foreign country.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1082, 1088.

Dated: October 13, 2017.

Kathleen A. Smith,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2017–22628 Filed 10–17–17; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0034; FRL–9969–59–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a regional haze progress report under the Clean Air Act as a revision to the Minnesota State Implementation Plan (SIP). Minnesota has satisfied the progress report requirements of the Regional Haze Rule. The progress report examines Minnesota's progress in implementing its regional haze plan during the first half of the first implementation period. Minnesota has met the requirements for submitting a periodic report describing its progress toward reasonable progress goals (RPGs) established for regional haze. Minnesota also provided a determination of the adequacy of its plan in addressing regional haze with its negative declaration submitted with the progress report. Because the state addresses the applicable requirements, EPA is approving the progress report and adequacy determination for the first implementation period for regional haze as a revision to the Minnesota SIP.

DATES: This direct final rule will be effective December 18, 2017, unless EPA receives adverse comments by November 17, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0034 at *https://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. Requirements for Regional Haze Progress Report SIPs and Adequacy Determinations
III. What is EPA's analysis?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. Background

States are required to submit a progress report every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area [1] (Class I area). Specifically, the progress report evaluates progress toward the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from with the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP under 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP.

Minnesota submitted its regional haze plan to EPA on December 30, 2009, with a supplement submitted on May 8, 2012. Correspondingly, Minnesota submitted its five-year progress report and its determination of adequacy on December 30, 2014. EPA is approving Minnesota's progress report on the basis that it satisfies the applicable requirements of 40 CFR 51.308.

Two Class I areas are located in Minnesota, the Boundary Waters Canoe Wilderness Area (Boundary Waters) and the Voyageurs National Park (Voyageurs). Further, Minnesota emissions contribute to visibility impairment at a Class I area located out of state, the Isle Royale National Park (Isle Royale) in Michigan.

II. Requirements for Regional Haze Progress Report SIPs and Adequacy Determinations

States must periodically submit a regional haze progress report that addresses the elements found in 40 CFR 51.308(g). States are required by 40 CFR 51.308(h) to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions listed in the rule based on information in the progress report.

III. What is EPA's analysis?

A. Regional Haze Progress Report SIP

The following sections discuss the information provided in Minnesota's progress report. Each section describes Minnesota's progress report SIP submission and provides EPA's analysis and proposed determination as to whether the submission meets the applicable requirements of 40 CFR 51.308.

1. Status of Implementation of All Measures Included in the Regional Haze SIP

In general, the Regional Haze Rule features two strategies for reducing visibility-impairing pollutants: Implementing best available retrofit technology (BART) and the long-term strategy (LTS). In Minnesota, BART applies to electric generating units (EGUs) and taconite facilities.

a. BART for EGUs

The Minnesota progress report described the implementation of regional haze controls at EGUs. Minnesota's 2009 Regional Haze SIP included source-specific BART determinations for subject EGUs. Minnesota had intended to rely on the Clean Air Interstate Rule (CAIR) EGU emissions cap and trade program, finalized on May 12, 2005 (70 FR 25162), which had been determined by EPA as ''better than BART.'' However, CAIR was remanded (without vacatur) by the Court of Appeals for the District of Columbia (D.C.) Circuit in December 2008, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). Therefore, Minnesota's 2009 Regional Haze SIP relied on the source-specific BART determinations performed by the state.

EPA finalized the Cross-State Air Pollution Rule (CSAPR), effective October 7, 2011 (76 FR 48208). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302 (December 30, 2011).

In December 2011, EPA proposed a rule to approve CSAPR as an alternative to determining source-by-source specific BART for sulfur dioxide (SO_2) and nitrogen oxide (NO_X) emissions from power plants. 76 FR 82219 (December 30, 2011). EPA finalized the rule on June 7, 2012. 77 FR 33642. Minnesota modified its EGU BART strategy, replacing source-specific BART determinations at subject facilities with participation in CSAPR. On January 5, 2012, Minnesota requested to use CSAPR participation to satisfy BART for its EGUs, which EPA approved on June 12, 2012 (77 FR 34801). EPA considers CSAPR to satisfy the BART requirements for Minnesota EGUs for SO_2 and NO_X.

On August 21, 2012, the Court of Appeals for the D.C. Circuit vacated CSAPR, keeping CAIR in effect while EPA developed a replacement rule. EPA appealed the ruling to the U.S. Supreme Court, which upheld CSAPR in a final decision issued on April 29, 2014.[2] On October 23, 2014, the Court of Appeals granted EPA's motion to lift the stay of CSAPR and to toll CSAPR's compliance deadlines by three years. On November 21, 2014, EPA issued a rule that aligns the dates in the CSAPR rule text with the revised court-ordered schedule, including the implementation of Phase I in 2015. 79 FR 71663.

Minnesota used CSAPR to satisfy BART for its subject EGUs. The EGUs in Minnesota, including both units subject to BART and units not subject to BART, have reduced SO_2 and NO_X emissions even with the delay in implementing CSAPR. In the progress report, Minnesota shows that 2013 state-wide SO_2 emissions from EGUs were 24,366 tons. That is below the CSAPR budget of 41,981 tons and a 76 percent decrease

[1] Under the Clean Air Act (CAA), a Class I Federal area is one in which visibility is protected more stringently than under the national ambient air quality standards. Class I federal area include national parks, wilderness areas, monuments, and other areas of special national and cultural significance.

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

from 2002 emissions. Minnesota also shows that 2013 state-wide NO_X emissions were 24,855 tons from EGUs. That is below the 29,572 tons CSAPR budget and a 71 percent decrease from 2002 emissions.

b. BART for Taconite Facilities

The Minnesota progress report described the implementation of regional haze controls at taconite facilities. Minnesota's 2009 Regional Haze SIP included source-specific BART determinations for subject taconite facilities. On February 6, 2013, EPA finalized a Federal Implementation Plan rule (FIP) with BART determinations and enforceable limits for Minnesota's subject taconite facilities for control of SO_2 and NO_X emissions. 78 FR 8706.

Compliance deadlines in the FIP ranged from a few months (for most SO_2 limits) to five years from the SIP's effective date of March 8, 2013. The affected facilities, however, as well as the state of Michigan, filed petitions for reconsideration and review of the FIP rule. The Eighth Circuit Court of Appeals granted a stay of the rule on June 14, 2013. As of the date of Minnesota's progress report, December 30, 2014, the stay remained in effect while the parties sought to resolve the litigation.[3] Subsequently, the stay was lifted on November 15, 2016.

The FIP provided BART limits for taconite furnaces. The delays in implementing the taconite FIP extended beyond the period Minnesota assessed in its progress report. In light of the stay of the FIP during the reporting period, Minnesota did not include any expected visibility improvements that will arise from the implementation of the FIP in its progress report analysis. Minnesota will evaluate visibility benefits from the taconite FIP in future regional haze plans and progress reports.

c. Long Term Strategy

In its progress report, Minnesota described its Northeast Minnesota Plan, which is part of the LTS in its regional haze plan. The Northeast Minnesota Plan applies to sources in a six-county (Carlton, Cook, Itasca, Koochiching, Lake, and Saint Louis counties) area in northeastern Minnesota that emit at least 100 tons per year of either NO_X, SO_2, or both. The Northeast Minnesota Plan sets two targets from the base case for reductions in combined NO_X and SO_2 emissions.

d. ''On-the-Books'' Modeled Controls

In its progress report, Minnesota noted the additional emission reductions expected from several Federal programs. Minnesota considered the emission reductions from the Tier 2 Gasoline, Heavy-duty Highway Diesel, Non-road Diesel, and a variety of Maximum Achievable Control Technology programs in its regional haze plan. Minnesota did not rely on additional emissions controls from other states in its regional haze strategy. Additional emission reductions from the evaluated programs and from other states will not delay visibility improvement and may accelerate the improvement.

EPA concludes that Minnesota has adequately addressed the status of control measures in its regional haze SIP. Minnesota describes the implementation status of measures from its regional haze SIP including the status of control measures to meet BART, reasonable progress requirements, and the status of measures from on-the-book controls.

2. Summary of Emission Reductions Achieved in Minnesota Through Implementation of Measures

Minnesota provided its EGUs emissions of SO_2 and NO_X for 2002, 2009, and 2013, along with its CSAPR budgets. As discussed in III.A.1.a. of this rule, emissions of the relevant pollutants have sharply declined from 2002 to 2013, and are all below the CSAPR budgets.

EPA expects further SO_2 and NO_X emission reductions from EGUs and the taconite facilities as CSAPR and the taconite FIP are implemented. Minnesota should account for these future emission reductions in its plan for the 2018–2028 implementation period. Minnesota will reassess its RPGs and the adequacy of its regional haze SIP when preparing its second regional haze SIP to cover the 2018–2028 implementation period. That assessment will include its reliance upon CSAPR for emission reductions from EGUs, implementation of controls on its taconite facilities, and any other applicable emission controls.

TABLE 1—NORTHEAST MINNESOTA PLAN

	Target (tons NO_X and SO_2)	Emissions (tons NO_X and SO_2)
2002 (Base)	95,826	95,826
2012	76,661 (20 percent reduction)	52,691
2018	67,078 (30 percent reduction)	[1] 66,982

[1] Projection of 2018 combined emissions that adds permitted new sources, modifications, and potential new sources to the existing area sources.

The Northeast Minnesota Plan sets a 20 percent reduction target for 2012 and a 30 percent reduction target for 2018 of combined NO_X and SO_2 emissions from the 2002 base. Minnesota reported that the 2012 combined emissions from the Northeast Minnesota Plan sources meet the 2012 goal. Thus, Minnesota has made adequate progress to date in achieving emission reductions.

Although the progress report is an evaluation of the progress achieved, there are some new sources permitted in the Northeast Minnesota Plan area. Minnesota made a projection of 2018 combined emissions that adds permitted new sources, modifications, and potential new sources to the existing area sources that is less than the 2018 Northeast Minnesota Plan goal.

EPA finds that the summary of emission reductions achieved from

[3] EPA subsequently reached a settlement agreement with Cliffs Natural Resources, Arcelor Mittal, and the state of Michigan regarding issues raised in their petitions for review and reconsideration. Notice of the settlement was published in the **Federal Register** on January 30, 2015 (80 FR 5111), and the settlement agreement was fully executed on April 9, 2015.

EPA granted partial reconsideration of the 2013 Taconite FIP based on new information raised in the petitions for reconsideration. EPA finalized a revision to the taconite BART FIP on April 12, 2016 (81 FR 21672). EPA revised the SO_2 and NO_X emission limitations for some of the taconite facilities based on new information that was not available when the FIP was originally promulgated. However, Cliffs, Arcelor Mittal, and US Steel filed petitions for reconsideration and review against the April 12, 2016 revised FIP on or about June 13, 2016. This matter is also pending before the Eighth Circuit Court of Appeals.

control strategy implementation meets the applicable requirements.

3. Assessment of Visibility Conditions and Changes for Each Mandatory Class I Federal Area in the State

TABLE 2—VISIBILITY PROGRESS AT CLASS I AREAS

Area	2002 (dv)	2013 (dv)	2018 (dv)
Boundary Waters:			
Worst	19.9	18.9	18.6
Best	6.4	4.8	6.4
Voyageurs:			
Worst	19.5	18.2	18.9
Best	7.1	5.3	7.1

Minnesota reported the 2013 visibility conditions for the 20 percent most impaired days (worst) and the 20 percent least impaired days (best) at Boundary Waters and Voyageurs. Those values indicate progress from the 2002 baseline toward the 2018 RPGs.

EPA finds that Minnesota properly reported the current visibility conditions for the most impaired and least impaired days, the difference between current conditions and baseline conditions for the most impaired and least impaired days, and the change in visibility for the most impaired and least impaired days over the past five years. Minnesota's visibility progress is on track as improvement has been shown for the 20 percent least impaired days and is on track for the 20 percent most impaired days at both Class I Federal areas, Boundary Waters and Voyageurs.

4. Analysis Tracking Emissions Changes of Visibility-Impairing Pollutants

Minnesota provided its 2002 base emissions and projected 2018 emissions in its regional haze plan submitted in 2009. The progress report gives 2011 annual emissions for SO_2, NO_X, ammonia (NH_3), and volatile organic compounds (VOC). These emissions can be compared to the 2002 base and 2018 projected emissions to evaluate progress.

TABLE 3—EMISSIONS PROGRESS

	SO_2 (tons)	NO_X (tons)	NH_3 (tons)	VOC (tons)
2002 Emissions	163,000	487,000	185,000	361,000
2011 Emissions	62,100	299,000	197,000	273,000
2018 Goal	108,000	288,000	253,000	279,000

Minnesota reports 2011 total SO_2 emissions of 62,100 tons, lower than the 2018 goal of 108,000 tons. Minnesota noted that SO_2 emissions have been steadily declining. Point sources comprise most of the SO_2 emissions, and several projects at coal-burning EGUs have driven the decline in SO_2 emissions.

Minnesota NO_X emissions have declined to 299,000 tons in 2011, nearing the 2018 goal of 288,000. For NO_X emissions, mobile sources are the main sector, and, as such, implementation of mobile source programs is expected to continue to decrease NO_X emissions in Minnesota. Potential emission reductions from EGUs and taconite facilities, once implemented, will provide some further assistance. Minnesota appears to be on track to meet its 2018 RPG for NO_X emissions given the reductions already achieved and further reductions expected because of the controls being implemented.

Minnesota projected its NH_3 emissions to increase 37 percent from 2002 to 2018, while by 2011 NH_3 emissions increased by 6.5 percent. Minnesota noted in its report that so far NH_3 emissions are increasing at a lower rate than predicted, but there still is some uncertainly regarding the emissions growth rate. Non-point source, agricultural livestock manure management in particular, are the main sector for NH_3 emissions in Minnesota.

Minnesota projects VOC emissions to decrease 23 percent from 2002 to 279,000 tons in 2018. Minnesota reports 273,000 tons of VOC emissions in 2011. Emissions are gradually decreasing from implementation of a variety of programs. The state's anthropogenic VOC emissions are mainly from mobile and non-point sources.

Minnesota noted that direct fine particulate matter ($PM_{2.5}$) emissions have a minimal impact on visibility in Boundary Waters and Voyageurs. EPA examined the $PM_{2.5}$ emissions inventories and found a downward trend in emissions.

Minnesota appears to be on-track for reaching the 2018 emission projections in its regional haze plan. EPA finds that Minnesota's analysis tracking emissions progress for the current five-year period has satisfied the applicable requirements.

5. Assessment of Any Significant Changes in Anthropogenic Emissions

Minnesota provided an assessment of its SO_2, NO_X, and NH_3 emissions changes and of the five contributing states (Illinois, Iowa, Missouri, North Dakota, and Wisconsin).

Minnesota reported 2011 emissions, which show a 61 percent SO_2 reduction from the 2002 base year, a 38 percent NO_X reduction, and a 6.5 percent increase in NH_3 emissions.

Iowa emissions (as indicated in its progress report) show a 37,400 ton SO_2 reduction from 2002 to 2008, along with a 68,100 ton NO_X reduction. Minnesota reviewed the public comment draft of the Missouri progress report. Missouri reported a 147,000 ton reduction in SO_2 emissions and a 53,200 ton reduction in NO_X emissions from 2005 to 2011. North Dakota provided emission information that shows a 67,000 ton, or 38 percent, SO_2 reduction and a 51,000 ton or 22 percent NO_X reduction from 2002 to 2011. Illinois and Wisconsin

had not compiled emission data in time for Minnesota to evaluate for the report.

Minnesota also included emissions data from EPA's Clean Air Markets Division that show reductions in both SO_2 and NO_X emissions for each of the six states from 2005 to 2013. Collectively for the six states, SO_2 emissions declined 645,000 tons or 57 percent decrease, and there was a 293,000 ton or 53 percent decrease in NO_X emissions.

EPA finds that Minnesota properly assessed available information for any significant changes in anthropogenic emissions over the past five years to determine whether these changes have impeded progress in improving visibility. The five contributing states are in various stages in assessing emissions for progress reports making Minnesota's assessment of contributing states' emissions inconsistent state to state. The visibility data available to Minnesota indicates that visibility improvement is on track. Supplementing the data from other states, EPA's Clean Air Markets Division data show that significant, wide-spread SO_2 and NO_X emission declines have already occurred. Thus, there is no evidence that progress in Minnesota is being impeded by emissions from other states.

6. Assessment of Whether the SIP Elements and Strategies Are Sufficient To Meet RPGs

Minnesota has implemented, or expects to implement by 2018, all controls from its approved regional haze plan. The state noted in the progress report that its emissions are on track for the 2018 goals, including reductions that are ahead of pace for the key visibility impairing pollutants, SO_2 and NO_X. Minnesota expects that the implementation of CSAPR and other Federal programs will address the reasonable progress obligations of the contributing states.

Minnesota emissions contribute to visibility impairment at Isle Royale. Emission reductions from Minnesota sources that help visibility improvement at Boundary Waters and Voyageurs also support visibility improvement at Isle Royale. Minnesota has achieved greater SO_2 emission reductions than predicted in both its own and Michigan's regional haze plans.

EPA finds that Minnesota has provided an assessment of the current strategy to determine if it is sufficient to meet reasonable progress goals at all Class I Federal areas impacted by Minnesota emissions. The available information indicates that Minnesota is implementing its controls. The visibility progress at both Boundary Waters and Voyageurs is on track and thus suggests Minnesota's current strategy is sufficient to meet its reasonable progress goals.

7. Visibility Monitoring Strategy Review

Minnesota states in its progress report that Interagency Monitoring of Protected Visual Environments (IMPROVE) sites operate at the Class I Federal areas, Boundary Waters and Voyageurs, which are in northeastern Minnesota. There are also two IMPROVE protocol sites in southern Minnesota operating near Blue Mounds State Park and Great River Bluffs State Park. Minnesota will continue to operate the IMPROVE network monitors based on Federal funding. If future reductions to the IMPROVE network occur, the state has a contingency plan to use the $PM_{2.5}$ monitoring network. In addition, Minnesota commits to meeting the reporting requirements of 40 CFR 51.308(d)(4)(iv) for its Class I Federal areas.

EPA finds that Minnesota has adequately reviewed its visibility monitoring strategy, and concurs that it appears sufficient. No modifications to the monitoring strategy are needed at this time.

B. Determination of the Adequacy of Existing Implementation Plan

The determination of adequacy for the regional haze plan is required to be submitted at the same time as the progress report. The rule at 40 CFR 51.308(h) requires the state to select from four actions based on the state's evaluation of its regional haze plan.

Minnesota determined that its regional haze plan, including the 2012 supplement as approved into the Minnesota SIP, is adequate to meet the Regional Haze Rule requirements and expects to achieve the RPGs at Boundary Waters, Voyageurs, and Isle Royale. Thus, Minnesota submitted a negative declaration that further substantive revision of its regional haze plan is not needed at this time.

EPA finds that the current Minnesota regional haze plan is adequate to achieve its established goals. The reported information indicates that Minnesota is on track to meet its visibility improvement and emission reduction goals.

C. Public Participation and Federal Land Manager Consultation

Minnesota published a public notice in the July 28, 2014, *State Register.* Minnesota offered a public meeting upon request. No one requested a public meeting. The state provided a public comment period of July 28, 2014, to August 27 2014, and received eight comment letters on its action. The comment letters, along with Minnesota's responses, are included in the progress report in Appendix F.

Minnesota consulted with Federal Land Managers (FLMs) on June 10, 2014. It provided a draft of the progress report to FLMs on June 20, 2014. The FLM comments, along with Minnesota's responses, are included in the progress report in Appendix F. Minnesota made revisions to the progress report based on FLM comments.

EPA finds that Minnesota has addressed the applicable public participation requirements in 40 CFR 51.308(i).

IV. What action is EPA taking?

EPA is approving the regional haze progress report that Minnesota submitted on December 30, 2014, as a revision to the Minnesota SIP. EPA finds that Minnesota has satisfied the progress report requirements of 40 CFR 51.308(g). EPA also finds that Minnesota has met the requirements of 40 CFR 51.308(h) for a determination of the adequacy of its regional haze plan with its negative declaration.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 18, 2017 without further notice unless we receive relevant adverse written comments by November 17, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. Relevant public comments will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 18, 2017.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

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.*

■ 2. In § 52.1220, the table in paragraph (e) is amended by adding an entry for ''Regional Haze Progress Report'' immediately following the entry ''Regional Haze Plan'' to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
*	*	*	*	*
Regional Haze Progress Report	statewide	12/30/2014	10/18/2017, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–22505 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0082; FRL–9969–64–Region 5]

Air Plan Approval; Illinois; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the regional haze progress report under the Clean Air Act (CAA) as a revision to the Illinois State Implementation Plan (SIP). Illinois has satisfied the progress report requirements of the Regional Haze Rule. Illinois has also met the requirements for a determination of the adequacy of its regional haze plan with its negative declaration submitted with the progress report.

DATES: This direct final rule will be effective December 18, 2017, unless EPA receives adverse comments by November 17, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0082 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategy Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. EPA's Analysis of Illinois's Regional Haze Progress Report and Adequacy Determination
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. Background

States are required to submit a progress report every five years that evaluates progress towards the Reasonable Progress Goals (RPGs) for each mandatory Class I Federal area [1] (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. *See* 40 CFR 51.308(h). The first progress report must be submitted in the form of a SIP revision and is due five years after the submittal of the initial regional haze SIP. On June 24, 2011, Illinois submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308. EPA approved Illinois' regional haze plan into its SIP on July 6, 2012, 77 FR 39943.

On February 1, 2017, Illinois submitted a SIP revision consisting of a report on the progress made in the first implementation period towards the RPGs for Class I areas outside of Illinois (progress report). Illinois does not have any Class I areas within its borders. This progress report included a determination that Illinois' existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is approving Illinois' progress report on the basis that it satisfies the requirements of 40 CFR 51.308.

[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). Listed at 40 CFR part 81, subpart D.

II. EPA's Analysis of Illinois's Regional Haze Progress Report and Adequacy Determination

On February 1, 2017, Illinois EPA submitted the progress report as a revision to its regional haze SIP to address progress made in the first planning period towards RPGs for Class I areas that are affected by emissions from Illinois' sources. The progress report included a determination of the adequacy of the state's existing regional haze SIP.

Illinois has no Class I areas within its borders. In the initial SIP, the following Class I areas are identified as sites that may be affected by emissions from within Illinois: Sipsey Wilderness Area (Alabama), Caney Creek Wilderness Area and Upper Buffalo Wilderness Area (Arkansas), Great Gulf Wilderness Area (New Hampshire), Boundary Waters Canoe Wilderness Area (Minnesota), Brigantine Wilderness Area (New Jersey), Great Smoky Mountains National Park (North Carolina, and Tennessee), Mammoth Cave National Park (Kentucky), Acadia National Park and Moosehorn Wilderness Area (Maine), Isle Royale National Park and Seney Wilderness Area (Michigan), Hercules-Glades Wilderness Area and Mingo Wilderness Area (Missouri), Lye Brook Wilderness (Vermont), James River Face Wilderness and Shenandoah National Park (Virginia), and Dolly Sods/Otter Creek Wilderness (West Virginia).

In developing the Long Term Strategy (LTS), the original Illinois regional haze SIP determined that ''on-the-books'' controls, together with best available retrofit technology (BART) controls, would constitute the measures necessary to address Illinois' contribution to visibility impairment in the Class I areas at which emissions from Illinois contribute. This was supported by modeling assessments from the Midwest Regional Planning Organization (MRPO) and in consultation with other states and Regional Planning Organizations.

A. Regional Haze Progress Report SIP Elements

The following sections discuss the information provided by Illinois in the progress report. Each section describes Illinois' applicable progress report submission along with EPA's analysis and proposed determination as to whether the submission met the

applicable requirements of 40 CFR 51.308.

1. Status of Implementation of All Measures Included in the Regional Haze SIP

Illinois provided the status of implementation of all control measures as required by 40 CFR 51.308(g)(1). Illinois identified control measures regulated explicitly for the purposes of the regional haze program, as well as additional control measures that were expected to take effect within the first planning period. The regional haze controls implemented by Illinois include both BART and a LTS.

In its original regional haze SIP, Illinois relied primarily on three control strategies for meeting its regional haze requirements to ensure reasonable progress: [2] (1) Federal consent decrees for two petroleum refineries; (2) source-specific limits for three power plants that were included in Federally enforceable permits; and, (3) emission reductions from the vast majority of state's electric generating unit (EGU) fleet resulting from the Multi-Pollutant Standard (MPS) and the Combined Pollutant Standard (CPS) regulatory requirements found in Title 35 of the Illinois Administrative Code (35 IAC), Mercury Rule, Part 225, Subpart B—Control of Mercury Emissions from Coal-Fired Electric Generating Units (Part 225). These elements of Illinois' SIP satisfied the requirements for BART in 40 CFR 51.308(e). All three control strategies have been implemented or are being implemented on the schedules approved in the SIP.

In addition to these control measures being implemented, in Section 1.2 of the report Illinois identified a list of ''on-the-books'' control measures used in the MRPO's modeling for Illinois' SIP that the state expected to implement between 2002 and 2018. These ''on-the-books'' control measures are being implemented as planned or in a manner at least as stringent as anticipated at the time of the original haze plan submittal. More detailed information regarding the implementation dates of the various control measures can be found in Appendix A of the report.

Illinois did not rely on additional emissions controls from other states in its regional haze strategy. In Section 1.3 of the report, Illinois noted the following additional control measures not considered in Illinois' regional haze SIP which are expected to contribute to further reduction of sulfur dioxide (SO_2) emissions before 2018: Compliance with the 2010 SO_2 National Ambient Air Quality Standard, and the Federal Tier 3 Vehicle Emissions and Fuel Standard Program (2014).

The report noted that in 2015 Illinois adopted regulations that set statewide fuel sulfur standards for stationary sources at 1000 parts per million (ppm) for residual oil and 15 ppm for distillate fuel oil. These regulatory requirements were to be implemented by January 1, 2017.

EPA concludes that Illinois has adequately addressed the status of control measures in its regional haze SIP as required by 40 CFR 51.308(g)(1).

2. Summary of Emissions Reductions Achieved in the State Through Implementation of Measures

In its progress report, Illinois provided a summary of emission reductions achieved through implementation of control strategies described in the above paragraph as required by 40 CFR 51.308(g)(1).

Illinois' reliance upon the MPS and CPS from 35 IAC 225, the source-specific limits incorporated into Federally enforceable permits for three power plants, and requirements contained in Federal consent decrees for two petroleum refineries have resulted in significant emission reductions of nitrogen oxides (NO_X) and SO_2. In Section 2.0 of the progress report, Illinois provided emissions data from the base year 2002 for the regional haze rule, projections of emissions for 2015 and 2018, and actual emissions data from EPA's Air Markets Program Data. These data indicate that greater reductions of NO_X and SO_2 emissions have occurred in 2015 at regulated sources than were anticipated for the entire first implementation period ending in 2018.

The additional emission reductions reported in Section 2.0 were based on other factors such as the shutting down or conversion of coal-fired EGUs to combustion of other fuels, and control measures related to Federal requirements such as, Maximum Achievable Control Technology and the Mercury and Air Toxics Standards. The report shows that emission reduction of visibility-impairing pollutants in Illinois have been greater than anticipated at the time of its regional haze plan submittal.

EPA finds the summary of emission reductions achieved from control strategy implementation adequately addresses the applicable provisions of 40 CFR 51.308(g)(2).

3. Assessment of Visibility Conditions and Changes for Each Mandatory Class I Federal Area in the State

Illinois does not have any Class I areas within its boundaries, and as the applicable provisions pertain only to states containing Class I areas, no further discussion is necessary. EPA concludes that Illinois has adequately addressed the applicable provisions of 40 CFR 51.308(g).

4. Analysis Tracking Emissions Changes of Visibility-Impairing Pollutants

In its progress report, Illinois provided an analysis tracking the emissions progress over the past five years, as required by 40 CFR 51.308(g)(4). Illinois based its report on the most recent updated emissions inventory to account for emission changes during the applicable five-year period. The analysis includes emissions of SO_2, NO_X, ammonia (NH_3), volatile organic compound (VOC), and direct emissions of fine particulate matter ($PM_{2.5}$) for the years 2010 to 2014 (the most recent year for which Illinois has a full quality-assured inventory). In order to provide a five-year analysis with data from years with full quality-assured inventories, Illinois EPA has interpolated 2010 inventory data from its 2008 and 2011 inventories.

Table 1 below contains Illinois inventory data aggregated by source type for each visibility-impairing pollutant. This data shows significant reductions in Illinois emissions of SO_2 (40% reduction) and NO_X (15% reduction) while showing slight increases or decreases in emissions of $PM_{2.5}$ (0.15% increase), VOC (0.5% increase), and NH_3 (4% reduction).

TABLE 1—ILLINOIS EMISSIONS BY SOURCE TYPE

Source type	SO_2 (tpy)		NO_X (tpy)		$PM_{2.5}$ (tpy)		VOC (tpy)		NH_3 (tpy)	
	2010	2014	2010	2014	2010	2014	2010	2014	2010	2014
Point Source	311,447	182,200	151,017	99,753	10,929	14,261	45,598	42,345	1,622	1,901

[2] Illinois did not rely upon the Clean Air Interstate Rule (CAIR) or the Cross-State Air Pollution Rule (CSAPR) for its regional haze SIP, and thus, has avoided the issues that presented themselves in other states due to their reliance on CAIR and CSAPR.

TABLE 1—ILLINOIS EMISSIONS BY SOURCE TYPE—Continued

Source type	SO_2 (tpy)		NO_X (tpy)		$PM_{2.5}$ (tpy)		VOC (tpy)		NH_3 (tpy)	
	2010	2014	2010	2014	2010	2014	2010	2014	2010	2014
Area Source	5,733	5,688	45,150	58,012	119,001	118,411	166,221	172,831	69,916	68,177
On-Road Mobile	1,037	1,040	187,348	174,774	5,290	5,286	70,721	73,769	6,048	3,868
Off-Road Mobile	1,994	2,576	144,695	116,965	9,596	7,074	77,368	72,795	96	109
Animal Husbandry	0		0		0		0		45,826	44,442
Total	320,232	191,504	528,211	449,504	144,816	145,032	359,909	361,740	123,507	118,496

An additional table in the report shows the significant reductions in SO_2 and NO_X emissions were driven primarily by reductions from the EGU sector. Illinois anticipates that this trend will continue in 2015 and beyond, due to further increases in the stringency of the state regulations and additional coal-fired EGUs in Illinois being retired or converted to natural gas combustion.

Emissions of VOC and $PM_{2.5}$ appear to have increased slightly over the five-year period. However, Illinois EPA analysis indicates that this apparent increase is due mainly to changes in inventory methodologies. While VOC emissions in Illinois decreased for many subcategories in the inventory summary, these reductions are overwhelmed by the significant increase in the ''Petroleum and Related Industries'' subcategory. With respect to calculating the proportion of $PM_{2.5}$ in source emissions, Illinois determined that the apparent increase in $PM_{2.5}$ emissions is from the EGU sector, while overall PM emissions, fuel usage, and emissions of other pollutants for the EGU sector showed significant reductions.

Overall emissions of visibility-impairing pollutants in Illinois have declined over the five-year period between 2010 and 2014. Again, the regional haze SIP for Illinois control strategies focused primarily on reductions of SO_2 and NO_X.

EPA finds that the analysis tracking the emissions progress over the past five years adequately addresses the applicable provisions of 40 CFR 51.308(g).

5. Assessment of Changes Impeding Visibility Progress

The Regional Haze Rule at 40 CFR 51.308(g)(5) requires an assessment of any significant changes in emissions over the past five years that have impeded progress in improving visibility.

In the progress report, Illinois has not identified any significant changes in anthropogenic emissions within Illinois that have occurred over the last five years that would limit or impede progress in improving visibility. Illinois reports that there have been no significant unexpected increases in emissions in the past five years. Likewise, Illinois reports that there have been no projected decreases in pollutant emissions from the regional haze SIP that have not been realized. Data detailed in Sections 2.0 and 4.0 of Illinois' progress report show Illinois achieving emission reductions of SO_2 and NO_X beyond the projected emission reductions in the original regional haze SIP.

Because Illinois does not contain any Federal Class I areas, Illinois is not required to assess whether emission increases outside the state are causing a Class I area within the state to be adversely affected. Thus, EPA concludes that Illinois has adequately addressed the applicable provisions of 40 CFR 50.308.

6. Assessment of Current Strategy

In its progress report, Illinois submits that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Illinois and states where Illinois contributes to visibility impairments to meet all established RPGs. To support this conclusion, Illinois has implemented, or will implement by 2018, all controls from its regional haze plan. In the progress report, Illinois states that good progress has been made in reducing in visibility-impairing pollutants in the last five years. The state noted that it is on track to meet its 2018 goals for emission reductions before the end of 2018 for key pollutants, SO_2 and NO_X. Section 2.0 of the progress report, provides actual emissions data showing significant emissions reductions in visibility impairing pollutants in 2015 that have already exceeded the projected emission reductions in the Illinois by 2018.

EPA agrees that Illinois' assessment of strategies outlined in its regional haze SIP has adequately addressed the applicable provisions of 40 CFR 50.308.

7. Review of the State's Visibility Monitoring Strategy

Illinois's progress report indicates that there are no Class I areas within its borders. EPA concludes that because Illinois does not have any Class I areas within its borders and therefore is not required to address the applicable provisions related to review of the state's visibility monitoring strategy, the state has adequately addressed the applicable provisions of 40 CFR 51.308.

B. Determination of Adequacy of the Existing Regional Haze Plan

The rule at 40 CFR 51.308(h) requires a determination of adequacy for the regional haze plan to be submitted at the same time as the progress report. The rule requires the state to select from four options based on the information given in the progress report. Illinois submitted a negative declaration that further substantive revisions to its regional haze plan are not needed at this time. Illinois determined that its regional haze plan is adequate to meet the regional haze rule requirements and expects Class I areas affected by Illinois to achieve the reasonable progress goals. The nearest Class I area outside the state of Illinois is either in southwestern Missouri or northern Michigan. *See* 77 FR 3966, 3967 (January 12, 2012). Illinois reports that it is on track to meet the visibility improvement and emission reduction goals. EPA agrees that the current Illinois regional haze plan is adequate to achieve these goals.

C. Public Participation and Federal Land Manager (FLM) Consultation

On June 23, 2016, Illinois provided an opportunity for FLMs to review the revision to Illinois' SIP reporting on progress made during the first implementation period toward RPGs for Class I areas outside the state that are affected by emissions from Illinois' sources. This was 60 days in advance of the public hearing.

Illinois' progress report includes the FLMs comments received and responses to those comments in Appendix A in the progress report.

Illinois also published notification for a public hearing and solicitation for comments in the Illinois Register on October 7, 2016, with the public comment period commencing on that day and ending on November 6, 2016. Illinois received no request for a public hearing. Illinois received one public comment during the public comment period. The state provided a response to the comment, regarding the Illinois regional haze report.

EPA finds that Illinois has addressed the applicable requirements in § 51.308(i) regarding FLM consultation.

III. What action is EPA taking?

EPA is approving the regional haze progress report submitted on February 1, 2017, as a revision to the Illinois SIP. Illinois has satisfied the progress report requirements of 40 CFR 51.308(g). EPA also finds that Illinois has met the 40 CFR 51.308(h) requirements for a determination of the adequacy of its regional haze plan with its negative declaration also submitted on February 1, 2017.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 18, 2017 without further notice unless we receive relevant adverse written comments by November 17, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 18, 2017.

IV. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

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.*

■ 2. In § 52.720, the table in paragraph (e) is amended by adding an entry for ''Regional Haze Progress Report''

immediately following the entry for ''Regional haze plan'' to read as follows:

§ 52.720 Identification of plan.

(e) * * *

* * * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* *	*	*	* *	*
Regional Haze Progress Report	Statewide	02/01/17	10/18/17, [Insert **Federal Register** citation]	
* *	*	*	* *	*

[FR Doc. 2017–22502 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0058; FRL–9969–61–Region 5]

Air Plan Approval; Michigan; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Michigan regional haze progress report under the Clean Air Act (CAA) as a revision to the Michigan State Implementation Plan (SIP). Michigan has satisfied the progress report requirements of the Regional Haze Rule. Michigan has also met the requirements for a determination of the adequacy of its regional haze plan with its negative declaration submitted with the progress report.

DATES: This direct final rule will be effective December 18, 2017, unless EPA receives adverse comments by November 17, 2017. If relevant adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0058 at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6143, *alvarez.gilberto@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. Requirements for the Regional Haze Progress Reports and Adequacy of Determinations
III. What is EPA's analysis?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. Background

States are required to submit a progress report every five years that evaluates progress towards the Reasonable Progress Goals (RPGs) for each mandatory Class I Federal area within the State and in each mandatory Class I Federal area outside the State which may be affected by emissions from within the State. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of their existing regional haze SIP. *See* 40 CFR 51.308(h). The first progress report is due five years after the submittal of the initial regional haze SIP.

Michigan submitted its regional haze plan on November 5, 2010. EPA approved Michigan's regional haze plan into its SIP on December 3, 2012, 77 FR 71533.

In order to satisfy the requirements for Best Available Retrofit Technology (BART) for certain taconite ore processing facilities in Minnesota and Michigan, EPA promulgated a Federal Implementation Plan (taconite FIP) on February 6, 2013, 78 FR 8706. In Michigan, the taconite facility impacted by this FIP is the Tilden Mining Company. The taconite FIP was stayed by the Eighth Circuit Court of Appeals on June 14, 2013. EPA subsequently reached a settlement agreement with Cliffs Natural Resources and Arcelor Mittal that was fully executed on April 9, 2015. On April 12, 2016, EPA published a final rule that modifies the taconite FIP with the settlement agreement conditions, 81 FR 21672.

Michigan submitted its five-year progress report on January 12, 2016. The State submitted its determination of adequacy with the progress report.

There are two Class I areas in Michigan, Isle Royale National Park (Isle Royale) located on Lake Superior and Seney National Wildlife Refuge (Seney) located in Michigan's Upper Peninsula.

The emission reductions from several Federal programs contribute to visibility improvement in Michigan. In its regional haze plan, Michigan considered the emission reductions from the Tier 2 Gasoline, Heavy-duty Highway Diesel, Non-road Diesel, and a variety of Maximum Achievable Control Technology programs. Michigan elected to use the Cross-State Air Pollution Rule

(CSAPR) to satisfy BART for its power plant units.

II. Requirements for the Regional Haze Progress Reports and Adequacy of Determinations

Under 40 CFR 51.308(g), states must periodically submit a regional haze progress report every five years that address the seven elements found in 40 CFR 51.308(g).

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report, a determination of the adequacy of their existing regional haze SIP and to take one of four possible listed actions based on information in the progress report.

III. What is EPA's analysis?

The Regional Haze Rule provides the required elements for five-year progress reports at 40 CFR 51.308(g). EPA finds that Michigan satisfied the 40 CFR 51.308(g) requirements with its progress report. EPA finds that, with its negative declaration, Michigan also satisfied the requirements for the determination of adequacy provided in 40 CFR 51.308(h).

The following sections discuss the information provided by Michigan in the progress report submission, along with EPA's analysis and determination of whether the submission met the applicable requirements of 51.308.

1. Status of Implementation of All Measures Included in the Regional Haze SIP

In its progress report, Michigan summarizes the status of the emissions reduction measures that were included in its 2010 regional haze SIP. Specifically, the report addresses the status of the on-the-books emissions reduction measures. The measures include applicable Federal programs including: Clean Air Interstate Rule—or CAIR; CSAPR; Tier II for on-highway mobile sources; heavy-duty diesel standards; low sulfur fuel standards; and Federal control programs for non-road mobile sources. Michigan used CSAPR to satisfy BART for its subject electric generating units (EGUs). Even with the delay in implementing CSAPR, the EGUs in Michigan subject to BART have reduced sulfur dioxide (SO_2) and nitrogen oxides (NO_X) emissions. In the progress report, Michigan compares 2013 state-wide SO_2 and NO_X emissions from EGUs to 2009 emissions. In this period, SO_2 emissions decreased from 310,000 tons to 230,109 tons, or by 26 percent. NO_X emissions decreased from 144,440 tons to 122,653 tons, or by 15 percent.

Michigan also expects reductions of about 1,400 tons NO_X per year, and 300 tons SO_2 per year, from the implementation of the taconite FIP.

In its regional haze plan, Michigan noted the additional emission reductions expected from several Federal programs. Michigan considered the reductions from: Tier 2 Gasoline; Heavy-duty Highway Diesel; Non-road Diesel; and a variety of Maximum Achievable Control Technology programs. Michigan did not rely on additional emissions controls from other states in its regional haze strategy. The additional emission reductions from the programs and other states will not delay visibility improvement and may well accelerate the improvement.

Regarding the status of BART and reasonable progress control requirements for sources in the State, Michigan's progress report provides a summary of the five non-EGU sources identified in the 2010 Regional Haze SIP as subject to BART. These sources include the LaFarge Midwest Alpena Plant, Escanaba Paper Company, St. Marys Cement, Smurfit Stone Container Corporation and Tilden Mining Company. Three of the five BART sources are required to apply additional or more stringent controls beyond those required in the Michigan BART determinations due to USEPA disapprovals of the State BART determinations and issuance of additional FIPs.

EPA finds the implementation of Michigan's control measures adequate. EPA also expects SO_2 and NO_X emission reductions from the taconite facilities—most specifically, from the Tilden Mining Company in Michigan. However, given the implementation schedule in the taconite FIP, most of the resulting emission reductions will occur in the 2018–2028 implementation period.

EPA finds the summary of emission reductions achieved from control strategy implementation adequate.

2. Summary of Emissions Reductions Achieved in the State Through Implementation of Measures

In its regional haze SIP and progress report, Michigan focuses its assessment on NO_X and SO_2 emissions from EGUs as a result of the implementation of CAIR and CSAPR, as well as emissions from non-EGUs. In the progress report, Michigan listed emission reductions in terms of projected impacts on the two affected Class I areas—Isle Royale and Seney. Emissions reductions were presented based on the top ten in-state point sources impacting these two areas.

For the Isle Royale area, emission reduction for the top ten impacting point sources combined was 48,000 tons for SO_2 and 8,400 tons for NO_X. For the Seney area, emission reduction for the top 10 impacting point sources combined was 16,000 tons for SO_2 and 2,700 tons for NO_X.

EPA concludes that Michigan has adequately addressed the applicable requirements of 40 CFR 51.308. Michigan provides estimates of reductions of NO_X and SO_2 from EGUs and non-EGUs that have occurred since Michigan submitted its regional haze SIP. Given the large NO_X and SO_2 reductions that have actually occurred, further analysis of emissions from other sources or other pollutants was unnecessary in this first implementation period.

3. Assessment of Visibility Conditions and Changes for Each Mandatory Class I Federal Area in the State

Michigan reports that visibility conditions at Isle Royale National Park have improved to 18.9 deciviews (dv) in 2013 from its 2000–2004 baseline of 21.59 dv for the 20 percent most impaired days. The State also reports that visibility conditions at Seney have improved to 20.6 dv in 2013, from its 2000–2004 baseline of 24.37 dv for the 20 percent most impaired days. The 2018 reasonable progress goal is 20.86 dv for Isle Royale and 23.58 dv for Seney. For the 20 percent least impaired days at Isle Royale, visibility has improved 2.7 dv in 2013, from the 2000–2004 baseline. At Seney, visibility has improved 3.8 dv in 2013, from the 2000–2004 baseline.

Michigan provided annual and five-year rolling averages for the impaired and least impaired days at both Isle Royale and Seney from 2000 to 2014.

EPA finds that Michigan properly reported the current visibility conditions for the most impaired and least impaired days, the difference between current conditions and baseline conditions for the most impaired and least impaired days, and the change in visibility for the most impaired and least impaired days over the past five years. Michigan's visibility progress is on track as improvement has been shown for the 20 percent least impaired days and is on pace for the 20 percent most impaired days at both affected Class I areas.

4. Analysis Tracking Emissions Changes of Visibility-Impairing Pollutants

In its regional haze plan submitted in 2010, Michigan provided its 2005 base emissions and projected 2018 emissions. In the 2010 plan, Michigan compared the base data from 2005 with a 2009 emissions inventory constructed by the Lake Michigan Air Directors

Consortium. The progress report gives current annual emissions for ammonia (NH_3), NO_X, SO_2, coarse particulate matter (PM_{10}), fine particulate matter ($PM_{2.5}$), and reactive organic gases (ROG). These figures can be compared to the base and 2018 projected emissions. The emissions inventories from the 2005, 2009 and 2018 datasets include all point, nonpoint, on-road, non-road, marine-aircraft-rail (MAR), and other sources.

For SO_2, Michigan reports 2005 base emissions of 439,145 tons, 2009 emissions of 303,159 tons, and projects 314,328 tons in 2018, which would be a 28 percent reduction from the 2005 base year. Michigan noted that SO_2 emissions have been steadily declining. Point sources comprise 93 percent of SO_2 emissions, so several projects at coal-burning EGUs have driven the decline in SO_2 emissions.

For NO_X, Michigan reports 2005 base emissions of 586,482 tons, 2009 emissions of 447,176 tons, and projects 309,549 tons in 2018, which would be a 47 percent decrease from the 2005 base year. For NO_X emissions, mobile sources are the main contributing sector, and, as such, implementation of mobile source programs will continue to decrease NO_X emissions in Michigan with expected reductions from EGUs and taconite facilities providing some assistance.

For PM_{10}, Michigan reports a 2005 base of 98,181 tons, 2009 emissions of 105,301 tons, and projects 98,753 tons in 2018, which is an increase of less than 1% from the 2005 base year. For $PM_{2.5}$, Michigan reports a 2005 base of 85,839 tons, 2009 emissions of 96,720, and projects 90,485 tons in 2018, which is an increase of 5.3% from the 2005 base year. In the 2010 Regional Haze SIP, Michigan predicted these particulate matter increases, but it was deemed insignificant relative to the visibility improvements from the large reductions of NO_X and SO_2 emissions over those same time periods. NO_X and SO_2 emissions reductions have a much greater impact on visibility improvement.

Table 1 below shows the emissions reductions from 2005–2009 versus projected 2018 emission reductions from the 2010 Michigan regional haze SIP submission.

TABLE 1—EMISSION REDUCTIONS: 2005 TO 2009 VS PROJECTED 2018 REDUCTIONS

[tpy]

	NH_3	NO_X	SO_2	PM_{10}	$PM_{2.5}$	ROG
2005 to 2018 expected reduction	−78,156	276,933	124,817	−572	−4,646	177,622
2005 to 2009 reduction	−5,880	139,306	135,986	−7,120	−10,881	78,872
% of reductions achieved	N/A	50%	28%	N/A	N/A	30%

For NH_3, Michigan reports a 2005 base of 67,489 tons, 2009 emissions of 73,369 tons, and projects 78,156 tons in 2018, which is an increase of 15.8% from the 2005 base year. Non-point source, agricultural livestock manure management in particular, are the main sector for NH_3 emissions in Michigan.

For ROG emissions, Michigan reports a 2005 base of 564,643 tons, 2009 emissions of 485,771 tons, and projects 396,921 tons in 2018, which is a decrease of 30% from the 20005 base year. Michigan's anthropogenic ROG emissions are mainly from mobile and non-point sources. These emissions are gradually decreasing from implementation of a variety of programs.

EPA finds that Michigan has satisfied the requirement of an analysis tracking emissions progress for the current five-year period. Michigan appears to be on track for reaching its 2018 emission projections.

5. Assessment of Any Significant Changes in Anthropogenic Emissions

Michigan provided an assessment of SO_2, NO_X, and NH_3 emissions changes in-state and for the three states (Illinois, Minnesota and Wisconsin) that contribute to visibility impairment at Class I areas in Michigan.

Michigan reported 2009 emissions, which show a 28 percent SO_2 reduction from the 2005 base year, a 50 percent NO_X reduction, and an eight percent increase in NH_3 emissions.

Michigan also included emissions data from EPA's Clean Air Markets Division (CAMD) that show reductions in both SO_2 and NO_X emissions for each of the three contributing states from 2009 to 2013. For the Isle Royale Class I area, it is evident that the emission reduction for the top ten impacting point sources combined was largest for SO_2 with a reduction of almost 48,000 tons over the 2009–13 period. A reduction of NOx for these 10 sources combined was determined at approximately 8,400 tons. These reductions account for more than one-third of statewide point source NO_X emissions reductions and over one-half of statewide point source SO_2 reductions for the 2009–2013 period. The source with by far the largest combined NO_X and SO_2 reductions was the DTE Monroe Power Plant with combined NO_X/SO_2 reductions of 47,000 tons.

EPA finds that Michigan properly assessed available information for significant changes in emissions over the past five years that have impeded progress in improving visibility. The three contributing states are still in various stages in assessing emissions for progress reports. Minnesota's progress report was submitted in December, 2014. Progress reports for Illinois and Wisconsin had not yet been submitted as of the date of Michigan's submittal. Thus, Michigan had not completed the assessment of contributing states' emissions. Still, Michigan gathered the information it could, and the visibility data indicates visibility improvement is on-track. Supplementing the available data, EPA's CAMD data show significant, widespread SO_2 and NO_X emission declines have already occurred. There is no evidence that progress is being impeded.

6. Assessment of Whether the SIP Elements and Strategies Are Sufficient To Enable Michigan, or Other States, Meet RPGs

Michigan has implemented, or expects to implement by 2018, all controls from its approved regional haze plan. Michigan noted in the progress report that its emissions are on track for the 2018 goals, including reductions that are ahead of pace for the key visibility-impairing pollutants, SO_2 and NO_X. Michigan expects that the implementation of CSAPR and other Federal programs will address the reasonable progress obligations of the contributing states.

Emission reductions from Michigan sources that help visibility improvement at Isle Royale and Seney support visibility improvement. Michigan has achieved greater SO_2 emission reductions than predicted in its regional haze plan.

EPA finds that Michigan has provided an assessment of the current strategy, demonstrating that it is sufficient to meet reasonable progress goals at all Class I areas impacted by Michigan emissions. Michigan is implementing its controls. The visibility progress at both Isle Royale and Seney is on track and suggests that Michigan's current strategy is sufficient to meet its reasonable progress goals.

7. Review of the State's Visibility Monitoring Strategy

Michigan stated in its progress report that Interagency Monitoring of Protected Visual Environments (IMPROVE) sites operate at both Class I areas, Isle Royale and Seney. Michigan will continue to operate the IMPROVE network monitors, based on Federal funding. The State has a contingency plan to use the $PM_{2.5}$ monitoring network if needed due to future reductions to the IMPROVE network. Michigan commits to meeting the reporting requirements of 40 CFR 51.308(d)(4)(iv) for its Class I areas.

EPA finds that Michigan has met the visibility monitoring strategy review requirements.

40 CFR 51.308(h) Determination of the Adequacy of Existing Implementation Plan

The determination of adequacy for the regional haze plan is required to be submitted at same time as the progress report. The rule requires the State to select from four options based on the information given in the progress report.

Michigan submitted a negative declaration indicating that further substantive revision of its regional haze plan is not needed at this time. Michigan determined that its regional haze plan is adequate to meet the Regional Haze Rule requirements and expects to achieve the reasonable progress goals at Isle Royale and Seney.

EPA finds that the current Michigan regional haze plan is adequate to achieve its established goals. Michigan is on track to meet the visibility improvement and emission reduction goals.

Public Participation and Federal Land Manager Consultation

Michigan provided an opportunity for the public and Federal Land Managers (FLMs) to review Michigan's progress report by November 18, 2015. Michigan's progress report includes in Appendix B, the FLM's comments and Michigan's response to those comments. Appendix C includes the public comments and Michigan's response to those comments.

Michigan also published notification for a public hearing and solicitation for full public comment concerning the draft five-year progress report in widely distributed county publications. No public hearing was requested.

EPA finds that Michigan has addressed the applicable requirements in 51.308(i) regarding FLM consultation.

IV. What action is EPA taking?

EPA is approving the regional haze progress report submitted on January 12, 2016, as a revision to the Michigan SIP. We find that Michigan has satisfied the progress report requirements of 40 CFR 51.308(g). We find that Michigan has also met the 40 CFR 51.308(h) requirements for a determination of the adequacy of its regional haze plan with its negative declaration also submitted on January 12, 2016.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective December 18, 2017 without further notice unless we receive relevant adverse written comments by November 17, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. Public comments will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 18, 2017.

V. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

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.*

■ 2. In § 52.1170, the table in paragraph (e) is amended by adding the entry ''Regional Haze Progress Report'' to follow the entry titled ''Regional Haze Plan'' to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Regional Haze Progress Report	Statewide	1/12/2016	10/18/2017, [insert **Federal Register** citation].	
*	*	*	*	*

[FR Doc. 2017–22510 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0701; FRL–9969–51–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a state implementation plan (SIP) revision submitted by the District of Columbia (the District). This revision pertains to the infrastructure requirement for interstate transport of pollution with respect to the 2010 1-hour sulfur dioxide (SO_2) national ambient air quality standards (NAAQS). EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on December 18, 2017 without further notice, unless EPA receives adverse written comment by November 17, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2014–0701 at *https://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 17, 2014, the District of Columbia (the District) through the District Department of Energy and the Environment (DDOEE) submitted a SIP revision addressing the infrastructure requirements under section 110(a)(2) of the CAA for the 2010 1-hour SO_2 NAAQS.

I. Background

On June 2, 2010, the EPA strengthened the SO_2 primary standards, establishing a new 1-hour primary standard at the level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations (hereafter ''the 2010 1-hour SO_2 NAAQS''). At the same time, the EPA also revoked the previous 24-hour and annual primary SO_2 standards. *See* 75 FR 35520 (June 22, 2010). *See* 40 CFR 50.11. The previous SO_2 air quality standards were set in 1971, including a 24-hour average primary standard at 140 ppb and an annual average primary standard at 30 ppb. *See* 36 FR 8186 (April 30, 1971).

SO_2 is one of a group of highly reactive gases known as ''oxides of sulfur.'' Nationally, the largest sources of SO_2 emissions are fossil fuel combustion at power plants and other industrial facilities. Smaller sources of SO_2 emissions include industrial processes such as extracting metal from ore, and the burning of high sulfur containing fuels by locomotives, large ships, and non-road equipment. SO_2 is linked with a number of adverse effects on the respiratory system.

The CAA requires states to submit, within three years after promulgation of a new or revised NAAQS, SIPs meeting the applicable elements of sections 110(a)(1) and (2).[1] Several of these applicable elements are delineated within section 110(a)(2)(D)(i) of the CAA. Section 110(a)(2)(D)(i) generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states due to interstate transport of air pollution. There are four prongs within section 110(a)(2)(D)(i) of the CAA; section 110(a)(2)(D)(i)(I) contains prongs 1 and 2, while section 110(a)(2)(D)(i)(II) includes prongs 3 and 4. According to the CAA's good neighbor provision located within section 110(a)(2)(D)(i)(I), a state's SIP must contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that ''contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard.'' Under section 110(a)(2)(D)(i)(I) of the CAA, EPA gives independent significance to the matter of nonattainment (prong 1) and to that of maintenance (prong 2).

II. Summary of SIP Revisions and EPA Analysis

On July 17, 2014, the District, through DDOEE, submitted a revision to its SIP to satisfy the infrastructure requirements of section 110(a)(2) of the CAA for the 2010 1-hour SO_2 NAAQS, including section 110(a)(2)(D)(i)(I). On April 13, 2015 (80 FR 19538), the EPA approved the District's infrastructure SIP submittal for the 2010 1-hour SO_2 NAAQS for all applicable elements of section 110(a)(2) with the exception of 110(a)(2)(D)(i)(I).[2] This rulemaking action is addressing the portions of the District's infrastructure submittal for the 2010 1-hour SO_2 NAAQS that pertain to transport requirements.[3]

The portion of the District's July 17, 2014 SIP submittal addressing interstate transport (for section 110(a)(2)(D)(i)(I)) includes an emissions inventory and air quality data that concludes that the District does not have sources that can contribute with respect to the 2010 1-hour SO_2 NAAQS to nonattainment in, or interfere with maintenance in, any other state. The submittal also included currently available air quality monitoring data which alleged that SO_2 levels continue to be well below the 2010 1-hour SO_2 NAAQS in the District and in any areas surrounding or bordering the District. EPA has reviewed current monitoring data for SO_2 and finds monitor data within the District, and in areas surrounding the District, continue to show no nonattainment issues with regards to the SO_2 NAAQS.

Additionally, the District described in its submittal several existing SIP-approved measures and other federally enforceable source-specific measures, including measures pursuant to permitting requirements under the CAA, that apply to SO_2 sources within the District. The District alleges with these measures, SO_2 emissions within the District are minimal. The EPA finds that the District's existing SIP provisions, as identified in the July 17, 2014 SIP submittal, are adequate to prevent the District's emission sources from significantly contributing to nonattainment or interfering with maintenance in another state with respect to the 2010 1-hour SO_2 NAAQS. In light of these measures, the EPA does not expect SO_2 emissions in the District to increase significantly, and therefore does not expect monitors in the District and nearby states to have difficulty continuing to attain or maintain attainment of the NAAQS. A detailed summary of EPA's review and rationale for approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS may be found in the Technical Support Document (TSD) for this rulemaking action, which is available online at *www.regulations.gov,* Docket number EPA–R03–OAR–2014–0701.

III. Final Action

EPA is approving the portions of the District's July 17, 2014 SIP revision addressing interstate transport for the 2010 1-hour SO_2 NAAQS as these portions meet the requirements in section 110(a)(2)(D)(i)(I) of the CAA. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 18, 2017 without further notice unless EPA receives adverse comment by November 17, 2017. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

[1] SIP revisions that are intended to meet the requirements of section 110(a) of the CAA are often referred to as infrastructure SIPs and the elements under 110(a) are referred to as infrastructure requirements.

[2] In the April 13, 2015 action, the EPA also approved the District's infrastructure SIPs for the 2008 ozone and 2010 NO_2 NAAQS, with the exception of the transport elements in 110(a)(2)(D)(i)(I).

[3] For the EPA's explanation of its ability to act on discrete elements of section 110(a)(2), *see* 80 FR 2865 (Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Infrastructure Requirements for the 2008 Ozone, 2010 Nitrogen Dioxide, and 2010 Sulfur Dioxide National Ambient Air Quality Standards; Approval of Air Pollution Emergency Episode Plan (January 21, 2015)).

impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action, addressing the District's interstate transport for the 2010 1-hour SO_2 NAAQS, 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, Sulfur oxides.

Dated: September 29, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart J—District of Columbia

■ 2. In § 52.470, the table in paragraph (e) is amended by adding a second entry for ''Section 110(a)(2) Infrastructure Requirements for the 2010 SO_2 NAAQS'' before the entry for ''Emergency Air Pollution Plan'' to read as follows:

§ 52.470 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2010 SO_2 NAAQS District-wide.	District-wide	07/18/14	10/18/2017, [*Insert* ***Federal Register*** *citation*].	This action addresses the infrastructure element of CAA section 110(a)(2)(D)(i)(I), or the good neighbor provision, for the 2010 SO_2 NAAQS.
*	*	*	*	*

[FR Doc. 2017–22253 Filed 10–17–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2017–0256; FRL–9969–67–Region 5]

Air Plan Approval; Ohio; Redesignation of the Fulton County Area to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Ohio's request to revise the designation of, or ''redesignate,'' the Fulton County nonattainment area (Fulton County) to attainment of the 2008 National Ambient Air Quality Standards (NAAQS or standard) for lead. EPA is also approving the maintenance plan and related elements of the redesignation. EPA is approving reasonably available control measure (RACM)/reasonably available control technology (RACT) measures and a comprehensive emissions inventory as meeting the Clean Air Act (CAA) requirements. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

DATES: This direct final rule will be effective December 18, 2017, unless EPA receives relevant adverse comments by November 17, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0256 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Why is EPA concerned about lead?
II. What is the background for these actions?
III. What are the criteria for redesignation to attainment?
IV. What is EPA's analysis of Ohio's request?
V. What action is EPA taking?
VI. Statutory and Executive Order Reviews

I. Why is EPA concerned about lead?

Lead is a metal found naturally in the environment and present in some manufactured products. However, lead has serious public health effects and depending on the level of exposure can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. Infants and young children are especially sensitive to even low levels of lead, which may contribute to behavioral problems, learning deficits and lowered intelligence quotient. The major sources of lead for air emissions have historically been from fuels used in on-road motor vehicles (such as cars and trucks) and industrial sources. As a result of EPA's regulatory efforts to remove lead from on-road motor vehicle gasoline, emissions of lead from the transportation sector declined by 95 percent between 1980 and 1999, and levels of lead in the air decreased by 94 percent between 1980 and 1999.

II. What is the background for these actions?

On November 12, 2008 (73 FR 66964), EPA established the 2008 primary and secondary lead NAAQS at 0.15 micrograms per cubic meter ($\mu g/m^3$) based on a maximum arithmetic three-month mean concentration for a three-year period. 40 CFR 50.16.

On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations and classifications for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2007–2009. These designations became effective on December 31, 2010. A portion of Fulton County was designated as nonattainment for lead, specifically portions of Swan Creek and York Townships. 40 CFR 81.336.

On April 27, 2017, Ohio requested EPA to designate the applicable Fulton County area as attainment of the lead NAAQS. Ohio documented that its request meets the redesignation criteria of CAA section 107.

Ohio used the emissions inventory to find that there were no area, mobile, or nonroad sources of lead emissions that contributed to nonattainment. The Bunting Bearings LLC facility (Bunting) in the village of Delta is the only point source of lead emissions in the nonattainment area. Bunting manufactures continuous cast products in copper alloys, typically bronze, that contain lead. The lead component of the alloys is important as it allows for machining the bronze.

III. What are the criteria for redesignation to attainment?

The requirements for redesignating an area from nonattainment to attainment are found in CAA section 107(d)(3)(E). There are five criteria for redesignating an area. First, the Administrator must determine that the area has attained the applicable NAAQS based on current air quality data. Second, the Administrator must have fully approved the applicable SIP for the area under CAA section 110(k). The third criterion is for the Administrator to determine that the air quality improvement is the result of permanent and enforceable emission reductions. Fourth, the Administrator must have fully approved a maintenance plan meeting the CAA section 175A requirements. The fifth criterion is that the state has met all of the applicable requirements of CAA section 110 and part D.

IV. What is EPA's analysis of Ohio's request?

A. Attainment Determination and Redesignation

1. The Area Has Attained the 2008 Lead NAAQS (Section 107(d)(3)(E)(i))

On May 26, 2015, EPA determined that Fulton County has attained the 2008 lead NAAQS. 80 FR 29964. EPA made its clean data determination based

upon complete, quality-assured and certified ambient air monitoring data for the 2012–2014 period. The Fulton County area attained the 2008 lead NAAQS, with a design value of 0.09 μg/m^3 for 2012–2014, well below the 0.15 μg/m^3 standard.

EPA has reviewed the current monitoring data for Fulton County, Ohio. The latest available monitoring data continue to show attainment of the 2008 lead NAAAQS. The 2014–2016 design value for the County is 0.12 μg/m^3.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D and Has a Fully Approved SIP Under Section 110(k) (Section 107(d)(3)(E)(ii) and (v))

EPA has determined that Ohio has met all currently applicable SIP requirements for purposes of redesignation for the Fulton County area under section 110 of the CAA (general SIP requirements). In addition, with the exceptions of the RACM/RACT requirements under section 172(c)(1) and the emissions inventory under section 172(c)(3), all applicable requirements of the Ohio SIP for purposes of redesignation have either been approved or have been suspended, by either a clean data determination or determination of attainment. EPA is also approving Ohio's 2013 emissions inventory as meeting the section 172(c)(3) comprehensive emissions inventory requirement as well as approving the RACM provisions as meeting the section 172(c)(1) requirement. Thus, we are determining that Ohio's submission meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with sections 107(d)(3)(E)(ii) and 107(d)(3)(E)(v).

In making these determinations, EPA has ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that the Ohio SIP includes measures meeting those requirements and that they are fully approved under section 110(k) of the CAA. Further discussion of EPA's review of Ohio's submittal regarding these criteria follows.

a. Ohio Has Met All Applicable Requirements for Purposes of Redesignation of the Fulton County Area Under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; (4) include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; (5) include criteria for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and (7) provide for public and local agency participation in planning and emission control rule development. Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state.

EPA interprets the ''applicable'' requirements for an area's redesignation to be those requirements linked with a particular area's nonattainment designation. Therefore, EPA believes that the section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status, such as the ''infrastructure SIP'' elements of section 110(a)(2), are not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment, and thus EPA does not interpret such requirements to be relevant applicable requirements to evaluate in a redesignation. For example, the requirement to submit state plans addressing interstate transport obligations under section 110(a)(2)(D)(i)(I) continue to apply to a state regardless of the designation of any one particular area in the state, and thus are not applicable requirements to be evaluated in the redesignation context.

EPA has applied this interpretation consistently in many redesignations over a period of decades. See *e.g.,* 81 FR 44210 (July 7, 2016) (final redesignation for the Sullivan County, Tennessee area); 79 FR 43655 (July 28, 2014) (final redesignation for Bellefontaine, Ohio lead nonattainment area); 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (proposed and final redesignation for Reading, Pennsylvania ozone nonattainment area); 61 FR 20458 (May 7, 1996) (final redesignation for Cleveland-Akron-Lorain, Ohio ozone nonattainment area); and 60 FR 62748 (December 7, 1995) (final redesignation of Tampa, Florida ozone nonattainment area). See also 65 FR 37879, 37890 (June 19, 2000) (discussing this issue in final redesignation of Cincinnati, Ohio 1-hour ozone nonattainment area); 66 FR 50399 (October 19, 2001) (final redesignation of Pittsburgh, Pennsylvania 1-hour ozone nonattainment area).

EPA has reviewed the Ohio SIP and has determined that it meets the general SIP requirements under section 110 of the CAA to the extent the requirements are applicable for purposes of redesignation. EPA has previously approved provisions of Ohio's SIP addressing section 110 requirements, including provisions addressing lead, at 40 CFR 52.1870.

On October 12, 2011, and supplemented on June 7, 2013, Ohio submitted its infrastructure SIP elements for the 2008 lead NAAQS as required by CAA section 110(a)(2). EPA approved Ohio's infrastructure SIP requirements for the 2008 lead NAAQS on October 6, 2014. 79 FR 60075. The requirements of section 110(a)(2) are statewide requirements that are not linked to the lead nonattainment status of the Fulton County area or Ohio's redesignation request.

ii. Part D Requirements

EPA has determined that upon approval of the base year emissions inventories and RACM provisions discussed in this rulemaking, the Ohio SIP will meet the applicable SIP requirements for the Fulton County area applicable for purposes of redesignation under part D of the CAA. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas.

(1) Section 172 Requirements

Section 172(c) sets out general nonattainment plan requirements. A thorough discussion of these requirements can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) (''General Preamble''). EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the General Preamble, EPA set forth its interpretation of applicable

requirements for purposes of evaluating redesignation requests when an area is attaining a standard. 57 FR 13564. EPA noted that the requirements for reasonable further progress (RFP) and other measures designed to provide for an area's attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation was also set forth in the September 4, 1992, *Processing Requests to Redesignate Areas to Attainment: Policy Memorandum* (Calcagni Memorandum).

EPA's understanding of section 172 also forms the basis of its Clean Data Policy. Under the Clean Data Policy, EPA promulgates a determination of attainment, published in the **Federal Register** and subject to notice-and-comment rulemaking, and this determination formally suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). The Clean Data Policy has been codified in regulations regarding the implementation of the ozone and fine particulate matter NAAQS. 70 FR 71612 (November 29, 2005) and 72 FR 20586 (April 25, 2007). The Clean Data Policy has also been specifically applied in a number of lead nonattainment areas where EPA has determined that the area is attaining the lead NAAQS. 79 FR 46212 (August 7, 2014) (proposed determination of attainment of Lyons, Pennsylvania lead nonattainment area); 80 FR 51127 (determination of attainment of Eagan, Minnesota lead nonattainment area). EPA finalized a Clean Data Determination under this policy for the Fulton County lead nonattainment area on May 26, 2015. 80 FR 29964.

EPA's long-standing interpretation regarding the applicability of section 172(c) attainment planning requirements for an area that is attaining a NAAQS applies in this redesignation of the Fulton County lead nonattainment area as well, except for the applicability of the requirement to implement all reasonably available control measures under section 172(c)(1). On July 14, 2015, the United States Court of Appeals for the Sixth Circuit (6th Circuit) ruled that to meet the requirement of section 107(d)(3)(E)(ii), states are required to submit plans addressing RACM/RACT under section 172(c)(1) and EPA is required to approve those plans prior to redesignating the area, regardless of whether the area is attaining the standard. *Sierra Club* v. *EPA,* 793 F.3d 656 (6th Cir. 2015). As Ohio is within the jurisdiction of the 6th Circuit, EPA is acting in accordance with the *Sierra Club* decision by approving RACM provisions in parallel with this redesignation action.[1]

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that area available from adopting RACT on existing sources, for a nonattainment area and adopt and implement such measures as are reasonably available in the area as components of the area's attainment demonstration. EPA is today approving Ohio's RACM submission. Therefore, Ohio has met its requirements under CAA sections 172(c)(1) and 107(d)(3)(E)(v).

The remaining section 172(c) ''attainment planning'' requirements are not applicable for purposes of evaluating Ohio's redesignation request. Specifically, the RFP requirement under section 172(c)(2), which is defined as progress that must be made toward attainment, the requirement to submit section 172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment, and the section 172(c)(6) requirement that the SIP contain control measures necessary to provide for attainment of the standard, are not applicable requirements that Ohio must meet here because the Fulton County area has monitored attainment of the 2008 lead NAAQS. As noted, EPA issued a determination of attainment (or clean data determination) for the Fulton County area in May 2015, which formally suspended the obligation to submit any of the attainment planning SIPs. 80 FR 29964 (May 26, 2015).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Ohio submitted 2008 and 2013 emission inventories with its redesignation request. The 2013 inventory can be used as the most accurate and current inventory. As discussed in section III.B., EPA is approving the 2013 base year inventory as meeting the section 172(c)(3) emissions inventory requirement for the Fulton County area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Ohio's current NSR program January 10, 2003. 68 FR 1366. In addition, the state's maintenance plan does not rely on nonattainment NSR, therefore having a fully approved NSR program is not an applicable requirement, but, nonetheless, EPA has approved the state's program.[2]

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. No additional measures are needed to provide for attainment because attainment has been reached.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). EPA has determined that the Ohio SIP meets the section 110(a)(2) applicable requirements for purposes of redesignation.

(2) Section 176 Conformity Requirements

CAA section 176(c) requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway and transit projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). Considering the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. 73 FR 66964, 67043 n.120. EPA approved Ohio's general conformity SIP on March 11, 1996. 61 FR 9646.

b. Ohio Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Ohio's comprehensive 2013 emissions inventories and approval of RACM for

[1] Although the approach being implemented here is inconsistent with the Agency's longstanding national policy, such deviation is required in order to act in accordance with an applicable Circuit Court decision. Consistent with 40 CFR 56.5(b), the Region does not need to seek concurrence from EPA Headquarters for such deviation in these circumstances. 81 FR 51102 (August 3, 2016).

[2] A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.''

the Fulton County lead area, EPA will have fully approved the Ohio SIP for the Fulton County area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation, in accordance with section 107(d)(3)(E)(ii). EPA may rely on prior SIP approvals in approving a redesignation request (*See* page 3 of the September 4, 1992, *Processing Requests to Redesignate Areas to Attainment: Policy Memorandum* (Calcagni memorandum)); *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)). EPA also relies on measures approved in conjunction with a redesignation action. *See* 68 FR 25413 (May 12, 2003) (approving I/M program for St. Louis) and 68 FR 25413, 25426 (May 12, 2003). Ohio has adopted and submitted, and EPA has fully approved, required SIP provisions addressing the 2008 lead standards. Of the CAA requirements applicable to this redesignation request only two remain applicable, the emissions inventory requirement of section 172(c)(3) and the RACM requirement of section 172(c)(1).

EPA is approving Ohio's 2013 emissions inventories for the Fulton County area as meeting the requirement of section 172(c)(3) of the CAA, and approving RACM provisions meeting the requirement of 172(c)(1). No SIP provisions are currently disapproved, conditionally approved, or partially approved in the Fulton County area under section 110(k) in accordance with section 107(d)(3)(E)(ii).

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIPs and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

To support the revision of an area's designation from nonattainment to attainment, CAA section 107(d)(3)(E)(iii) requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions. Permanent and enforceable emission reductions result from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions.

Bunting is the lone source of lead emissions in the Fulton County nonattainment area. Ohio implemented a preventative maintenance plan (PMP) for Bunting. The PMP specifies the required inspections to be performed, requires continuous operation of a fabric filter bag leak detection system, and specifies the correct actions Bunting is to take following an inspection suggesting a leak or an alarm of the leak detection system. The PMP was implemented to correct control equipment malfunctions and poor housekeeping that caused additional lead emissions from the Bunting facility. Ohio incorporated the PMP requirements into the Air Pollution Permits-to-install and operate P0121822, P0120836, and P0121942 issued to Bunting on February 28, 2017. Those permits are permanent and Federally enforceable.

4. Ohio Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with its request to redesignate the Fulton County nonattainment area to attainment, Ohio requested a SIP revision to provide for maintenance of the 2008 lead NAAQS in the area through 2030.

a. What is required in a maintenance plan?

The required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment are contained in section 175A of the CAA. Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation''. EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation''. Calcagni memorandum at 9. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the subsequent 10 years.

To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future lead violations.

The Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: The attainment emissions inventory, a maintenance demonstration showing maintenance for the 10 years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

Ohio's maintenance plan shows that the Fulton County area's emissions will remain below the attainment year levels through 2030.

b. Attainment Inventory

Ohio provided lead emissions inventories for the nonattainment year (2008), the attainment year (2013), an interim year (2021), and a future year (2030). The lead emissions in tons per year (TPY) for Fulton County, Ohio are listed in Table 1.

TABLE 1—FULTON COUNTY, OHIO LEAD EMISSIONS

2008	0.0050 TPY	nonattainment year.
2013	0.0035 TPY	attainment year.
2021	0.00315 TPY	future year (interim).
2030	0.00284 TPY	future year (maintenance).

c. Demonstration of Maintenance

Ohio included a section 175(A) maintenance plan in its submission. In the plan, Ohio has provided both an emissions inventory and air dispersion modeling of the emission limits resulting from the PMP to demonstrate that the area is expected to maintain the standard into the future. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni memorandum at 9–10. A maintenance demonstration need not be based on modeling. See *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

The plan demonstrates maintenance of the 2008 lead standard through 2030 by showing that current and future emissions of lead in the area remain at or below attainment year emission levels. In addition, the area can show modeled attainment of the NAAQS. The emissions inventory comparison showing the decline in emissions between 2013 and 2030 indicates maintenance. The modeling Ohio conducted also supports the conclusion that the Fulton County area will maintain attainment into the future.

A summary of the air dispersion modeling for Bunting was included in Ohio's submission. The modeling evaluated the PMP measures including the emission limits from Air Pollution Permits-to-install and operate P0108083, P0121822, P0120836, and P0121942. Ohio used the American Meteorology

Society/Environmental Protection Agency Regulatory Model, known as AERMOD. That analysis yielded a maximum impact of 0.12 μg/m^3, which is below the 2008 lead NAAQS of 0.15 μg/m^3. This modeling analysis is valid for the Fulton County redesignation because the Bunting control measures are responsible for the emission reductions that brought the area into attainment.

Ohio's maintenance plan submission shows that the Fulton County area's lead emissions will remain below the attainment year inventories through 2030. See Table 1. The reductions in lead emissions in the Fulton County area result from the permanent and enforceable control measures for Bunting, the lone lead source in the area. Monitoring data show that the Fulton County area ambient lead concentrations have remained below the NAAQS since the PMP was applied to Bunting. Because of the control measures implemented, it is reasonable to expect the emissions to remain at a level that meets the standard. Thus, it is reasonable to expect the Fulton County area will continue to attain the 2008 lead NAAQS through 2030. EPA has determined that Ohio's submission demonstrates that the area will continue to maintain the 2008 lead NAAQS at least through 2030. In addition, the air dispersion modeling indicates that with the permitted emission limitation implemented the Fulton County area ambient lead concentration will be below the 2008 lead NAAQS. Based on the showing, in accordance with section 175A, that the Ohio's maintenance plan provides for maintenance for at least 10 years after redesignation, EPA is approving the redesignation request and maintenance plans.

d. Monitoring Network

Ohio has committed to monitor ambient lead levels in the Fulton County area during the maintenance period to confirm continued maintenance of the 2008 lead NAAQS, and to continue to operate an adequate monitoring network. EPA has determined that the Fulton County, Ohio area lead monitoring network is adequate to confirm maintenance.

e. Verification of Continued Attainment

Ohio will also continue to enter its air monitoring data into the Air Quality System in accordance with Federal guidelines. It will also submit periodic emissions inventories to EPA as required by the Federal Consolidated Emissions Reporting Rule. 67 FR 39602, June 10, 2002. Both actions will help to verify continued attainment of the NAAQS in accordance with 40 CFR part 58.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. CAA section 175A requires that the maintenance plan include such contingency measures. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. Section 175A(d) of the CAA.

Ohio's contingency plan defines a warning level and action level response. The warning level response will trigger when a lead monitor three-month rolling average exceeds 0.135 μg/m^3 in the maintenance area. If a warning level response is triggered, Ohio will conduct a study to determine whether the lead values indicate a trend toward exceeding the standard and what control measure would be necessary to reverse the trend within 12 months of the conclusion of the calendar year. The action level response will be prompted by the determination of the warning level study that a reverse of the trend is needed, or by the three-month rolling average exceeding 0.143 μg/m^3. The action level response will require Ohio to work with the entity found to be responsible for the ambient concentration to evaluate and implement the needed control measures to bring the area into attainment within 18 months of the conclusion of the calendar year that triggered the response.

Should the 2008 lead NAAQS be violated during the maintenance period, Ohio will implement one or more contingency measures. The contingency measures will be considered based on the cause of the elevated lead levels. Potential measures include improvements to existing control devices, the addition of a secondary control device, and improvements to housekeeping and maintenance.

EPA has determined that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan.

As required by section 175A(b) of the CAA, Ohio commits to submit to the EPA an updated lead maintenance plan eight years after redesignation of the Fulton County area to cover an additional ten-year period beyond the initial ten-year maintenance period.

For the reasons set forth above, EPA is approving Ohio's 2008 lead maintenance plan for the Fulton County area as meeting the requirements of CAA section 175A.

B. Comprehensive Emissions Inventory

Section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate, and current emissions inventory. Ohio provided such an inventory in its submission.

Ohio identified Bunting as the lone source of lead emissions in the Fulton County nonattainment area. Thus, the emissions from Bunting represent the emissions of the Fulton County area. In 2013, the lead emissions were 0.0035 TPY. *See* Table 1.

EPA approves the lead emissions inventories submitted by Ohio in April 2017 as fully meeting the comprehensive inventory requirement of section 172(c)(3) of the CAA for the Fulton County area for the 2008 lead NAAQS.

C. RACM Requirements

Based on the 6th Circuit decision discussed above, EPA requires areas in the jurisdiction of the 6th Circuit to have approved RACM/RACT provisions in order to be redesignated. Ohio performed a RACM analysis for Bunting. EPA is approving the existing controls and maintenance provisions for Bunting as fulfilling this requirement. Bunting has combined limits in Federally enforceable permits for the units controlled by each of its three baghouses. Baghouse A has a combined limit of 0.150 pound lead per hour (lb/hr) for the exhaust of units P006 to P011, P013, P020 to P025, P029 to P032, P035, and P036. Baghouse B has a combined limit of 0.150 lb/hr for units P014 to P019 and P028. Baghouse C has a combined limit of 0.075 lb/hr for unit P005. The current controls and PMP have brought the area into attainment and constitute RACM, which meets the requirement of CAA section 172(c)(1).

V. What action is EPA taking?

EPA has determined that the Fulton County area is attaining the 2008 lead NAAQS and that the area has met the requirements for redesignation under

section 107(d)(3)(E) of the CAA. EPA is thus approving the request from Ohio to change the legal designation of the Fulton County area from nonattainment to attainment for the 2008 lead standard. EPA is approving Ohio's maintenance plan for the Fulton County area as a revision to the Ohio SIP because we have determined that the plan meets the requirements of section 175A of the CAA. EPA is approving the emission controls in Air Pollution Permits-to-install and operate P0108083, P0121822, P0120836, and P0121942 as meeting the RACM/RACT requirements of CAA section 172(c)(1). EPA is approving the 2013 emissions inventory as meeting the comprehensive emissions inventory requirements of section 172(c)(3) of the CAA. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 18, 2017 without further notice unless we receive relevant adverse written comments by November 17, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. Public comments will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 18, 2017.

VI. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 December 18, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are 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.*

■ 2. In § 52.1870 the table in paragraph (e) is amended by adding a new entry for ''Lead (2008)'' under sub-heading ''Summary of Criteria Pollutant Maintenance Plan'' to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	* * *
Lead (2008)	Delta (partial Fulton County).	4/27/2017	10/18/2017, [insert **Federal Register** citation].	Includes approval of the 2013 lead base year emissions inventory and Preventative Maintenance Plan as RACM for the Bunting Bearing LLC Delta facility.
*	*	*	*	* * *

■ 3. Section 52.1893 is amended by adding new paragraphs (f), (g) and (h) to read as follows:

§ 52.1893 Control strategy: Lead (Pb).

* * * * *

(f) Ohio's 2013 lead emissions inventory for the Fulton County area, submitted on April 27, 2017, to meet the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Fulton County area.

(g) Approval—The 2008 lead maintenance plan for the Fulton County, Ohio nonattainment area, submitted on April 27, 2017.

(h) Existing controls and maintenance provisions in the Air Pollution Permits-to-install and operate P0108083, P0121822, P0120836, and P0121942 for the Bunting Bearing LLC Delta facility including the preventative maintenance plan as fulfilling the RACM/RACT 172(c)(1) requirement. Permits P0120836, P0121822, and P0121942, all issued February 28, 2017, require a combined limit of 0.150 pounds lead per hour for the exhaust of units P006 to P011, P013, P020 to P025, P029 to P032, P035, and P036. Permit P0108083, issued October 29, 2012, requires a combined limit of 0.150 pounds lead per hour for units P014 to P019 and P028 and a combined limit of 0.075 lb/hr for unit P005.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 4. The authority citation for part 81 continues to read as follows:

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

■ 5. Section 81.336 is amended by revising the entry for Delta, OH in the table entitled ''Ohio—2008 Lead NAAQS'' to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—2008 LEAD NAAQS

Designated area	Designation for the 2008 NAAQS [a]	
	Date [1]	Type
* * * * *	*	*
Delta, OH:		
Fulton County (part)	10/18/2017	Attainment.
The portions of Fulton County that are bounded by: sections 12 and 13 of York Township and sections 7 and 18 of Swan Creek Township.		
* * * * *	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] December 31, 2011, unless otherwise noted.

[FR Doc. 2017–22495 Filed 10–17–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0593; FRL–9969–69–Region 5]

Air Plan Approval; Illinois; Redesignation of the Chicago and Granite City Areas to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Illinois Environmental Protection Agency's (Illinois EPA's) request to redesignate the Chicago and Granite City nonattainment areas (hereafter also referred to as the ''areas'') to attainment for the 2008 national ambient air quality standards (NAAQS or standards) for lead, also identified as Pb. EPA is also approving, as revisions to the Illinois state implementation plan (SIP): The state's plan for maintaining the 2008 lead NAAQS in the areas for a period of ten years following these redesignations;

the emissions inventories for the areas; and rules applying emission limits and other control requirements to lead sources in the areas. EPA is taking these actions in accordance with applicable regulations and guidance that address implementation of the 2008 lead NAAQS.

DATES: This direct final rule will be effective December 18, 2017, unless EPA receives adverse comments by November 17, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0593 at *https://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What actions is EPA taking?
II. What is the background for these actions?
III. What are the criteria for redesignation to attainment?
IV. What is EPA's analysis of the state's request?
V. What are the effects of EPA's actions?
VI. Incorporation by Reference
VII. Statutory and Executive Order Reviews

I. What actions is EPA taking?

EPA is approving Illinois' request to redesignate the Chicago and Granite City areas from nonattainment to attainment for the 2008 lead NAAQS under section 107(d)(3)(E) of the Clean Air Act (CAA) and taking several related actions. These actions include approval of, as revisions to the Illinois SIP, Illinois': Lead maintenance plan for the areas under section 175A; 2012 lead emission inventories under section 172(c)(3); and rules applying emission limits and other control requirements to lead sources in the Chicago and Granite City areas.

EPA's analysis for taking these actions is discussed in Section IV below.

II. What is the background for these actions?

Lead is a metal found naturally in the environment as well as in manufactured products. Lead may have serious public health effects depending on the level of exposure. Lead can adversely affect the nervous system, kidney function, immune system, reproductive system, and cardiovascular system. Infants and young children are especially sensitive to even low levels of lead, which may contribute to behavioral problems, learning deficits, and lowered IQ. The major sources of lead for air emissions have historically been from fuels used in on-road motor vehicles (such as cars and trucks) and industrial sources. As a result of EPA's regulatory efforts to remove lead from on-road motor vehicle gasoline, emissions of lead from the transportation sector dramatically declined by 95 percent between 1980 and 1999, and levels of lead in the air decreased by 94 percent between 1980 and 1999.

Today, the highest levels of lead in the air are usually found near lead smelters. The major sources of lead emissions to the air today are ore and metals processing and piston-engine aircraft operating on leaded aviation gasoline.

On November 12, 2008 (73 FR 66964), EPA established the 2008 primary and secondary lead NAAQS at 0.15 micrograms per cubic meter ($\mu g/m^3$) based on a maximum arithmetic 3-month mean concentration for a 3-year period. *See* 40 CFR 50.16.

On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations and classifications for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2007–2009. These designations became effective on December 31, 2010. In this initial round, the Granite City area was designated nonattainment for the 2008 lead NAAQS. On November 22, 2011 (76 FR 72097), EPA published a second and final round of designations for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2008–2010. These designations became effective on December 31, 2011. In this second round, the Chicago area was designated nonattainment for the 2008 lead NAAQS. *See* 40 CFR 81.314.

On January 9, 2014, Illinois EPA submitted to EPA an attainment demonstration for the 2008 lead NAAQS. This submission included a request to incorporate into the Illinois SIP new rules at Title 35 Illinois Administrative Code (Ill. Adm. Code) Part 226. On June 17, 2014, Illinois EPA supplemented this submission with additional information regarding the state rulemaking process.

On September 22, 2016, Illinois EPA requested that the Granite City and Chicago lead nonattainment areas be redesignated to attainment for the 2008 lead NAAQS and submitted the maintenance plan for the areas as a proposed revision to the Illinois SIP. In this September 22, 2016, submission, Illinois EPA withdrew most parts of the previous two submissions, but did not withdraw the request that EPA approve, as a revision to the Illinois SIP, the requirements at 35 Ill. Adm. Code Part 226 to limit lead emissions in the areas. Illinois similarly did not withdraw certain attachments and support documents, such as emissions inventories and modeling data, that are relevant to this request. On February 16, 2017, Illinois EPA clarified certain details regarding the maintenance plan components of its September 22, 2016 submission.

III. What are the criteria for redesignation to attainment?

The CAA sets forth the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the

applicable SIP, Federal air pollution control regulations, or other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and the requirements for nonattainment areas under part D of the CAA.

IV. What is EPA's analysis of the state's request?

The bases for EPA's actions follow.

A. The Areas Have Attained the 2008 Lead NAAQS (Section 107(d)(3)(E)(i))

In accordance with section 179(c) of the CAA, 42 U.S.C. 7509(c), EPA is determining that the Chicago and Granite City areas have attained the 2008 lead NAAQS. This determination is based upon complete, quality-assured, and certified ambient air monitoring data that show the areas have monitored attainment of the lead NAAQS.

Under EPA regulations at 40 CFR 50.16, the 2008 primary and secondary lead standards are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR part 50, appendix R, is less than or equal to 0.15 μg/m^3 at all relevant monitoring sites in the subject area. EPA refers to this maximum rolling three-month average over a three-year period as the ''design value.''

40 CFR part 58, appendix A outlines the quality assurance requirements necessary for providing ''sufficient information to assess the quality of the monitoring data.'' 40 CFR part 58, appendix D provides network design criteria requirements which describe ''specific requirements for the number and location of . . . [monitoring] sites for specific pollutants . . .''. Within appendix D, Section 4.5 states that ''[a]t a minimum, there must be one source-oriented SLAMS (State and Local Air Monitoring Station) site located to measure the maximum Pb concentration in ambient air resulting from each non-airport Pb source which emits 0.50 or more tons per year. . . .

EPA has reviewed the ambient air monitoring data for the Chicago and Granite City areas in accordance with the provisions of 40 CFR part 50, appendix R, and 40 CFR part 58, appendix A and appendix D. All data considered are complete, quality-assured, certified, and recorded in EPA's Air Quality System (AQS) database.

1. Chicago Area Air Quality

As defined at 40 CFR 81.314, the Chicago area is comprised of the portions of Cook County that are bounded by Damen Avenue on the west, Roosevelt Road on the north, the Dan Ryan Expressway on the east, and the Stevenson Expressway on the south. According to analysis conducted by Illinois EPA in 2011, the H. Kramer & Co. (H. Kramer) facility was capable of causing exceedances of the NAAQS in the absence of any other sources in the area.[1] As described in Illinois EPA's September 22, 2016 submission, after the 2012 shutdown of the Fisk Electric Generating Station, H. Kramer became the only source of lead emissions in the Chicago area. H. Kramer manufactures brass and bronze ingots, and a portion of the facility is devoted to producing metal alloys that often contain lead as a minor constituent.

After Illinois EPA identified H. Kramer as capable of causing exceedances of the NAAQS in the Chicago area, Illinois adopted rules that limit emissions from the H. Kramer facility, and require additional control measures. As discussed in detail below, in this action EPA is approving a request from Illinois EPA to incorporate these rules into the Illinois SIP. Since H. Kramer implemented the controls required by these rules, monitored values of lead in the area have been below the health-based standard.

The Cook County Department of Environmental Control in conjunction with Illinois EPA operates two Federal reference method (FRM) source-oriented SLAMS monitors at 1241 W 19th Street in Chicago, Illinois, which are used to determine whether the Chicago area has attained the 2008 lead NAAQS. In the AQS database, this monitoring site is denoted with site ID 17–031–0110 and the two monitors are denoted with parameter occurrence code (POC) #1 and POC #9. In a rulemaking on August 24, 2015 (80 FR 51127), EPA determined that the Chicago area was attaining the 2008 lead NAAQS, with a design value of 0.05 μg/m^3 for the three-year period of 2012–2014. EPA is affirming that determination today with monitoring data from the most recent three-year period of 2014–2016 based on data from the SLAMS monitors identified above.

TABLE 1—2014–2016 THREE-MONTH ROLLING AVERAGES FOR THE 17–031–0110 #1 MONITOR, IN UNITS OF μg/m^3

Location	AQS ID	3-month period	2014	2015	2016
1241 W 19th St., Chicago, IL	17–031–0110 #1	Nov–Jan[2]	0.01	0.03	0.01
		Dec–Feb	0.01	0.01	0.01
		Jan–Mar	0.02	0.01	0.01
		Feb–Apr	0.02	0.02	0.01
		Mar–May	0.02	0.02	0.01
		Apr–Jun	0.02	0.02	0.01
		May–July	0.02	0.01	0.01
		Jun–Aug	0.02	0.01	0.01
		July–Sept	0.02	0.01	0.01
		Aug–Oct	0.02	0.01	0.01
		Sept–Nov	0.04	0.01	0.01
		Oct–Dec	0.03	0.01	0.01

TABLE 2—2014–2016 THREE-MONTH ROLLING AVERAGES FOR THE 17–031–0110 #9 MONITOR, IN UNITS OF μg/m^3

Location	AQS ID	3-month period	2014	2015	2016
1241 W 19th St., Chicago, IL	17–031–0110 #9	Nov–Jan	0.01	0.01	0.01

[1] *See* the technical support document ''Region 5 Final Ionia County, Chicago, Illinois Lead Technical Support Document (TSD)'' [sic] attached to EPA's air quality designations published November 22, 2011 (76 FR 72097).

[2] In Tables 1 through 4, the three-month rolling average for the first two periods in 2014, November through January and December through February, includes monitoring data from November and December of 2013.

TABLE 2—2014–2016 THREE-MONTH ROLLING AVERAGES FOR THE 17–031–0110 #9 MONITOR, IN UNITS OF μg/m³—Continued

Location	AQS ID	3-month period	2014	2015	2016
		Dec–Feb	0.01	0.01	0.01
		Jan–Mar	0.02	0.01	0.01
		Feb–Apr	0.02	0.02	0.01
		Mar–May	0.02	0.02	0.01
		Apr–Jun	0.02	0.02	0.01
		May–July	0.02	0.01	0.01
		Jun–Aug	0.02	0.01	0.01
		July–Sept	0.03	0.01	0.01
		Aug–Oct	0.02	0.01	0.01
		Sept–Nov	0.02	0.01	0.01
		Oct–Dec	0.02	0.01	0.01

The data shown in Tables 1 and 2 are complete, quality-assured, and certified and show 0.04 μg/m³ as the highest three-month rolling average, well below the standard of 0.15 μg/m³. The September 22, 2016, submittal from Illinois EPA requested redesignation to attainment based on data from the three-year period of 2013–2015, which showed that the Chicago area was meeting the 2008 lead NAAQS with a design value of 0.04 μg/m³. In this action, EPA is redesignating the Chicago area based on more recent monitoring data for the three-year period of 2014–2016, which also has a design value of 0.04 μg/m³.

EPA's review of this data indicates that the Chicago area has attained and should continue to attain the 2008 lead NAAQS.

2. Granite City Area Air Quality

As defined at 40 CFR 81.314, the Granite City area is comprised of the portions of Madison County that are bounded by Granite City Township and Venice Township. According to initial analysis conducted by Illinois EPA in 2010, the Mayco Industries LLC (Mayco) facility was one of several sources with lead emissions in the Granite City nonattainment area.[3] As described in its September 22, 2016, submission, Illinois EPA conducted further analysis and determined that Mayco was the most significant source of lead emissions in the Granite City area, and was capable of causing exceedances of the NAAQS in the absence of any other sources in the area. Mayco is a secondary lead production facility and a fabricator of several lead-containing products. Mayco manufactures lead shot for ammunition, lead-containing products for naval applications, and lead wool used to create flexible materials for radiation protection.

After Illinois EPA identified Mayco as the primary contributor to the exceedance of the NAAQS in the Granite City area, Illinois adopted rules that limit emissions from the Mayco facility, and require additional control measures. As discussed in detail below, in this action EPA is approving a request from Illinois EPA to incorporate these rules into the Illinois SIP. Since Mayco implemented the controls required by these rules, monitored values of lead in the area have been below the health-based standard.

Illinois EPA operates two FRM source-oriented SLAMS monitors at 15th Street and Madison Avenue in Granite City, Illinois, which are used to determine whether the Granite City area has attained the 2008 lead NAAQS. In the AQS database, this monitoring site is denoted with site ID 17–119–0010 and the two monitors are denoted with POC #1 and POC #9.

TABLE 3—2014–2016 THREE-MONTH ROLLING AVERAGES FOR THE 17–119–0010 #1 MONITOR, IN UNITS OF μg/m³

Location	AQS ID	3-month period	2014	2015	2016
15th St. and Madison Ave., Granite City, IL.	17–119–0010 #1	Nov–Jan	0.04	0.02	0.01
		Dec–Feb	0.04	0.02	0.01
		Jan–Mar	0.03	0.02	0.01
		Feb–Apr	0.01	0.01	0.02
		Mar–May	0.02	0.02	0.02
		Apr–Jun	0.01	0.02	0.02
		May–July	0.01	0.01	0.02
		Jun–Aug	0.01	0.01	0.01
		July–Sept	0.01	0.01	0.01
		Aug–Oct	0.01	0.02	0.01
		Sept–Nov	0.02	0.02	0.02
		Oct–Dec	0.01	0.01	0.02

TABLE 4—2014–2016 THREE-MONTH ROLLING AVERAGES FOR THE 17–119–0010 #9 MONITOR, IN UNITS OF μg/m³

Location	AQS ID	3-month period	2014	2015	2016
15th St. and Madison Ave., Granite City, IL.	17–119–0010 #9	Nov–Jan	0.04	0.01	0.01

[3] *See* the technical support document ''Region 5—Final Granite City, Illinois Technical Support Document For 1st Round of Lead Designations'' attached to EPA's air quality designations published November 22, 2010 (75 FR 71033).

TABLE 4—2014–2016 THREE-MONTH ROLLING AVERAGES FOR THE 17–119–0010 #9 MONITOR, IN UNITS OF μg/m³—Continued

Location	AQS ID	3-month period	2014	2015	2016
		Dec–Feb	0.03	0.01	0.01
		Jan–Mar	0.03	0.02	0.01
		Feb–Apr	0.01	0.02	0.01
		Mar–May	0.02	0.02	0.01
		Apr–Jun	0.01	0.02	0.01
		May–July	0.01	0.02	0.01
		Jun–Aug	0.01	0.01	0.01
		July–Sept	0.01	0.01	0.01
		Aug–Oct	0.01	0.02	0.01
		Sept–Nov	0.02	0.02	0.01
		Oct–Dec	0.01	0.02	0.02

The data shown in Tables 3 and 4 are complete, quality-assured, and certified and show 0.04 μg/m³ as the highest three-month rolling average, well below the standard of 0.15 μg/m³. The September 22, 2016, submittal from Illinois EPA requested redesignation to attainment based on data for the three-year period of 2013–2015, which showed that the Granite City area was meeting the 2008 lead NAAQS with a design value of 0.06 μg/m³. In this action, EPA is redesignating the Granite City area based on the more recent monitoring data for the three-year period of 2014–2016, which has a lower design value of 0.04 μg/m³.

EPA's review of this data indicates that the Granite City area has attained and should continue to attain the 2008 lead NAAQS.

B. EPA Has Fully Approved the Applicable SIP for the Areas Under Section 110(k) and the Areas Have Met All Applicable Requirements Under Section 110 and Part D (Section 107(d)(3)(E)(ii) and (v))

With the exception of the emissions inventory requirement under section 172(c)(3), EPA has approved all applicable requirements of the Illinois SIP for the areas under Section 110(k) (EPA action on plan submissions), in accordance with section 107(d)(3)(E)(ii). As discussed below, EPA is approving Illinois' 2012 emissions inventory as meeting the section 172(c)(3) comprehensive emissions inventory requirement as part of this action.

Additionally, the Illinois SIP meets all currently applicable SIP requirements for purposes of redesignation of the Chicago and Granite City areas under section 110 of the CAA (general SIP requirements), and Illinois' submittal meets all SIP requirements applicable under part D of the CAA (plan requirements for nonattainment areas in general), in accordance with section 107(d)(3)(E)(v).

1. Illinois Has Met All Applicable Requirements for Purposes of Redesignation of the Chicago and Granite City Areas Under Section 110 and Part D of the CAA

a. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary source emission control measures, monitoring, and reporting; include provisions for air quality modeling; and provide for public and local agency participation in planning and emission control rule development. EPA has historically referred to SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(2) as ''infrastructure SIP'' submissions.

Additionally, section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. EPA has historically referred to SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(2)(D) as ''transport SIP'' submissions.

EPA interprets the ''applicable'' requirements for an area's designation to be those requirements linked with a particular area's nonattainment designation. Therefore, the section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status, such as the infrastructure SIP elements of section 110(a)(2) and transport SIP submittal requirements under section 110(a)(2)(D), are not applicable requirements for purposes of redesignation. This is because a state remains subject to these requirements after an area is redesignated to attainment, and therefore these requirements are not relevant in evaluating a redesignation request.

EPA has applied this interpretation consistently in many redesignations for decades. See 81 FR 44210 (July 7, 2016) (final redesignation for the Sullivan County, Tennessee area); 79 FR 43655 (July 28, 2014) (final redesignation for Bellefontaine, Ohio lead nonattainment area); 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (proposed and final redesignation for Reading, Pennsylvania ozone nonattainment area); 61 FR 20458 (May 7, 1996) (final redesignation for Cleveland-Akron-Lorain, Ohio ozone nonattainment area); and 60 FR 62748 (December 7, 1995) (final redesignation of Tampa, Florida ozone nonattainment area). See also 65 FR 37879, 37890 (June 19, 2000) (discussing this issue in final redesignation of Cincinnati, Ohio 1-hour ozone nonattainment area); 66 FR 53094 (October 19, 2001) (final redesignation of Pittsburgh, Pennsylvania 1-hour ozone nonattainment area).

We have reviewed the Illinois SIP and determined that it meets the general SIP requirements under section 110 of the CAA to the extent those requirements are applicable for purposes of

redesignation. EPA has previously approved provisions of Illinois' SIP addressing section 110 requirements (including provisions addressing lead) at 40 CFR 52.745.

b. Part D Requirements

Upon approval of Illinois' 2012 emissions inventory for each area, the Illinois SIP will meet the nonattainment area requirements for the Chicago and Granite City areas for purposes of redesignation under part D of the CAA, including the requirements under sections 172 and 176, which are discussed further below.

(i) Section 172 Nonattainment Plan Requirements

For purposes of evaluating this redesignation request, the applicable SIP requirements of section 172 are contained in sections 172(c)(1) through (9), which address requirements for nonattainment areas. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

Section 172(c)(1) requires nonattainment plans to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and to provide for attainment of the primary NAAQS. EPA interprets this requirement to impose a duty on all states to consider all available control measures for all nonattainment areas and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Because the Chicago and Granite City areas have attained the 2008 lead NAAQS, Illinois does not need to address additional measures to provide for attainment, and the requirements under section 172(c)(1) are no longer considered to be applicable so long as the area continues to attain the standard until redesignation. (40 CFR 51.918).

Section 172(c)(2) provides that nonattainment plans must require reasonable further progress (RFP), which is defined as progress that must be made toward attainment. This requirement is not relevant for purposes of the Chicago and Granite City redesignations because the areas have monitored attainment of the 2008 lead NAAQS. (General Preamble, 57 FR 13564). *See also* 40 CFR 51.918. The requirement to submit contingency measures under section 172(c)(9) is similarly not applicable for purposes of redesignation. *Id.*

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. In their redesignation request, Illinois submitted inventories of actual lead emissions in 2012 for each source in the Chicago and Granite City areas that may have contributed to an exceedance of the NAAQS. At 40 CFR 51.117, EPA provides a threshold at which lead emissions must be included in an inventory; as shown in Illinois' submittal, no other source in either area emits at or above the threshold level of 0.5 or more tons of lead per year. EPA is approving the 2012 inventories, summarized in Table 5 below, as meeting the section 172(c)(3) emissions inventory requirement for the Chicago and Granite City areas.

TABLE 5—ACTUAL EMISSIONS INVENTORIES FOR THE CHICAGO AND GRANITE CITY AREAS IN 2012

	Lead emissions (lbs/year)
H. Kramer facility in Chicago area	200
Mayco facility in Granite City area	903

Section 172(c)(4) requires nonattainment plans to identify and quantify allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Illinois' current NSR program as meeting the requirements of section 172(c)(4) and 172(c)(5) on May 13, 2003 (68 FR 25504).

Section 172(c)(6) requires nonattainment plans to include enforceable emission limitations, and such other control measures, means or techniques as may be necessary or appropriate to provide for attainment of the standard. Because the areas have reached attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires nonattainment plans to meet the applicable provisions of section 110(a)(2). As discussed above, the Illinois SIP meets the applicable provisions of section 110(a)(2) for purposes of redesignation.

Section 172(c)(8) allows for equivalent modeling, emission inventory, and planning procedures in certain circumstances upon application by the State, which is not applicable to this action.

(ii) Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway and transit projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. See 73 FR 66964, 67043 n.120. In addition, EPA approved Illinois' general conformity SIP on December 23, 1997 (62 FR 6700).

2. Illinois Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Illinois' comprehensive 2012 emissions inventories, EPA will have fully approved the Illinois SIP for the Chicago and Granite City areas under section 110(k) of the CAA for all requirements applicable to the attainment status of the areas. EPA may rely on prior SIP approvals in approving a redesignation request (See page 3 of the September 4, 1992, *Processing Requests to Redesignate Areas to Attainment: Policy Memorandum* [4] (Calcagni memorandum)); *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)) plus any additional measures EPA may approve in conjunction with a redesignation action. See 68 FR 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Illinois has adopted and submitted, and EPA has fully approved, provisions addressing various required SIP elements under lead standards.

Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. EPA made a final determination of attainment for the Chicago area (also known as a clean data determination) on August 24, 2015 (80 FR 51127). Pursuant to 40 CFR 51.1004(c), EPA's

[4] *https://www.epa.gov/ozone-pollution/procedures-processing-requests-redesignate-areas-attainment.*

determination that the area has attained the 2008 lead standard suspended the requirement to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the RACM requirements of 172(c)(3), the RFP and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures under section 172(c)(9) of the CAA. As discussed above, since EPA's final determination of attainment in 2015, the Chicago area has continued to attain the standard and should remain in attainment. Because in today's rulemaking we are determining that the Granite City area has also attained the standard, EPA is suspending those same requirements under section 172 and 182(b)(1) of the CAA for the Granite City area.

As a result, the only remaining requirement under section 172 to be evaluated is the emissions inventory required under section 172(c)(3). In this action, EPA is approving Illinois' 2012 emissions inventories for the Chicago and Granite City areas as meeting the requirement of section 172(c)(3) of the CAA. No Chicago area or Granite City area SIP provisions regarding lead under Section 172 of the CAA are currently disapproved, conditionally approved, or partially approved.

C. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

As part of this action, EPA is approving Illinois EPA's request to modify the Illinois SIP to include the requirements at 35 Ill. Adm. Code Part 226. As discussed below, the rules at 35 Ill. Adm. Code Part 226 place new control requirements and emission limits on lead sources in the Chicago and Granite City areas, and are more stringent than the previous SIP-approved rules. Inclusion of these rules into the SIP means that these requirements are permanent and enforceable.

In developing the proposed SIP revisions, Illinois EPA assessed the practices and processes at the H. Kramer and Mayco facilities that contributed to exceedances of the NAAQS in the Chicago area and Granite City area, respectively. Illinois determined that emissions from the stacks at each facility were not appropriately limited, and that certain parts of the Mayco manufacturing process were not controlled at all. Illinois also determined that fugitive emissions from each facility were a significant factor in the exceedances of the NAAQS, and were caused by a lack of proper enclosure under negative pressure, as well as insufficient housekeeping and cleaning procedures. Illinois structured its new rule to address the specific deficiencies at the H. Kramer and Mayco facilities that contributed to the exceedances of the lead NAAQS.

35 Ill. Adm. Code Part 226, titled ''Standards and Limitations for Certain Sources of Lead'', which became effective at the state level on April 21, 2014, applies to nonferrous metal production facilities in the Chicago and Granite City areas. In practice, the rule applies to the H. Kramer and Mayco facilities, which are the only two nonferrous metal production facilities in the areas. The rule provides lead emission standards and requires specific emission controls based on the equipment and manufacturing processes that are used at each facility; requires affected sources to operate under specified state or federal permitting programs; requires that owners or operators of lead emission units install, maintain, and operate monitoring equipment; sets requirements for recording and submitting monitoring data; requires that subject owners or operators operate pressure differential and leak detection systems at all times; requires total enclosure of specified lead emission units when the unit is operating or housekeeping activities are being performed; provides options for measurement of all natural draft openings and the total surface area of the total enclosure; requires inward flow of air through all natural draft openings; requires monthly inspections; requires the owner or operator of a lead emission unit to operate a fugitive dust operating program, and specifies areas, activities, and events subject to this program; provides specific emissions testing requirements; includes specific recordkeeping and reporting requirements, including a requirement to submit semiannual reports to Illinois EPA; and states that records must be maintained for at least five years.

In its September 22, 2016, submission, Illinois EPA showed that the implementation of the requirements of 35 Ill. Adm. Code Part 226 has resulted in a substantial decrease in emissions from the H. Kramer and Mayco facilities. As part of its analysis of these areas, Illinois EPA determined emissions prior to the April 21, 2014, effective date of 35 Ill. Adm. Code Part 226 at each facility based on stack testing. For 2012, the H. Kramer facility reported 200 lbs of emissions, and the Mayco facility reported 903 lbs of emissions. Illinois then conducted modeling to calculate allowable emissions from each facility under 35 Ill. Adm. Code Part 226 for 2014 and future years. Illinois determined that H. Kramer should emit no more than 99.9889 lbs/year, and Mayco should emit no more than 418.2620 lbs/year. This modeling is discussed in detail below. As shown in Table 6, Illinois' modeling shows that the emissions reductions correlate with a decrease in monitored ambient lead levels.

TABLE 6—EMISSIONS REDUCTIONS AND IMPROVEMENTS IN AIR QUALITY FOR THE NONATTAINMENT AND ATTAINMENT PERIODS

	2012 Actual lead emissions (lbs/year)	Nonattainment design value ($\mu g/m^3$) [5]	2014 Allowable lead emissions (lbs/year)	2014–2016 Attainment design value ($\mu g/m^3$)
H. Kramer facility in Chicago area	200	0.24	99.9889	0.04
Mayco facility in Granite City area	903	0.28	418.2620	0.04

Based on the information provided in its submission, Illinois has demonstrated that the observed air quality improvements in the Chicago and Granite City areas are due to the requirements at 35 Ill. Adm. Code Part 226. Relative to emissions in 2012, Illinois' analysis shows that these

[5] The Chicago area was designated nonattainment using the design value for the 2008–2010 period, and the Granite City area was designated nonattainment using the design value for the 2007–2009 period.

requirements result in emission reductions of at least 50% from both H. Kramer in the Chicago area and Mayco in the Granite City area. Furthermore, Illinois believes these emission reduction estimates are conservative because the reductions were calculated based on allowable emissions under the rule, and actual emissions are likely to be lower.[6]

D. Illinois Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with Illinois' request to redesignate the Chicago and Granite City nonattainment areas to attainment status, Illinois has submitted, as a SIP revision, a plan to provide for maintenance of the 2008 lead NAAQS in the areas through 2030. EPA has reviewed the maintenance plan and finds that it meets the requirements of section 175A of the CAA as explained further below.

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future NAAQS violations.

EPA's September 4, 1992, Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: The attainment emissions inventory, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni memorandum at 9. Where the modeling method of showing maintenance is used, a state must show that ''the future mix of sources and emission rates will not cause a violation of the NAAQS.'' Id. Modeling should ''contain a summary of the air quality concentrations expected to result from application of the control strategy'' and ''identify and describe the dispersion model or other air quality model used to project ambient concentrations.'' Id.

1. Attainment Inventory

Illinois developed emissions inventories for lead for 2014, one of the years in the period during which the Chicago and Granite City areas monitored attainment of the 2008 lead standard. Illinois EPA calculated this inventory for the H. Kramer and Mayco facilities based on allowable emissions considering the emission limits and control requirements under 35 Ill. Adm. Code Part 226, and requested that the resulting emissions totals be used to satisfy the maintenance plan requirements of section 175A. This approach is consistent with the modeling that Illinois conducted to show that future emissions of lead will not cause a violation of the NAAQS.

These allowable emissions levels for the 2014 attainment year, summarized in Table 7 below, satisfy the pertinent maintenance plan requirements of section 175A.

TABLE 7—ALLOWABLE EMISSIONS INVENTORIES FOR THE CHICAGO AND GRANITE CITY AREAS IN THE 2014 ATTAINMENT YEAR

	Lead missions (lbs/year)
H. Kramer facility in Chicago area	99.9889
Mayco facility in Granite City area	418.2620

2. Demonstration of Maintenance

Illinois' plan demonstrates maintenance of the 2008 lead standard through 2030 by showing modeled attainment of the standard for projected future emissions, even at the highest levels of emissions allowed by the new rules at 35 Ill. Adm. Code Part 226, which are discussed in detail above.

As clarified by Illinois EPA on February 16, 2017, the Illinois maintenance plan demonstrates how the projected level of emissions from affected sources is sufficient to permanently maintain the lead NAAQS. The maintenance plan relies on a January 9, 2014, submission of emissions inventories and modeling data, as well as a June 17, 2014, submission requesting that EPA add 35 Ill. Adm. Code Part 226 into the Illinois SIP. Illinois EPA modeling shows that these rules, once approved as part of the SIP, should permanently limit emissions to a level at which the 2008 lead NAAQS is maintained for ten years and beyond in the Chicago and Granite City areas.

Illinois EPA conducted this modeling for both areas using EPA's dispersion model, AERMOD, as required at 40 CFR part 51, appendix W. Model output was processed using EPA's LEADPOST software. In undertaking this modeling, Illinois followed relevant EPA guidance, and appropriately considered meteorology, terrain, and stack height.

Based on monitoring data and estimated emissions from nearby sources, the modeling assumes a background lead concentration of 0.02 $\mu g/m^3$ for both the Chicago and Granite City areas. This assumption is conservative because the most recent monitoring data for the Chicago and Granite City areas show total ambient lead concentrations near this value. The modeling then applies the new rules at 35 Ill. Adm. Code Part 226 to the affected sources in each area, and calculates maximum allowable emissions from these sources. Adding the background concentration to the maximum allowable emissions, Illinois EPA's modeling shows that the maximum three-month rolling average of lead is 0.128253 $\mu g/m^3$ for the Chicago area and 0.128333 $\mu g/m^3$ for the Granite City area, which are within the 2008 lead NAAQS standard of 0.15 $\mu g/m^3$. Because this would be the maximum level of lead emissions allowed under permanent and enforceable SIP-approved rules, Illinois EPA has shown an ability to maintain the NAAQS for ten years and beyond.

3. Monitoring Network

Illinois currently operates lead monitors in the Chicago and Granite City area. Illinois' maintenance plan includes a commitment to continue to operate its EPA-approved monitoring network as necessary to demonstrate ongoing compliance with the NAAQS.

[6] For a source's actual emissions to be equivalent to its allowable emissions, the source would need to operate every emission unit at maximum capacity continuously throughout the year.

4. Verification of Continued Attainment

Illinois remains obligated to continue to quality-assure monitoring data and enter all data into AQS in accordance with Federal guidelines. Illinois has committed to using these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Illinois will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) to track future levels of emissions. Both of these actions will help to verify continued attainment in accordance with 40 CFR part 58.

5. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA.

Illinois' contingency plan is triggered when there is a violation of the lead NAAQS occurring after redesignation to attainment. Within six months of certification of monitoring data showing an exceedance of the NAAQS, Illinois will complete a comprehensive study to determine the cause or causes of the violation, and the control measure or measures necessary to mitigate the problem. This study will consider the number, location, and severity of the violations; the weather patterns contributing to high concentrations of lead; contributing emissions sources; emissions trends, including timeliness of implementation of scheduled control measures; current and recently-identified control technologies; and air quality contributions from outside the maintenance area.

If the study shows that additional controls of sources within the area is appropriate, the Illinois contingency plan is to incrementally lower emission limits and implement associated measures at the unit or units that are shown to be the cause or causes of the NAAQS violation. The selection of measures will be based upon several factors, including emissions reduction potential, timing of implementation, and social considerations. Illinois EPA will solicit input from interested and affected parties prior to selecting the appropriate measures. The process will include publication for notices, an opportunity for public hearing, and other actions required by Illinois law.

Illinois' contingency measures, as well as the commitment to implement SIP requirements as necessary, satisfy the pertinent requirements of section 175A(d).

As required by section 175A(b) of the CAA, Illinois committed to submit to EPA an updated lead maintenance plan eight years after redesignation of the Chicago and Granite City areas to cover an additional ten-year period beyond the initial ten-year maintenance period.

For the reasons set forth above, EPA is approving, as a SIP revision, Illinois' 2008 lead NAAQS maintenance plan for the Chicago and Granite City areas because the plan meets the requirements of CAA section 175A.

V. What are the effects of EPA's actions?

Approval of this redesignation request changes the official designation of the Chicago, Illinois and Granite City, Illinois areas for the 2008 lead NAAQS, found at 40 CFR part 81, from nonattainment to attainment. This action also approves, as revisions to the Illinois SIP, the rules at 35 Ill. Adm. Code Part 226, the maintenance plan for the 2008 lead standard in the Chicago and Granite City areas, and Illinois' 2012 emissions inventories for the Chicago and Granite City areas pursuant to section 172(c)(3) of the CAA.

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive emissions inventory including all lead sources in the nonattainment area. EPA is approving the Illinois 2012 emissions inventories outlined in Table 5 for the Chicago and Granite City areas as fulfilling this requirement.

In its September 22, 2016, submission, Illinois EPA requested that EPA approve 35 Ill. Adm. Code Part 226 as a revision to the Illinois SIP as control measures to maintain attainment in the Chicago and Granite City areas. As discussed above, these rules control emissions from lead sources, specifically at the H. Kramer and Mayco facilities, and inclusion of these rules into the SIP makes these measures permanent and enforceable. In today's action, EPA is approving Illinois' request to modify the SIP to include these rules.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 18, 2017 without further notice unless we receive relevant adverse written comments by November 17, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 18, 2017.

VI. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the

Director of the Federal Register in the next update to the SIP compilation

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are 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.*

■ 2. In § 52.720 the tables in paragraph (c) and (e) are amended:

■ i. In paragraph (c) under the subheading ''Subchapter c: Emission Standards and Limitations for Stationary Sources'' by adding entries in numerical order under a new subheading ''Part 226: Standards And Limitations For Certain Sources Of Lead'';

■ ii. in paragraph (e) under the subheading ''Attainment and Maintenance Plans'' by adding new entries in alphabetical order for ''Lead (2008) attainment and maintenance plan'' and ''Lead (2008)—Clean Data Determination''; and

■ iii. in paragraph (e) under the subheading ''Emission Inventories'' by adding a new entry in alphabetical order for ''Emission inventory -2012 (2008 Lead)''.

The additions read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
* * * * * * *				
Subchapter C: Emission Standards and Limitations for Stationary Sources				
* * * * * * *				
Part 226: Standards and Limitations for Certain Sources of Lead				
226.100	Severability	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.105	Scope and Organization	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.110	Abbreviations and Acronyms	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.115	Definitions	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.120	Incorporations by Reference	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.125	Applicability	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.130	Compliance Date	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.140	Lead Emission Standards	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.150	Operational Monitoring for Control Device.	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.155	Total Enclosure	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.160	Operational Measurement for Total Enclosure.	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.165	Inspection	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.170	Lead Fugitive Dust Operating Program.	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.175	Emissions Testing	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
226.185	Recordkeeping and Reporting.	4/21/2014	10/18/2017, [Insert **Federal Register** citation].	
* * * * * * *				

* * * * * (e) * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * * * *				
Attainment and Maintenance Plans				
* * * * * * *				
Lead (2008) attainment and maintenance plan.	Chicago and Granite City areas.	9/22/2016	10/18/2017, [Insert **Federal Register** citation].	
* * * * * * *				
Lead (2008)—Clean Data Determination.	Granite City area	N/A	10/18/2017, [Insert **Federal Register** citation].	

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* *	*	*	* *	*
Emission Inventories				
* *	*	*	* *	*
Emission inventory—2012 (2008 Lead).	Chicago and Granite City areas.	9/22/2016	10/18/2017, [Insert **Federal Register** citation].	
* *	*	*	* *	*

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. Section 81.314 is amended by revising the table entitled ''Illinois—2008 Lead NAAQS'' to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—2008 LEAD NAAQS

Designated area	Designation for the 2008 NAAQS [a]	
	Date [1]	Type
Chicago, IL:		
Cook County (part)	10/18/2017	Attainment.
Area bounded by Damen Ave. on the west, Roosevelt Rd. on the north, the Dan Ryan Expressway on the east, and the Stevenson Expressway on the south.		
Granite City, IL:		
Madison County (part)	10/18/2017	Attainment.
Area is bounded by Granite City Township and Venice Township.		
Rest of State		Unclassifiable/Attainment.

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] December 31, 2011, unless otherwise noted.

[FR Doc. 2017–22512 Filed 10–17–17; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 80, and 90

[ET Docket No. 15–99; FCC 17–33]

WRC–12 Implementation Report and Order; Corrections

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: On June 14, 2017, the Federal Communications Commission published final rules in the *Report and Order,* FCC 17–33 that amended the Commission rules. Due to inaccurate amendatory instructions, the effective date of the amendments to §§ 2.106, 80.203(p) and 80.357(b)(1) was not correctly specified in the final regulations, and the revisions to § 90.103(b) could not be incorporated in the final regulations. This document corrects the amendatory instructions and the final regulations.

DATES: Effective October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418–2450, *Tom.Mooring@fcc.gov.*

SUPPLEMENTARY INFORMATION: A summary of the Commission's Report and Order, ET Docket No. 15–99, FCC 17–33, adopted March 27, 2017, and released March 29, 2017, was published in the **Federal Register** on June 14, 2017 (82 FR 27178). This document specifies an applicability date of July 14, 2017 for the amendments to 47 CFR 2.106 NG8, 80.203(p), and 80.357(b)(1) in FCC 17–33, and corrects the amendatory instructions so the revisions to 47 CFR 90.103(b) in FCC 17–33 can be incorporated in the final regulations.

List of Subjects

47 CFR Part 2

Radio, Telecommunications.

47 CFR Parts 80 and 90

Radio, Reporting and recordkeeping requirements.

Accordingly, 47 CFR parts 2, 80, and 90 are corrected by making the following correcting amendments:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. In § 2.106, revise footnote NG8 in the list of Non-Federal Government (NG) Footnotes to read as follows:

Non-Federal Government (NG) Footnotes

* * * * *

NG8 In the band 472–479 kHz, non-Federal stations in the maritime mobile service that were licensed or applied for prior to July 14, 2017 may continue to operate on a primary basis, subject to periodic license renewals.

* * * * *

PART 80—STATIONS IN THE MARITIME SERVICES

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

Authority: Sections 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 4. In § 80.203, revise paragraph (p) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(p) Applicable July 14, 2017, the Commission no longer accepts applications for certification of non-AIS VHF radios that include channels 75 and 76.

■ 5. In § 80.357, revise footnote 1 to the table in paragraph (b)(1) to read as follows:

§ 80.357 Working frequencies for Morse code and data transmission.

* * * * *

(b) * * *

(1) * * *

[1] All frequencies in this table are shown in kilohertz. The use of frequencies in the 472–479 kHz band is restricted to public coast stations that were licensed on or before July 14, 2017.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 6. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 7. In § 90.103, amend the table in paragraph (b) as follows:

■ a. Add entries for the 4438 to 4488 kHz and 5250 to 5275 kHz bands to the Kilohertz portion of the table in numerical order; and

■ b. Add entries for the 13.45 to 13.55 MHz, 16.10 to 16.20 MHz, 24.45 to 24.65 MHz, 26.20 to 26.42 MHz, 41.015 to 41.665 MHz, and 43.35 to 44.00 MHz bands to the Megahertz portion of the table in numerical order, and revise the entry for the 420 to 450 MHz band to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(b) * * *

RADIOLOCATION SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitation
Kilohertz		
* * *	* * * *	
4438 to 4488	Radiolocation land	3
5250 to 5275	.....do	3
Megahertz		
13.45 to 13.55	.....do	3
16.10 to 16.20	.....do	3
24.45 to 24.65	.....do	3
26.20 to 26.42	.....do	3
41.015 to 41.665	.....do	3
43.35 to 44.00	.....do	3
420 to 450	Radiolocation land or mobile	21
* * *	* * * *	

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–22063 Filed 10–17–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF762

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

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is exchanging unused flathead sole and rock sole Community Development Quota (CDQ) for yellowfin sole CDQ acceptable biological catch (ABC) reserves in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2017 total allowable catch of yellowfin sole in the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective October 18, 2017 through December 31, 2017.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management

Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2017 flathead sole, rock sole, and yellowfin sole CDQ reserves specified in the BSAI are 1,463 metric tons (mt), 5,490 mt, and 16,117 mt as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and revised by flatfish exchange (82 FR 46422, October 5, 2017). The 2017 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 5,843 mt, 11,106 mt and 11,789 mt as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and revised by flatfish exchange (82 FR 46422, October 5, 2017).

The Norton Sound Economic Development Corporation has requested that NMFS exchange 175 mt of flathead sole CDQ reserves and 180 mt of rock sole CDQ reserves for 355 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 175 mt of flathead sole CDQ reserves and 180 mt of rock sole CDQ reserves for 355 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017), and revised by flatfish exchange (82 FR 46422, October 5, 2017), are further revised as follows:

TABLE 11—FINAL 2017 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	7,900	7,000	9,000	14,236	47,370	153,994
CDQ	845	749	963	1,288	5,310	16,472
ICA	100	60	10	4,000	5,000	4,500
BSAI trawl limited access	695	619	161	0	0	18,151
Amendment 80	6,259	5,572	7,866	8,949	37,060	114,871
Alaska Groundfish Cooperative	3,319	2,954	4,171	918	9,168	45,638
Alaska Seafood Cooperative	2,940	2,617	3,695	8,031	27,893	69,233

Note: Sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2017 AND 2018 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2017 Flathead sole	2017 Rock sole	2017 Yellowfin sole	2018 Flathead sole	2018 Rock sole	2018 Yellowfin sole
ABC	68,278	155,100	260,800	66,164	143,100	250,800
TAC	14,236	47,370	153,994	14,500	47,100	154,000
ABC surplus	54,042	107,730	106,806	51,664	96,000	96,800
ABC reserve	54,042	107,730	106,806	51,664	96,000	96,800
CDQ ABC reserve	6,018	11,286	11,434	5,528	10,272	10,358
Amendment 80 ABC reserve	48,024	96,444	95,372	46,136	85,728	86,442
Alaska Groundfish Cooperative for 2017 [1]	4,926	23,857	37,891	n/a	n/a	n/a
Alaska Seafood Cooperative for 2017 [1]	43,098	72,587	57,481	n/a	n/a	n/a

[1] The 2018 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2017.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the flatfish exchange by the Norton Sound Economic Development Corporation in the BSAI. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 10, 2017.

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

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

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

Dated: October 13, 2017.

Alan D. Risenhoover,

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

[FR Doc. 2017–22612 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 200
Wednesday, October 18, 2017

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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2017–0030]

RIN 3170–AA75

Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is proposing amendments to certain Regulation Z mortgage servicing rules issued in 2016 relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case. The Bureau requests public comment on these proposed changes.

DATES: Comments must be received on or before November 17, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2017–0030 or RIN 3170–AA75, by any of the following methods:

- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2017–0030 or RIN 3170–AA75 in the subject line of the email.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Joel L. Singerman, Counsel; or William R. Corbett or Laura A. Johnson, Senior Counsels, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Proposed Rule

On August 4, 2016, the Bureau issued the Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (2016 Mortgage Servicing Final Rule) amending certain of the Bureau's mortgage servicing rules.[1] The Bureau has learned, through its outreach in support of industry's implementation of the 2016 Mortgage Servicing Final Rule, that certain technical aspects of the rule relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case may create unintended challenges in implementation. To alleviate any unintended challenges, the Bureau is proposing to address the timing provisions in this proposed rule.[2]

Among other things, the 2016 Mortgage Servicing Final Rule addresses Regulation Z's periodic statement and coupon book requirements when a person is a debtor in bankruptcy.[3] It includes a single-billing-cycle exemption from the requirement to provide a periodic statement or coupon book in certain circumstances after one of several specific triggering events occurs resulting in a servicer needing to transition to or from providing bankruptcy-specific disclosures. The single-billing-cycle exemption applies only if the payment due date for that billing cycle is no more than 14 days after the triggering event. The 2016 Mortgage Servicing Final Rule also includes specific timing requirements for servicers to provide the next modified or unmodified statement or coupon book after the single-billing-cycle exemption has applied.

Based on feedback received regarding implementation of the 2016 Mortgage Servicing Final Rule, the Bureau understands that certain aspects of the single-billing-cycle exemption and timing requirements may be more complex and operationally challenging than the Bureau realized, and that the relevant provisions may be subject to different interpretations, as discussed more below. The Bureau is therefore proposing several revisions to § 1026.41(e)(5)(iv)(B) and (C) and their official interpretations to replace the single-billing-cycle exemption with a single-statement exemption. The Bureau is proposing to revise § 1026.41(e)(5)(iv)(B) and its related commentary to provide a single-statement exemption for the next periodic statement or coupon book that a servicer would otherwise have to provide, regardless of when in the billing cycle the triggering event occurs. The Bureau is also proposing to add new comments 41(e)(5)(iv)(B)–1 through –3 to clarify the operation of the proposed single-statement exemption. The Bureau is proposing to remove § 1026.41(e)(5)(iv)(C) and its related commentary as no longer necessary in light of the changes to § 1026.41(e)(5)(iv)(B) and its related commentary.

[1] 81 FR 72160 (Oct. 19, 2016).

[2] The Bureau is addressing in a separate interim final rule another disclosure timing provision of the 2016 Mortgage Servicing Final Rule that would otherwise become effective October 19, 2017.

[3] The provisions of Regulation Z discussed herein were amended by the 2016 Mortgage Servicing Final Rule but are not effective until April 19, 2018. To simplify review of this document and differentiate between those amendments and this proposed rule, this document generally refers to the 2016 amendments as though they already are in effect.

The Bureau believes that these proposed changes would provide a clearer and more straightforward standard than the timing requirement adopted in the 2016 Mortgage Servicing Final Rule, offering greater certainty for implementation and compliance, without unnecessarily disadvantaging consumers. The Bureau seeks public comment on these proposed changes.

II. Background

A. 2016 Mortgage Servicing Final Rule and Implementation Support

In August 2016, the Bureau issued the 2016 Mortgage Servicing Final Rule, which amends certain of the Bureau's mortgage servicing rules in Regulations X and Z.[4] Most of these rules become effective on October 19, 2017, except that the provisions relating to bankruptcy periodic statements and successors in interest become effective on April 19, 2018. The Bureau has worked to support implementation by providing an updated compliance guide, other implementation aids, a technical corrections final rule,[5] policy guidance regarding early compliance,[6] and informal guidance in response to regulatory inquiries. Information regarding the Bureau's implementation support initiative and available implementation resources can be found on the Bureau's regulatory implementation Web site at *https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/.* Based on its ongoing outreach, the Bureau believes that industry has made substantial implementation progress regarding the 2016 Mortgage Servicing Final Rule. However, the Bureau believes that a limited disclosure timing provision under Regulation Z from the 2016 Mortgage Servicing Final Rule may pose unintended implementation challenges as discussed herein.

B. Purpose and Scope of Proposal

As a result of feedback and questions received from servicers, the Bureau has decided to propose amendments to Regulation Z provisions relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books under Regulation Z in connection with a consumer's bankruptcy case. The Bureau believes the proposal provides clearer and more straightforward standards than the timing requirements adopted in the 2016 Mortgage Servicing Final Rule, offering greater certainty for implementation and compliance, without unnecessarily disadvantaging consumers.

The Bureau does not intend to revisit major policy decisions in this rulemaking or distract from industry's implementation efforts, which the Bureau believes have been moving forward. The Bureau continues to facilitate industry's implementation progress, including by responding to informal guidance inquiries and publishing additional implementation materials, as appropriate.

III. Legal Authority

The Bureau is proposing this rule pursuant to its authority under TILA and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[7] including the authorities discussed below. In general, the provisions this proposed rule would amend were previously adopted by the Bureau in the 2016 Mortgage Servicing Final Rule. In doing so, the Bureau relied on one or more of the authorities discussed below, as well as other authority. The Bureau is issuing this proposed rule in reliance on the same authority and for the same reasons relied on in adopting the relevant provisions of the 2016 Mortgage Servicing Final Rule, as discussed in detail in the Legal Authority and Section-by-Section Analysis parts of the 2016 Mortgage Servicing Final Rule.

A. TILA

Section 105(a) of TILA, 15 U.S.C. 1604(a), authorizes the Bureau to prescribe regulations to carry out the purposes of TILA. Under section 105(a), such regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. Under section 102(a), 15 U.S.C. 1601(a), the purposes of TILA are ''to assure a meaningful disclosure of credit terms so that the consumers will be able to compare more readily the various credit terms available and avoid the uninformed use of credit'' and to protect consumers against inaccurate and unfair credit billing practices. For the reasons discussed in this proposal, the Bureau is proposing to adopt amendments to Regulation Z to carry out TILA's purposes and such additional requirements, adjustments, and exceptions as, in the Bureau's judgment, are necessary and proper to carry out the purposes of TILA, prevent circumvention or evasion thereof, or to facilitate compliance therewith.

Section 105(f) of TILA, 15 U.S.C. 1604(f), authorizes the Bureau to exempt from all or part of TILA any class of transactions if the Bureau determines that TILA coverage does not provide a meaningful benefit to consumers in the form of useful information or protection. For the reasons discussed in this document, the Bureau is proposing amendments relating to exemptions for certain transactions from the requirements of TILA pursuant to its authority under section 105(f) of TILA.

This proposed rule also includes amendments to the official Bureau commentary in Regulation Z. Good faith compliance with the interpretations would afford protection from liability under section 130(f) of TILA.

B. The Dodd-Frank Act

Section 1022(b)(1) of the Dodd-Frank Act, 12 U.S.C. 5512(b)(1), authorizes the Bureau to prescribe rules ''as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.'' TILA and title X of the Dodd-Frank Act are Federal consumer financial laws.

Section 1032(a) of the Dodd-Frank Act, 12 U.S.C. 5532(a), provides that the Bureau ''may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.'' The authority granted to the Bureau in section 1032(a) of the Dodd-Frank Act is broad and empowers the Bureau to

[4] 81 FR 72160 (Oct. 19, 2016). The amendments cover nine major topics and focus primarily on clarifying, revising, or amending provisions regarding force-placed insurance notices, policies and procedures, early intervention, and loss mitigation requirements under Regulation X's servicing provisions; and prompt crediting and periodic statement requirements under Regulation Z's servicing provisions. The amendments also address proper compliance regarding certain servicing requirements when a person is a potential or confirmed successor in interest, is a debtor in bankruptcy, or sends a cease communication request under the FDCPA.

[5] Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z); Correction, 82 FR 30947 (July 5, 2017).

[6] Policy Guidance on Supervisory and Enforcement Priorities Regarding Early Compliance With the 2016 Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z), 82 FR 29713 (June 30, 2017).

[7] Public Law 111–203, 1245 Stat. 11376 (2010).

prescribe rules regarding the disclosure of the ''features'' of consumer financial products and services generally. Accordingly, the Bureau may prescribe rules containing disclosure requirements even if other Federal consumer financial laws do not specifically require disclosure of such features.

Section 1032(c) of the Dodd-Frank Act, 12 U.S.C. 5532(c), provides that, in prescribing rules pursuant to section 1032 of the Dodd-Frank Act, the Bureau ''shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.'' Accordingly, in proposing to amend provisions authorized under section 1032(a) of the Dodd-Frank Act, the Bureau has considered available studies, reports, and other evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

IV. Proposed Effective Date

Regulation Z § 1026.41(e)(5), as amended by the 2016 Mortgage Servicing Final Rule, becomes effective April 19, 2018. The Bureau is not proposing to extend the effective date of that provision, as finalized in the 2016 Mortgage Servicing Final Rule, because if the Bureau were to issue a final rule based on this proposal (after considering comments), it expects to do so sufficiently before the April 19, 2018, effective date to enable servicers to meet that date.

Thus, the Bureau is proposing an effective date of April 19, 2018, for the proposed revisions to § 1026.41(e)(5)(iv). The Bureau believes that the proposed revisions should not require substantial reprogramming of systems and notes that the Regulation Z bankruptcy-specific periodic statement requirements otherwise become effective April 19, 2018. The Bureau invites comment on the proposed effective date.

V. Section-by-Section Analysis

Section 1026.41 Periodic Statements for Residential Mortgage Loans

41(e) Exemptions

41(e)(5) Certain Consumers in Bankruptcy

41(e)(5)(iv) Timing of Compliance Following Transition

The Bureau is proposing to revise § 1026.41(e)(5)(iv)(B) and related commentary, and to remove § 1026.41(e)(5)(iv)(C) and related commentary. Section 1026.41(e)(5)(iv)(B) sets forth a single-billing-cycle exemption from the requirement to provide a periodic statement or coupon book in certain circumstances after one of several specific triggering events occurs resulting in a servicer needing to transition to or from providing bankruptcy-specific disclosures. The single-billing-cycle exemption applies only if the payment due date for that billing cycle is no more than 14 days after the triggering event. The Bureau is proposing to revise § 1026.41(e)(5)(iv)(B) to instead provide a single-statement exemption for the next periodic statement or coupon book that a servicer would otherwise have to provide, regardless of when in the billing cycle the triggering event occurs. Section 1026.41(e)(5)(iv)(C) establishes timing requirements for resuming compliance after the single-billing-cycle exemption. The Bureau is proposing to remove § 1026.41(e)(5)(iv)(C) and its related commentary because proposed revisions to comment 41(e)(5)(iv)(B)–1 would clarify the timing of the single-statement exemption and when a servicer must resume compliance. The Bureau is also proposing to add new comments 41(e)(5)(iv)(B)–2 and –3 to clarify how the proposed single-statement exemption would operate in specific circumstances. Proposed comment 41(e)(5)(iv)(B)–2 is similar in content to comment 41(e)(5)(iv)(C)–3.

Under existing § 1026.41(a)(2), a servicer generally must provide a consumer, for each billing cycle, a periodic statement meeting certain requirements. Existing § 1026.41(e)(5) provides a blanket exemption from § 1026.41 for a mortgage loan while a consumer is a debtor in bankruptcy under title 11 of the United States Code. The 2016 Mortgage Servicing Final Rule, however, generally limits this exemption to only certain consumers in bankruptcy.[8] When a consumer either is a debtor in bankruptcy under title 11 of the United States Code or has discharged personal liability for the mortgage loan pursuant to 11 U.S.C. 727, 1141, 1228, or 1328, so long as an exemption under § 1026.41(e) does not otherwise apply, the 2016 Mortgage Servicing Final Rule requires a servicer to provide a periodic statement or coupon book with certain bankruptcy-specific modifications. In this circumstance, a servicer must transition from providing unmodified periodic statements or coupon books to providing periodic statements or coupon books with bankruptcy modifications. Similarly, when a consumer exits bankruptcy, a servicer generally must transition back to providing unmodified periodic statements or coupon books.

During the rulemaking process leading up to the 2016 Mortgage Servicing Final Rule, the Bureau learned that, after a consumer files for or exits bankruptcy, servicers sometimes need time to transition their systems to reflect the change in bankruptcy status. Industry representatives suggested that the rule should afford a servicer enough time to transition to providing modified statements after a consumer's bankruptcy filing.[9] The Bureau therefore finalized a single-billing-cycle exemption in the 2016 Mortgage Servicing Final Rule.[10] Section 1026.41(e)(5)(iv)(B) provides that a servicer is exempt from the requirements of § 1026.41 with respect to a single billing cycle when the payment due date for that billing cycle is no more than 14 days after the date on which one of the three triggering events listed under § 1026.41(e)(5)(iv)(A) occurs: (1) A mortgage loan becomes subject to the requirement to provide a modified periodic statement; (2) a mortgage loan ceases to be subject to the requirement to provide a modified periodic statement; or (3) the servicer ceases to qualify for an exemption pursuant to § 1026.41(e)(5)(i). Section 1026.41(e)(5)(iv)(C) sets forth the timeframe within which a servicer must

[8] Section 1026.41(e)(5)(i) states that a servicer is generally exempt from the requirements of § 1026.41 with regard to a mortgage loan if (A) any consumer on the mortgage loan is a debtor in bankruptcy under title 11 of the United States Code or has discharged personal liability for the mortgage loan pursuant to 11 U.S.C. 727, 1141, 1228, or 1328; and (B) with regard to any consumer on the mortgage loan: (1) The consumer requests in writing that the servicer cease providing a periodic statement or coupon book; (2) the consumer's bankruptcy plan provides that the consumer will surrender the dwelling securing the mortgage loan, provides for the avoidance of the lien securing the mortgage loan, or otherwise does not provide for, as applicable, the payment of pre-bankruptcy arrearage or the maintenance of payments due under the mortgage loan; (3) a court enters an order in the bankruptcy case providing for the avoidance of the lien securing the mortgage loan, lifting the automatic stay pursuant to 11 U.S.C. 362 with regard to the dwelling securing the mortgage loan, or requiring the servicer to cease providing a periodic statement or coupon book; or (4) the consumer files with the court overseeing the bankruptcy case a statement of intention pursuant to 11 U.S.C. 521(a) identifying an intent to surrender the dwelling securing the mortgage loan and a consumer has not made any partial or periodic payment on the mortgage loan after the commencement of the consumer's bankruptcy case.

[9] *See* 81 FR 72160, 72325 (Oct. 19, 2016).

[10] *See generally id.* at 72324–26.

provide the next periodic statement after an event listed in § 1026.41(e)(5)(iv)(A) occurs.[11]

In the preamble to the 2016 Mortgage Servicing Final Rule, the Bureau stated its belief that the exemption and timing set forth in § 1026.41(e)(5)(iv) provide an appropriate transition period for a servicer while also not unnecessarily disadvantaging consumers. However, since issuing the 2016 Mortgage Servicing Final Rule, the Bureau has received questions indicating that the single-billing-cycle exemption may be more complex and operationally challenging than the Bureau realized, and that the provisions setting forth the exemption and transition timing requirements may be subject to different interpretations.

The Bureau believes that addressing these concerns is appropriate. To provide a clearer standard and simplify compliance for servicers without unnecessarily disadvantaging consumers, the Bureau is proposing to revise § 1026.41(e)(5)(iv)(B) to provide a single-statement exemption. As proposed, § 1026.41(e)(5)(iv)(B) provides that, as of the date on which one of the events listed in § 1026.41(e)(5)(iv)(A) occurs, a servicer is exempt from the requirements of § 1026.41 with respect to the next periodic statement or coupon book that would otherwise be required but thereafter must provide modified or unmodified periodic statements or coupon books that comply with the requirements of § 1026.41.

The Bureau also proposes to revise comment 41(e)(5)(iv)(B)–1 to clarify a servicer's obligations under proposed § 1026.41(e)(5)(iv)(B). Proposed comment 41(e)(5)(iv)(B)–1 explains that the exemption applies with respect to a single periodic statement or coupon book following an event listed in § 1026.41(e)(5)(iv)(A) and provides two examples illustrating the timing. Both examples assume that a mortgage loan has a monthly billing cycle, each payment due date is on the first day of the month following its respective billing cycle, and each payment due date has a 15-day courtesy period.

Proposed comment 41(e)(5)(iv)(B)–1.i explains that, if an event listed in § 1026.41(e)(5)(iv)(A) occurs on October 6, before the end of the 15-day courtesy period provided for the October 1 payment due date, and the servicer has not yet provided a periodic statement or coupon book for the billing cycle with a November 1 payment due date, the servicer is exempt from providing a periodic statement or coupon book for that billing cycle. The comment further states that the servicer is required thereafter to resume providing periodic statements or coupon books that comply with the requirements of § 1026.41 by providing a modified or unmodified periodic statement or coupon book for the billing cycle with a December 1 payment due date within a reasonably prompt time after November 1 or the end of the 15-day courtesy period provided for the November 1 payment due date.

Proposed comment 41(e)(5)(iv)(B)–1.ii provides an example for when a servicer already timely provided a periodic statement or coupon book for a billing cycle in which an event listed in § 1026.41(e)(5)(iv)(A) occurs. It provides that, if an event listed in § 1026.41(e)(5)(iv)(A) occurs on October 20, after the end of the 15-day courtesy period provided for the October 1 payment due date, and the servicer timely provided a periodic statement or coupon book for the billing cycle with a November 1 payment due date, the servicer is not required to correct the periodic statement or coupon book already provided and is exempt from providing the next periodic statement or coupon book, which is the one that would otherwise be required for the billing cycle with a December 1 payment due date. The servicer is required thereafter to resume providing periodic statements or coupon books that comply with the requirements of § 1026.41 by providing a modified or unmodified periodic statement or coupon book for the billing cycle with a January 1 payment due date within a reasonably prompt time after December 1 or the end of the 15-day courtesy period provided for the December 1 payment due date.

Because proposed comments 41(e)(5)(iv)(B)–1.i and –1.ii describe when a servicer must provide periodic statements or coupon books following the exemption, § 1026.41(e)(5)(iv)(C) and related commentary would be unnecessary. Thus, the Bureau is proposing to remove § 1026.41(e)(5)(iv)(C) and related commentary.

The Bureau is also proposing to add new comments 41(e)(5)(iv)(B)–2 and –3 to clarify how the proposed exemption would operate in additional specific circumstances. Proposed comment 41(e)(5)(iv)(B)–2 is similar in content to comment 41(e)(5)(iv)(C)–3. Proposed comment 41(e)(5)(iv)(B)–2 states that, if a servicer provides a coupon book instead of a periodic statement under § 1026.41(e)(3), § 1026.41 requires the servicer to provide a new coupon book after one of the events listed in § 1026.41(e)(5)(iv)(A) occurs only to the extent the servicer has not previously provided the consumer with a coupon book that covers the upcoming billing cycle. Proposed comment 41(e)(5)(iv)(B)–3 clarifies that the single-statement exemption in § 1026.41(e)(5)(iv)(B) might apply more than once over the life of a loan. For example, assume the exemption applies beginning on April 14 because the consumer files for bankruptcy on that date and the bankruptcy plan provides that the consumer will surrender the dwelling, such that the mortgage loan becomes subject to the requirements of § 1026.41(f). If the consumer later exits bankruptcy on November 2 and has not discharged personal liability for the mortgage loan pursuant to 11 U.S.C. 727, 1141, 1228, or 1328, such that the mortgage loan ceases to be subject to the requirements of § 1026.41(f), the single-statement exemption would apply again beginning on November 2.

The Bureau believes that the single-statement exemption in proposed § 1026.41(e)(5)(iv)(B) would provide a more straightforward standard than the single-billing-cycle exemption adopted in the 2016 Mortgage Servicing Final Rule. The Bureau also believes that the proposed exemption would still provide servicers enough time to transition their systems but not so long that it unnecessarily disadvantages consumers. Finally, the proposed exemption should provide servicers relief in more circumstances than the exemption adopted under the 2016 Mortgage Servicing Final Rule. Under this proposal, there would always be a single-statement exemption when servicers transition to providing modified or unmodified periodic statements or coupon books following one of the events listed in § 1026.41(e)(5)(iv)(A). Under the 2016 Mortgage Servicing Final Rule, servicers would not necessarily have the benefit of the single-billing-cycle exemption because of its requirement that the payment due date fall no more than 14 days after the applicable triggering event.

The Bureau solicits comment on the proposed changes, including whether they would pose operational challenges in implementation or execution.

[11] Section 1026.41(e)(5)(iv)(C) provides that, when one of the triggering events listed in § 1026.41(e)(5)(iv)(A) occurs, a servicer must provide the next modified or unmodified periodic statement by delivering it or placing it in the mail within a reasonably prompt time after the first payment due date, or the end of any courtesy period for the payment's corresponding billing cycle, that is more than 14 days after the date on which the applicable event listed in § 1026.41(e)(5)(iv)(A) occurs.

VI. Dodd-Frank Act Section 1022(b) Analysis

In developing this proposed rule, the Bureau has considered the potential benefits, costs, and impacts as required by section 1022(b)(2) of the Dodd-Frank Act. Specifically, section 1022(b)(2) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of consumer access to consumer financial products or services, the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act, and the impact on consumers in rural areas. In addition, 12 U.S.C. 5512(b)(2)(B) directs the Bureau to consult, before and during the rulemaking, with appropriate prudential regulators or other Federal agencies, regarding consistency with the objectives those agencies administer. The Bureau consulted, or offered to consult with, the prudential regulators, the Securities and Exchange Commission, the Department of Housing and Urban Development (HUD), the HUD Office of Inspector General, the Federal Housing Finance Agency, the Federal Trade Commission, the Department of the Treasury, the Department of Agriculture, and the Department of Veterans Affairs, including regarding consistency with any prudential, market, or systemic objectives administered by these agencies.

The Bureau previously considered the benefits, costs, and impacts of the 2016 Mortgage Servicing Final Rule's major provisions.[12] The baseline[13] for this discussion is the mortgage servicing market as it would exist ''but for'' this proposed rule; that is, the Bureau considers the benefits, costs, and impacts of this proposed rule on consumers and covered persons relative to the baseline established by the 2016 Mortgage Servicing Final Rule.

In considering the relevant potential benefits, costs, and impacts of this proposed rule, the Bureau has used feedback received to date and has applied its knowledge and expertise concerning consumer financial markets. The discussion below of these potential costs, benefits, and impacts is qualitative, reflecting both the specialized nature of the proposed amendments and the fact that the 2016 Mortgage Servicing Final Rule, which establishes the baseline for the Bureau's analysis, is not yet in effect. The Bureau requests comment on this discussion generally as well as the submission of data or other information that could inform the Bureau's consideration of the potential benefits, costs, and impacts of this proposed rule.

The proposed rule generally would decrease burden incurred by industry participants by clarifying the timing requirements for certain disclosures required under the 2016 Mortgage Servicing Final Rule. As is described in more detail below, the Bureau does not believe that these changes would have a significant enough impact on consumers or covered persons to affect consumer access to consumer financial products and services.

Timing for servicers to transition to providing modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case. A mortgage servicer generally must provide a consumer, for each billing cycle, a periodic statement or coupon book meeting certain requirements. Under the 2016 Mortgage Servicing Final Rule, servicers generally must provide a modified periodic statement or coupon book to certain consumers who are debtors in bankruptcy or who have discharged personal liability for the mortgage loan. The Bureau is proposing to amend § 1026.41(e)(5)(iv) to provide that, when a servicer must transition to sending either modified periodic statements or to sending unmodified periodic statements, the servicer is exempt from the requirements of § 1026.41 with respect to the next periodic statement or coupon book that would otherwise be required but thereafter must provide modified or unmodified periodic statements or coupon books that comply with the requirements of § 1026.41. This single-statement exemption would replace the single-billing-cycle exemption in the 2016 Mortgage Servicing Final Rule.

The Bureau expects that these proposed changes would reduce the cost to servicers of providing periodic statements. The Bureau understands that implementing the single-billing-cycle exemption provided under the 2016 Mortgage Servicing Rule may prove more complex and operationally challenging for servicers than the Bureau realized and believes that a single-statement exemption would be clearer and operationally easier to implement. In addition, the single-billing-cycle exemption would apply only when the payment due date falls no more than 14 days after the event that triggers the transition to or from modified periodic statements, whereas the proposed single-statement exemption would apply to these transitions regardless of when during the billing cycle the triggering event occurs. The Bureau believes that servicers would benefit from the more straightforward proposed standard and from the additional time afforded for some transitions.

The proposal could delay the transition to or from modified periodic statements for some consumers. This could disadvantage some consumers who could receive certain disclosures later than they might otherwise under the single-billing-cycle exemption. However, the delay would generally be at most one billing cycle, and servicers generally are required to provide consumers the information in periodic statements on request. Thus, the Bureau does not expect that the overall effect on consumers will be significant.

Potential specific impacts of the proposed rule. The Bureau believes that a large fraction of depository institutions and credit unions with $10 billion or less in total assets that are engaged in servicing mortgage loans qualify as ''small servicers'' for purposes of the mortgage servicing rules because they service 5,000 or fewer loans, all of which they or an affiliate own or originated. Small servicers are not subject to Regulation Z § 1026.41, and so would not be affected by the amendments in this proposed rule.

With respect to servicers that are not small servicers as defined in § 1026.41(e)(4), the Bureau believes that the consideration of benefits and costs of covered persons presented above provides a largely accurate analysis of the impacts of the final rule on depository institutions and credit unions with $10 billion or less in total assets that are engaged in servicing mortgage loans.

The Bureau has no reason to believe that the additional timing flexibility offered to covered persons by this proposed rule would differentially impact consumers in rural areas. The Bureau requests comment regarding the impact of the proposed provisions on consumers in rural areas and how those impacts may differ from those experienced by consumers generally.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act,[14] as amended by the Small Business Regulatory Enforcement Fairness Act of

[12] 81 FR 72160, 72351 (Oct. 19, 2016).

[13] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits, costs, and impacts and an appropriate baseline.

[14] Public Law 96–354, 94 Stat. 1164 (1980).

1996,[15] (RFA) requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.[16] The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration (SBA) pursuant to the Small Business Act.[17]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and- comment rulemaking requirements, unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities.[18] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small entity representatives prior to proposing a rule for which an IRFA is required.[19]

As discussed above, the proposed rule would amend certain Regulation Z mortgage servicing rules issued in 2016 relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books under Regulation Z in connection with a consumer's bankruptcy case.

When it issued the proposed rule that was finalized as the 2016 Mortgage Servicing Final Rule, the Bureau concluded that those provisions would not have a significant economic impact on a substantial number of small entities and that an IRFA was therefore not required.[20] That conclusion remained unchanged for the 2016 Mortgage Servicing Final Rule.[21]

Similarly, the Bureau concludes that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, and therefore an IRFA is not required. As discussed above, the Bureau believes that the proposed changes would not create a significant economic impact on any covered persons, including small entities. In addition, the proposed amendments would not affect servicers that are ''small servicers'' for purposes of the mortgage servicing rules. Small servicers are exempt from the requirements that the proposed rule would amend, and the Bureau believes that a large fraction of small entities that are engaged in servicing mortgage loans qualify as small servicers because they service 5,000 or fewer loans, all of which they or an affiliate own or originated. Therefore, an IRFA is not required for this proposal.

Accordingly, the undersigned certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. The Bureau requests comment on the analysis above and requests any relevant data.

VIII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[22] Federal agencies are generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. The collections of information related to the 2016 Mortgage Servicing Final Rule have been reviewed and approved by OMB previously in accordance with the PRA and assigned OMB Control Numbers 3170–0016 (Regulation X) and 3170–0015 (Regulation Z). Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB.

The Bureau has determined that this proposed rule would provide firms with additional flexibility and clarity with respect to what must be disclosed under the 2016 Mortgage Servicing Final Rule; therefore, it would have only minimal impact on the industry-wide aggregate PRA burden relative to the baseline. The Bureau welcomes comments on this determination or any other aspects of this proposal for purposes of the PRA. Comments should be submitted to the Bureau as instructed in the **ADDRESSES** part of this document and to the attention of the Paperwork Reduction Act Officer. All comments will become a matter of public record.

[15] Public Law 104–21, section 241, 110 Stat. 847, 864–65 (1996).

[16] 5 U.S.C. 601 through 612. The term '''small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes [an alternative definition under notice and comment].'' 5 U.S.C. 601(4). The term '''small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes [an alternative definition after notice and comment].'' 5 U.S.C. 601(5).

[17] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consulting with the SBA and providing an opportunity for public comment. *Id.*

[18] 5 U.S.C. 601 *et seq.*

[19] 5 U.S.C. 609.

[20] 79 FR 74176, 74279 (Dec. 15, 2014).

[21] 81 FR 72160, 72364 (Oct. 19, 2016).

[22] 44 U.S.C. 3501 *et seq.*

List of Subjects in 12 CFR Part 1026

Advertising, Appraisal, Appraiser, Banking, Banks, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Consumer Financial Protection Bureau proposes to amend 12 CFR part 1026 as follows:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 2. Amend § 1026.41 by:
■ a. Revising paragraph (e)(5)(iv)(B); and
■ b. Removing paragraph (e)(5)(iv)(C).

The revisions read as follows:

§ 1026.41 Periodic statements for residential mortgage loans.

* * * * *

(e) * * *
(5) * * *
(iv) * * *

(B) *Single-statement exemption.* As of the date on which one of the events listed in paragraph (e)(5)(iv)(A) of this section occurs, a servicer is exempt from the requirements of this section with respect to the next periodic statement or coupon book that would otherwise be required but thereafter must provide modified or unmodified periodic statements or coupon books that comply with the requirements of this section.

* * * * *

■ 3. Amend Supplement I to Part 1026 as follows:
■ a. Under *Section 1026.41—Periodic Statements for Residential Mortgage Loans:*
■ i. *41(e)(5)(iv)(B) Transitional single-billing-cycle exemption* is revised; and
■ ii. *41(e)(5)(iv)(C) Timing of first modified or unmodified statement or coupon book after transition,* is removed.

The revisions read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Section 1026.41—Periodic Statements for Residential Mortgage Loans

* * * * *

41(e)(5)(iv)(B) Single-statement exemption.

1. *Timing.* The exemption in § 1026.41(e)(5)(iv)(B) applies with respect to a single periodic statement or coupon book following an event listed in § 1026.41(e)(5)(iv)(A). For example, assume that a mortgage loan has a monthly billing cycle, each payment due date is on the first day of the month following its respective billing cycle, and each payment due date has a 15-day courtesy period. In this scenario:

i. If an event listed in § 1026.41(e)(5)(iv)(A) occurs on October 6, before the end of the 15-day courtesy period provided for the October 1 payment due date, and the servicer has not yet provided a periodic statement or coupon book for the billing cycle with a November 1 payment due date, the servicer is exempt from providing a periodic statement or coupon book for that billing cycle. The servicer is required thereafter to resume providing periodic statements or coupon books that comply with the requirements of § 1026.41 by providing a modified or unmodified periodic statement or coupon book for the billing cycle with a December 1 payment due date within a reasonably prompt time after November 1 or the end of the 15-day courtesy period provided for the November 1 payment due date. *See* § 1026.41(b).

ii. If an event listed in § 1026.41(e)(5)(iv)(A) occurs on October 20, after the end of the 15-day courtesy period provided for the October 1 payment due date, and the servicer timely provided a periodic statement or coupon book for the billing cycle with the November 1 payment due date, the servicer is not required to correct the periodic statement or coupon book already provided and is exempt from providing the next periodic statement or coupon book, which is the one that would otherwise be required for the billing cycle with a December 1 payment due date. The servicer is required thereafter to resume providing periodic statements or coupon books that comply with the requirements of § 1026.41 by providing a modified or unmodified periodic statement or coupon book for the billing cycle with a January 1 payment due date within a reasonably prompt time after December 1 or the end of the 15-day courtesy period provided for the December 1 payment due date. *See* § 1026.41(b).

2. *Duplicate coupon books not required.* If a servicer provides a coupon book instead of a periodic statement under § 1026.41(e)(3), § 1026.41 requires the servicer to provide a new coupon book after one of the events listed in § 1026.41(e)(5)(iv)(A) occurs only to the extent the servicer has not previously provided the consumer with a coupon book that covers the upcoming billing cycle.

3. *Subsequent triggering events.* The single-statement exemption in § 1026.41(e)(5)(iv)(B) might apply more than once over the life of a loan. For example, assume the exemption applies beginning on April 14 because the consumer files for bankruptcy on that date and the bankruptcy plan provides that the consumer will surrender the dwelling, such that the mortgage loan becomes subject to the requirements of § 1026.41(f). *See* § 1026.41(e)(5)(iv)(A)(*1*). If the consumer later exits bankruptcy on November 2 and has not discharged personal liability for the mortgage loan pursuant to 11 U.S.C. 727, 1141, 1228, or 1328, such that the mortgage loan ceases to be subject to the requirements of § 1026.41(f), the single-statement exemption would apply again beginning on November 2. *See* § 1026.41(e)(5)(iv)(A)(*2*).

* * * * *

Dated: October 2, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–21907 Filed 10–17–17; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 2

[Docket No. PTO–T–2017–0032]

RIN 0651–AD23

Removal of Rules Governing Trademark Interferences

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: Consistent with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' and Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' the United States Patent and Trademark Office (USPTO or Office) proposes to amend the Rules of Practice in Trademark Cases to remove the rules governing trademark interferences. This proposed rule implements the USPTO's work to identify and propose regulations for removal, modification, and streamlining because they are outdated, unnecessary, ineffective, costly, or unduly burdensome on the agency or the private sector. The revisions proposed herein would put into effect the work the USPTO has done, in part through its participation in the Regulatory Reform Task Force (Task Force) established by the Department of Commerce (Department or Commerce) pursuant to Executive Order 13777, to review and identify regulations that are candidates for removal.

DATES: Written comments must be received on or before November 17, 2017.

ADDRESSES: Comments on the changes set forth in this proposed rulemaking should be sent by electronic mail message to *TMFRNotices@uspto.gov.* Written comments also may be submitted by mail to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, attention Catherine Cain; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, VA 22314, attention Catherine Cain. Comments concerning ideas to improve, revise, and streamline other USPTO regulations, not discussed in this proposed rulemaking, should be submitted to *RegulatoryReformGroup@uspto.gov.*

Comments may also be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov.* See the Federal eRulemaking Portal Web site for additional instructions on providing comments via the Federal eRulemaking Portal.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet because the Office may easily share such comments with the public. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for public inspection at the Office of the Commissioner for Trademarks, Madison East, Tenth Floor, 600 Dulany Street, Alexandria, VA 22314. Comments also will be available for viewing via the Office's Internet Web site (*http://www.uspto.gov*) and at *http://www.regulations.gov.* Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, by email at *TMFRNotices@uspto.gov,* or by telephone at (571) 272–8946.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' the Department established a Task Force, comprising, among others, agency officials from the National Oceanic and Atmospheric Administration, the Bureau of Industry and Security, and the USPTO, and

charged with evaluating existing regulations and identifying those that should be repealed, replaced, or modified because they are outdated, unnecessary, ineffective, costly, or unduly burdensome to both government and private-sector operations.

To support its regulatory reform efforts on the Task Force, the USPTO assembled a Working Group on Regulatory Reform (Working Group), consisting of subject-matter experts from each of the business units that implement the USPTO's regulations, to consider, review, and recommend ways that the regulations could be improved, revised, and streamlined. In considering the revisions, the USPTO, through its Working Group, incorporated into its analyses all presidential directives relating to regulatory reform, but primarily focused on Executive Order 13771, ''Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs.'' The Working Group reviewed existing regulations, both discretionary and required by statute or judicial order. The USPTO also solicited comments from stakeholders through a Web page established to provide information on the USPTO's regulatory reform efforts and through the Department's **Federal Register** Notice titled ''Impact of Federal Regulations on Domestic Manufacturing'' (82 FR 12786, Mar. 7, 2017), which addressed the impact of regulatory burdens on domestic manufacturing. These efforts led to the development of candidate regulations for removal based on the USPTO's assessment that these regulations were not needed and/or that elimination could improve the USPTO's body of regulations. This rule proposes to remove trademark-related regulations. Other proposals to remove regulations on other subject areas may be published separately.

II. Regulations Proposed for Removal

This proposed rule revises the regulations concerning trademark interferences codified at 37 CFR 2.91–2.93, 2.96, and 2.98. A trademark interference is a proceeding in which the Trademark Trial and Appeal Board (Board) determines which, if any, of the owners of conflicting applications (or of one or more applications and one or more conflicting registrations) is entitled to registration. 15 U.S.C. 1066. A trademark interference can be declared only upon petition to the Director of the USPTO (Director). However, the Director will grant such a petition only if the petitioner can show extraordinary circumstances that would result in a party being unduly prejudiced in the absence of an interference. 37 CFR 2.91(a). The availability of an opposition or cancellation proceeding to determine rights to registration ordinarily precludes the possibility of such undue prejudice to a party. *Id.* Thus, a petitioner must show that there is some extraordinary circumstance that would make the remedy of opposition or cancellation inadequate or prejudicial to the party's rights.

Trademark interferences have generally been limited to situations where a party would otherwise be required to engage in successive or a series of opposition or cancellation proceedings involving substantially the same issues. Trademark Manual of Examining Procedure § 1507. Where searchable, USPTO reviewed its paper and electronic records of petitions and found that since 1983, the USPTO has received an average of approximately 1 such petition a year, and almost all of them have been denied except for three petitions that were granted in 1985 (32 years ago). The USPTO has been unable to identify a situation since that time in which the Director has granted a petition to declare a trademark interference. Given the extremely low rate of filing over this long period of time, and because parties would still retain an avenue for seeking a declaration of interference if the trademark interference regulations are removed, the USPTO considers them unnecessary.

The trademark interference regulations proposed in this rule for removal achieve the objective of making the USPTO regulations more effective and more streamlined, while enabling the USPTO to fulfill its mission goals. The USPTO's analysis shows that while the removal of these regulations is not expected to substantially reduce the burden on the impacted community, they are nonetheless being eliminated because they are ''outdated, unnecessary, or ineffective'' regulations that are encompassed by the directives in Executive Order 13777.

Section 16 of the Trademark Act, 15 U.S.C. 1066, states that the Director may declare an interference ''[u]pon petition showing extraordinary circumstances.'' Although eliminating §§ 2.91–2.93, 2.96, and 2.98 removes the regulations regarding the requirements for declaring a trademark interference, the statutory authority will remain. On the rare occasion that the Office receives a request that the Director declare a trademark interference, it is currently submitted as a petition under 37 CFR 2.146, a more general regulation on petitions. In the unlikely event that a need for an interference arose, it would still be possible for a party to seek institution of a trademark interference by petitioning the Director under 37 CFR 2.146(a)(4), whereby a petitioner may seek relief in any case not specifically defined and provided for by Part 2 of Title 37. Thus, if the trademark interference regulations are removed, parties would still retain an avenue for seeking a declaration of interference.

III. Discussion of Proposed Rules Changes

The USPTO proposes to remove and reserve §§ 2.91–2.93, 2.96, and 2.98.

Rulemaking Considerations

A. Administrative Procedure Act: The changes in this proposed rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortg. Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (Interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers.'' (citation and internal quotation marks omitted)); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (Rule that clarifies interpretation of a statute is interpretive.); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (Rules governing an application process are procedural under the Administrative Procedure Act.); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (Rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims.).

Accordingly, prior notice and opportunity for public comment for the changes in this proposed rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (Notice-and-comment procedures are required neither when an agency ''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule.''); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))). The Office, however, is publishing these proposed changes for comment as it seeks the benefit of the public's views on the Office's proposed implementation of the proposed rule changes.

B. Regulatory Flexibility Act: For the reasons set forth herein, the Senior Counsel for Regulatory and Legislative Affairs, Office of General Law, of the

USPTO has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes proposed in this notice will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This proposed rule would remove the regulations addressing trademark interferences codified at 37 CFR 2.91–2.93, 2.96, and 2.98. In trademark interferences, the Board determines which, if any, of the owners of conflicting applications (or of one or more applications and one or more conflicting registrations) is entitled to registration. 15 U.S.C. 1066. Where searchable, USPTO reviewed its paper and electronic records of petitions and found that since 1983, USPTO has received an average of approximately 1 such petition a year, and almost all of them have been denied except for three petitions that were granted in 1985 (32 years ago). Because these regulations have rarely been invoked in the last 32 years, the USPTO considers these regulations unnecessary and has determined to remove them. Removing the trademark interference regulations proposed in this rule achieves the objective of making the USPTO regulations more effective and more streamlined, while enabling the USPTO to fulfill its mission goals. The removal of these regulations is not expected to substantively impact parties as, in the unlikely event that a need for a trademark interference arose, a party would be able to institute an interference by petitioning the Director under 37 CFR 2.146(a)(4). For these reasons, this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866.

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This proposed rule is expected to be an Executive Order 13771 deregulatory action.

F. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this notice is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The changes set forth in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

N. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

O. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. Paperwork Reduction Act: This rulemaking involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this rule has been reviewed and previously approved by OMB under control number 0651–0054.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of

information displays a currently valid OMB control number.

List of Subjects for 37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office proposes to amend part 2 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 1123 and 35 U.S.C. 2 unless otherwise noted.

■ 2. Remove and reserve § 2.91.

§ 2.91 [Reserved]

■ 3. Remove and reserve § 2.92.

§ 2.92 [Reserved]

■ 4 . Remove and reserve § 2.93.

§ 2.93 [Reserved]

■ 5. Remove and reserve § 2.96.

§ 2.96 [Reserved]

■ 6. Remove and reserve § 2.98.

§ 2.98 [Reserved]

Dated: October 10, 2017.

Joseph D. Matal,

Associate Solicitor, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2017–22394 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0701; FRL–9969–50–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the state implementation plan revision submitted by the District of Columbia. This revision pertains to the infrastructure requirement for interstate transport pollution with respect to the 2010 1-hour sulfur dioxide national ambient air quality standards. In the Final Rules section of this **Federal Register**, EPA is approving the District's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation is included in a technical support document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document or is also available electronically within the Docket for this rulemaking action. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2014–0701 at *https://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov.* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, regarding the District's interstate transport requirements for sulfur dioxide, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication as well as the TSD that accompanies this rulemaking action at *www.regulations.gov.*

Dated: September 29, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–22252 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2015–0034; FRL–9969–58–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a regional haze progress report as a revision to the Minnesota State Implementation Plan. The progress report examines Minnesota's progress in implementing its regional haze plan during the first half of the first implementation period. Minnesota has met the requirements for submitting a periodic report describing its progress toward reasonable progress goals established for regional haze. It also provided a determination of the adequacy of its plan in addressing regional haze with its negative declaration submitted with the progress report.

DATES: Comments must be received on or before November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0034 at *https://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of

submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–22504 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0058; FRL–9969–60–Region 5]

Air Plan Approval; Michigan; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the regional haze progress report under the Clean Air Act as a revision to the Michigan State Implementation Plan (SIP). Michigan has satisfied the progress report requirements of the Regional Haze Rule. Michigan has also met the requirements for a determination of the adequacy of its regional haze plan with its negative declaration submitted with the progress report.

DATES: Comments must be received on or before November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0058 at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6143, *alvarez.gilberto@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 29, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–22508 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0082; FRL–9969–63–Region 5]

Air Plan Approval; Illinois; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the regional haze progress report under the Clean Air Act as a revision to the

Illinois state implementation plan (SIP). Illinois has satisfied the progress report requirements of the Regional Haze Rule. Illinois has also met the requirements for a determination of the adequacy of its regional haze plan with its negative declaration submitted with the progress report.

DATES: Comments must be received on or before November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0082 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the Illinois SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.

EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–22500 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2017–0256; FRL–9969–66–Region 5]

Air Plan Approval; Ohio; Redesignation of the Fulton County Area to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State of Ohio's request to revise the designation of the Fulton County nonattainment area to attainment of the 2008 National Ambient Air Quality Standards (NAAQS) for lead. EPA is also proposing to approve the maintenance plan and related elements of the redesignation. Finally, EPA is proposing to approve reasonably available control measure/reasonably available control technology measures and a comprehensive emissions inventory as meeting the Clean Air Act (CAA) requirements. EPA is taking these actions in accordance with the CAA and EPA's implementation regulations regarding the 2008 lead NAAQS.

DATES: Comments must be received on or before November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0256 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and public comments will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–22494 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0593; FRL–9969–68–Region 5]

Air Plan Approval; Illinois; Redesignation of the Chicago and Granite City Areas to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Illinois Environmental Protection Agency's (Illinois EPA's) request to redesignate the Chicago and Granite City nonattainment areas (hereafter also referred to as the ''areas'') to attainment for the 2008 national ambient air quality standards (NAAQS) for lead, also identified as Pb. EPA is also proposing to approve, as revisions to the Illinois state implementation plan (SIP): The state's plan for maintaining the 2008 lead NAAQS in the areas for a period of ten years following these redesignations; the emissions inventories for the areas; and rules applying emission limits and other control requirements to lead sources in the areas. EPA is proposing these actions in accordance with applicable regulations and guidance that address implementation of the 2008 lead NAAQS.

DATES: Comments must be received on or before November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0593 at *https://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–22511 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 82, No. 200
Wednesday, October 18, 2017

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; 30-Day Federal Register Notice; National Agricultural Statistics Service

Title: Fast Track Generic Clearance for the Collection of Qualitative Feedback on Customer Satisfaction Surveys.

OMB Control Number: 0535—New.

Summary of Collection: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. Improving National Agricultural Statistics Service (NASS) programs requires ongoing assessment of service delivery, by which we mean systematic review of the operation of a program, the quality, usability, and ease of accessing our surveys and public information compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program.

Need and Use of the Information: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between NASS and its customers and stakeholders. It will allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Description of Respondents: Farms; Business or other for-profit; Not-for-profit Institutions and State, Local or Tribal Government.

Number of Respondents: 120,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 8,375.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–22613 Filed 10–17–17; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Loan Refinancing Procedures, and Deadlines for the Refinancing of Federal Financing Bank Loans Pilot Program (Refinancing Program)

AGENCY: Rural Development, Rural Utilities Service (RUS), USDA.

ACTION: Notice of solicitation for letters of intent.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), is soliciting Letters of Intent and opening a window for a pilot program to refinance a loan, or any part thereof, consisting of one or more whole but not partial advance(s), made under a loan by the Federal Financing Bank (FFB) and guaranteed by RUS. RUS is announcing the process for the Refinancing of Federal Financing Bank Loans Pilot Program (Refinancing Program) made to RUS Electric Program borrowers operating as an electric utility (Eligible entity). This notice describes the eligibility requirements, the process and deadlines, and the criteria that will be used by RUS to assess refinancing requests from Eligible entities with outstanding FFB debt. The Refinancing Program will refinance a higher interest rate loan or a portion thereof *i.e.,* one or more advance under a FFB loan at the interest rate available as of the date of the advance of the new FFB loan used to refinance the outstanding FFB loan. A new FFB loan will be advanced to prepay the FFB loan. A maximum amount for refinancing per Eligible entity is also being announced. The new FFB loan will be made for the amount identified solely by FFB and RUS to prepay the outstanding FFB loan together with the required prepayment premium, if applicable. In order to maximize the Refinancing Program and the benefits to electric consumers, the Eligible entity will have the option of paying the prepayment premium or rolling the amount into the new FFB loan. The Refinancing Program is made available under Section 749 of the Public Law 115–31, Consolidated Appropriations, Act 2017 (section 749).

DATES: To be considered for this program, borrowers must submit their documentation no later than the dates set forth herein. Failure to comply with the following deadlines will prevent RUS from considering the borrower for the Refinancing Program.

Step 1: To be considered for the Refinancing Program an Eligible entity must submit a Letter of Intent (LOI), as provided herein, in an electronic Portable Document Format (PDF) by electronic mail (email) to *REFINANCE-EP@RD.usda.gov* no later than 11:59 p.m. (EST) on November 17, 2017. Late or incomplete Letters of Intent will not be considered by RUS for this

Refunding Program. No exceptions will be made.

Step 2: RUS will evaluate all LOI's received by the deadline identified above. If the dollar amount for all eligible requests is less than the total dollar amount authorized by Congress for this pilot program requests will be processed in the order in which they were received. If the amount requested exceeds the total amount authorized by Congress, RUS will prioritize all requests, in the manner stated below.

Step 3: An Eligible entity will be notified of its acceptance by means of an Invitation to proceed. Only, after a borrower is notified of its acceptance for the Refinancing Program, will an estimate of the amount due, including the prepayment premium, if any, be provided. An Eligible entity will have seven (7) business days to notify RUS of its intent to proceed to refinance and whether the prepayment premium, if any, will be paid, in full, or rolled into the new FFB loan. If RUS has not been notified of such intent to proceed, within the time limit, the request will be denied. See below for the additional steps necessary to document and complete the refinancing.

ADDRESSES: Copies of this NOSA and other information on the Refinancing Program may be obtained by:

(1) Contacting Jonathan Claffey at (202) 692–0093, to request a copy of this Notice.

(2) Sending an electronic mail (email) to *jon.claffey@wdc.usda.gov*. The email must be identified as Refinancing Program Notice of Solicitation for Applications in the subject field.

(3) The Letter of intent must be submitted by the Eligible entity in an electronic PDF (PDF) not to exceed 10 Megabytes (10 MB) by electronic mail (email) to *REFINANCE-EP@RD.usda.gov* before the deadline set forth herein. No paper letters of intent will be accepted.

(4) RUS may request additional information from an Eligible entity, if necessary.

FOR FURTHER INFORMATION CONTACT: Jonathan Claffey, Office of the Assistant Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1560 Room 5165–S, Washington, DC 20250; Telephone: (202) 720–9545; Email: *jon.claffey@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS), USDA.

Funding Opportunity Title: Refinancing Pilot Program (Refinancing Program).

Announcement Type: Requests for Letter of intent.

Catalog of Federal Domestic Assistance (CFDA) Number: Not applicable.

Dates: Submit the Letter of intent on or before November 17, 2017.

Administrative Procedure Act Statement

This Notice of Solicitation for Letters of Intent (NOSA) is being issued without advance rulemaking or public comment. The Administrative Procedure Act of 1946, as amended (5 U.S.C. 553) (APA), has several exemptions to rulemaking requirements. Among them is an exception for a matter relating to ''loans, grants, benefits, or contracts.'' Furthermore, the 30 day effective date policy is accepted for ''good cause.''

USDA has determined, consistent with the APA that making these funds available under this NOSA for the Refinancing Program is in the public interest since the Consolidated Appropriations Act 2017, (Pub. L. 115–31) appropriated a budget authority of $600,000,000 on the condition that refinancing involved will benefit the ratepayers of the Eligible entity. As such, the timely submission and processing of all requests and documents is necessary in order to maximize the savings and benefit rural ratepayers. Delays in processing requests would most likely have the effect of decreasing the potential savings resulting from such refinancing of outstanding debt. In order to do this, the Agency decided to move forward with developing procedures for the Refinancing Program within a NOSA instead of rulemaking in order to meet the statutory mandate to implement this new program. The Agency intends to test this new program this year with available funds under this NOSA and will revisit it if permanent authority for the program is granted

Information Collection and Recordkeeping Requirements

There are no new information collection or recordkeeping requirements. All information collection and recordkeeping requirements are contained in previously approved paperwork packages covering various Electric Program regulations.

Definitions

For the purpose of the Refinancing Program, the following terms have the following meanings:

Administrator means the Administrator of the Rural Utilities Service, an agency under the Rural Development mission area of the United States Department of Agriculture.

Advance means amounts advanced by FFB from time to time pursuant to a Future Advance Promissory Note payable to FFB and guaranteed by RUS made under a FFB loan.

Conditional commitment letter means the notification issued by the Administrator to an Eligible entity advising it of the estimated terms, conditions and amount of the new FFB loan.

Eligible entity means a RUS Electric Program borrower operating as an electric utility with an unpaid and outstanding FFB loan.

FFB means the Federal Financing Bank.

FFB loan means all or one or more, whole Advance made under a loan or loans made by FFB and guaranteed by RUS.

Invitation to proceed means the written notification issued by RUS to the Eligible entity that the Letter of Intent was reviewed and accepted and inviting the Eligible entity to advance to the next steps in the process in the Refinancing Program.

Letter of Intent means a signed letter issued by an Eligible entity notifying RUS of its intent to refinance a FFB loan containing the information required by RUS.

Additional Items in Supplementary Information

A. Program Description
B. Federal Award Information
C. Eligibility Information
D. Submission Information
E. Agency Review of Letter of Intent and Process for Proceeding
F. Federal Awarding Agency Contact
G. Other Information

A. Program Description

This is a pilot program authorized under section 749 of the Public Law 115–31, Consolidated Appropriations Act 2017 (section 749). Pursuant to section 749, RUS announces this pilot program which authorizes no more than $600 million in funds from loans made by the Federal Financing Bank (FFB) that are guaranteed under section 306 of the Rural Electrification Act of 1936 (the Act) to be used for refinancing debt pursuant to section 306C of the Act, including any associated prepayment penalties and prepayment or refinance premium.

Eligible entities must demonstrate that the refinancing of the FFB loan will benefit its rate payers. No waiver of any prepayment premium will be granted;

however, an Eligible entity may include the prepayment premium in the new FFB loan amount used for refinancing (the remaining principal balance outstanding plus interest and any prepayment premium). The amount of the new FFB loan will be the estimated amount necessary for such purpose. Any amount not required to pay in full to refinance the unpaid and outstanding FFB loan will be rescinded by RUS and not available for Advance without any further action required by the Eligible entity. As such, time is of the essence in documenting and advancing the new FFB loan.

Refinancing of a FFB loan under the Refinancing Program is not subject to section (c)(4) of section 306C of the Act (7 U.S.C. 936C(c)(4), which prohibits refinancing a FFB loan with a maturity date that exceeds the years remaining on the FFB loan before refinancing. Under the Refinancing Program, an Eligible entity will be allowed to a select a maturity (not to exceed the final maturity date) for the Advance made under the new FFB note and select a new final maturity date not to exceed thirty-five (35) years. This additional flexibility and new final maturity date will further financially benefit the Eligible entity and its ratepayers. RUS will evaluate the requested FFB loan final maturity date to ensure that RUS continues to be adequately secured and that the new FFB loan will be repaid in the time agreed upon. In order to maximize the Refinancing Program, an Eligible entity will have the option of paying the prepayment premium, if any, on the due date or rolling the prepayment premium into the amount of the new FFB loan.

B. Federal Award Information

Type of Award: Loan.

Fiscal Year 2017 Funds: Not more than $600 million.

Authority: The Refinancing Program is a pilot program to be carried out by the Rural Utilities Service pursuant to Section 749 of the Consolidated Appropriations Act 2017, Public Law 115–31, May 5, 2017.

C. Eligibility Information

Eligible entity, as defined above.

D. Submission Information

1. Letter of Intent

Interested parties must send an email to the contact listed in **FOR FURTHER INFORMATION CONTACT** section of this Notice to obtain an electronic sample of the Letter of intent. The sample Letter of intent can also be found online using the following web address: *http://www.rd.usda.gov/Refinancing/*.

2. Content of Letter of Intent

An Eligible entity must submit the required information in its Letter of Intent (LOI). FFB loan refinancing will be processed in a multi-step process as described herein. An Eligible entity must submit all the information identified in the Letter of Intent ''Request for Refinancing of FFB Loan'' available online at the following web address: *http://www.rd.usda.gov/Refinancing/*.

a. *Letter of Intent.* The following information (information is available on borrower's quarterly Statement of Account and Transactions (bill)) must be included in the LOI (as noted above incomplete LOI's will not be considered) so please review for completeness of information:

i. FFB loan identification of each Future Advance Promissory Note payable to FFB (for example, ''R8'') and the Note Designation (ex 00000000423, 00000000000425), including the following:

(A) Identify the FFB Advance identifier (account number ex. H0015, H0045) of each Advance that will be refinanced;

(B) Specify whether one or more Advance will be refinanced (partial advances will not be considered);

(C) Identify the date of each Advance that will be refinanced;

(D) Identify the interest rate of each Advance;

(E) Specify the amount outstanding for each Advance that will be refinanced on latest quarterly bill;

(F) List all Advances in order of their refinancing priority (due to cap identified below) (all FFB loans intended to be refinanced should be prioritized and listed in case additional funds are available for this Refinancing Program); and

(G) A contact name, number and email.

ii. Short narrative demonstrating how the refinancing of the FFB loan will benefit its rate payers including, but not limited, to estimated savings to ratepayers, increased investment in energy efficiency or plant modernization, other factors resulting from savings associated with the refinancing, etc.

iii. Requested final maturity date for the new FFB loan. The requested final maturity date must be for a period not to exceed thirty-five years. An Eligible entity must submit a certification stating that the remaining useful life of its electric system is equal to or exceeds the new requested final maturity date and, that the requested final maturity date does not exceed the term of its wholesale power contract with its members or with its generation and transmission supplier. If the remaining useful life of its electric system or the wholesale power contract term is less than the final maturity date requested, the final maturity date will be modified for a shorter period.

b. After evaluating the request and the information specified below, RUS will send an Invitation to proceed identifying the FFB loan that will be refinanced and describing the next steps in the process. Additionally, RUS together with FFB will provide an estimate of the maximum principal amount of the new FFB loan needed to refinance the selected FFB loan and the estimated amount of the prepayment premium, if any. An Eligible entity will make its regularly scheduled quarterly payment on the FFB loan. The initial estimate will be for the first business day after the end of the quarter. However, an Eligible entity may select another date in the quarter that is not the last day of the quarter to refinance its FFB loan. If a day other than the first day is chosen, all accrued interest, applicable fees and premium are due and payable on or before the refinancing day. RUS and FFB retain the right to move the refinancing date to another business day in the quarter if there are too many to process on any one day.

c. An Eligible entity will have seven business days to confirm, in writing, (including email) its intent to proceed with the refinancing, whether it will pay the prepayment premium, in full, on the refinancing date or roll the amount into the new FFB loan and a final prioritization of only the previously RUS accepted and identified FFB loan, up to the cap amount.

d. Upon receipt of the confirmation of the intent to proceed, an Eligible entity will receive a Conditional commitment letter that must be executed and the terms, conditions, if any, and the amount of the FFB loan accepted by the Eligible entity. The Eligible entity will then receive an FFB note and RUS Reimbursement note to execute. If necessary, authentication by its indenture trustee will be required. A supplemental indenture or other security instrument and related documents may be required to secure the FFB note and RUS Reimbursement note.

e. An Eligible entity must return the executed FFB note and RUS Reimbursement note together with its Advance Request, attached as Annex A to the FFB note, and any other required loan documents in a timely manner, as set forth in Section E. 3. d. The Advance

Request, specifying the chosen options, should be marked ''REFINANCING.''

3. Compliance With Other Federal Statutes

No additional compliance verification is necessary.

4. Funding Restriction

See below.

5. Submission Requirements

The refinancing process consists of several steps.

a. To be considered for the Refinancing Program for this fiscal year, a Borrower must submit its mandatory Letter of intent, that complies with the requirements in section D (2) of this Notice, in a PDF file, not to exceed 10 MB in size, by electronic mail (email) to *REFINANCE-EP@RD.usda.gov* no later than 11:59 p.m. (EST) on November 17, 2017.

b. By submitting the Letter of intent, the Eligible entity indicates to RUS that it intends to participate in the Refinancing Program, as described above and as identified in the LOI. RUS by extending an Invitation to proceed to an Eligible entity in the queue, a LOI does not obligate the Eligible entity to proceed. However, Eligible entities will only have seven business days to notify RUS whether it will proceed, as described above.

c. The borrower must execute and return new FFB note and any other required documents.

E. Agency Review of Letter of Intent and Process for Proceeding

1. Letter of Intent

RUS will consider complete Letters of Intent as they are received. Letters of intent will be reviewed by RUS for completeness.

2. Processing of Requests, Prioritization, and Maximum Refinancing Amount

(a) Processing Requests and Prioritization. RUS will evaluate all LOI's received by the deadline identified above. If the dollar amount for all eligible requests is less than the total dollar amount authorized by Congress for this Refinancing Program, requests will be processed in the order in which they were received. If the amount requested exceeds the total amount authorized by Congress, RUS will prioritize all requests based on the following criteria:

(i) First, by the highest cumulative weighted average interest rate on the FFB loan to be refinanced; and

(ii) Second, by the order in which the request was received.

(b) Maximum amount to any one Eligible entity. An Eligible entity may request any dollar amount and number of FFB loans for refinancing and are encouraged to do so. However, in order to ensure the widest practical use of the appropriated funds and that the greatest number of ratepayers are benefited, each Eligible entity will be limited to $100 million of refinancing. As such, an Eligible entity in its LOI should additionally list, in order, its priority for the requested refinancing. RUS, in its sole discretion, reserves the right to reduce an Eligible entity's maximum amount to $75 million if the total amount requested by all Eligible entities exceeds the authorized amount by 50 percent or more to maximize the use of the funds and benefit more Eligible entities and electric consumers/ratepayers. Due to the nature of potential changes in interest rates, time is of the essence in processing and documenting requests under the Refinancing Program, including returning to RUS the new FFB note, Reimbursement note and all other required documents.

If, after considering all eligible requests Refinancing Program funds remain available or otherwise become available, RUS will consider requests greater than $100 million based on the order in which the LOI was received up to an additional $100 million for each Eligible entity.

If additional funds are authorized for the Refinancing Program or for refinancing of FFB debt pursuant to section 306C of the Act, RUS reserves the right, in its sole discretion, to consider the requests received pursuant to this NOSA or to issue a new notice.

3. Process

a. After evaluating the request and the information specified below, RUS will send an Invitation to proceed identifying the Advance accepted for refinancing and describing the next steps in the process. Additionally, RUS together with FFB will provide an initial estimate of the amount of the new FFB loan needed to refinance the selected Advance and the estimated amount of the prepayment premium, if any. An Eligible entity will make its regularly scheduled quarterly payment in the full amount. The estimate will be for the first business day after the end of the quarter. However, an Eligible entity may select another date in the quarter that is not the last day of the quarter to refinance its Advance. RUS and FFB retain the right to move the refinancing date to another business day in the quarter if RUS and FFB determine that there are too many to process on any one day.

b. An Eligible entity will have seven business days to confirm, in writing, (including email) its intent to proceed with the refinancing, whether it will pay the prepayment premium, in full, on the refinancing date or roll the amount into the new FFB loan, and a final prioritization of an Advance after reviewing the prepayment premium, if any, up to the cap amount. An Eligible entity will not be allowed to add or substitute an Advance based on the estimate. However, an Advance can be deleted from the final refinancing prior to receipt by the Eligible entity of the new FFB note. The final total amount necessary to refinance the FFB loan will be provided by RUS two business days before the scheduled refinancing date.

c. Upon receipt of the confirmation of the intent to proceed, an Eligible entity will receive a Conditional commitment letter that must be executed and accepted. After that, a new FFB note and RUS Reimbursement note will be sent for execution. If necessary, both notes will need to be authenticated by the Eligible Entity's indenture trustee. A supplemental indenture or other security instrument any related documents may be required to secure the FFB note and RUS Reimbursement note. If the prepayment premiums will be financed, the maximum principal amount of the FFB note will be rounded up two percent to be sufficient to prepay the amount in full. RUS reserves the right to change the rounding amount from two percent, if it determines that two percent is insufficient to accomplish the refinancing due to interest rate volatility. If the maximum principal amount of the executed FFB note is insufficient to cover all amounts due, according to the final amount provided two days in advance of the refinancing date, the Eligible entity is required to pay the deficient amount in full on or before the refinancing date.

d. An Eligible entity must return the executed FFB note and RUS Reimbursement note together with its Advance Request and any other required documents in a timely manner. FFB will require five days to purchase the FFB note after RUS has reviewed and processed the FFB note. The Advance Request, specifying the options chosen, by the Eligible entity, should be marked ''REFINANCING.'' An Eligible entity will have the option of submitting no more than two Advance Requests (for ex. one for a short term maturity and one long term maturity or one for a long term maturity date not to exceed the final maturity date). If two are submitted they must be submitted simultaneously,

dated the same date, same Advance request date, and together the amount cannot exceed the maximum principal amount of the FFB note. No funds will be advanced directly to the Eligible entity but will be advanced to prepay the FFB loan, as agreed upon. As such, if all documents have not been returned to RUS by the 15th day of the third month of the quarter, the refinancing date will be moved to the first day of the next quarter.

F. Federal Awarding Agency Contact

Jonathan Claffey, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1510, Room 5136–S, Washington, DC 20250–1510; Telephone: (202) 720–0736; Email: *jon.claffey@wdc.usda.gov*.

G. Other Information

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

a. *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

b. *Facsimile:* (202) 690–7442; or

c. *Email: program.intake@usda.gov.*

d. USDA is an equal opportunity provider, employer, and lender.

Dated: October 12, 2017.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2017–22623 Filed 10–17–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[10/1/2017 through 10/9/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Copper John Corporation	173 State Street, Auburn, NY 13021.	10/3/2017	The firm manufactures bow sights and release aids for the archery market.
Superior Fabrication Company, LLC.	17499 South Dolan Street, Kincheloe, MI 49788.	10/4/2017	The firm manufactures heavy duty steel components and assemblies, such as masts for forklift trucks and components for medical imaging equipment.
Diamond Brand Gear Company	145 Cane Creek Industrial Park Road, Suite 100, Fletcher, NC 28732.	10/5/2017	The firm manufactures cut and sewn camping and military gear.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

These petitions are received pursuant to section 251 of the Trade Act 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2017–22507 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–161–2017]

Foreign-Trade Zone 280—Ada and Canyon Counties, Idaho; Application for Subzone Expansion; Orgill, Inc.; Post Falls, Idaho

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Southwest Idaho Manufacturers' Alliance, grantee of FTZ 280, requesting expanded subzone status for the facility of Orgill, Inc. (Orgill), located in Coeur d'Alene, Idaho. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on October 13, 2017.

Subzone 280B currently consists of: *Site 1* (31.13 acres)—1881 West Seltice, Way, Post Falls, Idaho. The applicant is now requesting authority to expand the subzone to include: proposed *Site 2* (1.22 acres)—500 West Dalton Avenue, Coeur d'Alene. No authorization for production activity has been requested at this time. The expanded subzone would be subject to the existing activation limit of FTZ 280.

In accordance with the Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 27, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 12, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: October 13, 2017.

Camille R. Evans,

Acting Executive Secretary.

[FR Doc. 2017–22603 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–63–2017]

Foreign-Trade Zone (FTZ) 123—Denver, Colorado; Notification of Proposed Production Activity; Lockheed Martin Corporation Space Systems Company; (Satellites and Other Space Craft); Littleton, Colorado

Lockheed Martin Corporation Space Systems Company (Lockheed Martin), submitted a notification of proposed production activity to the FTZ Board for its facility in Littleton, Colorado. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 4, 2017.

A separate application for subzone designation for the Lockheed Martin facility under FTZ 123 is being processed (see docket S–151–2017).

The facility will be used to produce satellites and other spacecraft for space-based use. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Lockheed Martin from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Lockheed Martin would be able to choose the duty rates during customs entry procedures that apply to: Satellites and other craft for space-based use and subsystems for satellites and other space craft (duty free). Lockheed Martin would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: 80% hydrogen/20% argon gas; dinitrogen tetroxide (oxidizer); high purity hydrazine; plastic composite test panels; carbon composite panels; mechanically joined cylindrical sandwich panels, composite ogive sandwich panels; optical solar reflectors; protective cover glasses for gallium-arsenide solar cells; liquid apogee rocket engines; dual mode liquid apogee rocket engines; communication receivers; base station transceivers; Ku-band receivers; controllers for low noise amplifier block converter; Ka-band phased loop lock dual band low noise amplifier and block converter; transceivers; optical filters-fiber bragg grating; microwave power module band stop filters, Ku-band; signal converters; multiplexers (mux's) includes diplexers; signal filters; input filter assemblies; redundant low noise amplifiers; downconverters; beacon transmitters; Ka-band beacons; Ka-band input filter assemblies; communication receivers; command receivers; antennas; antenna reflectors; antenna assemblies; antenna mast electro-mechanical assemblies; power supply boards; radio frequency switches; post down converter filter assemblies; output switch matrix; Ka-band combiners; dual couplers; electrical switches; electrical connectors; connector savers; electrical switching modules; microchip programmers; wave guides (coaxial); circuit breaker assemblies; bulkhead receptacles; electrical switches (coaxial); radio frequency switch assembly/gen iv test racks; traveling wave tubes (TWT); gallium-arsenide solar cells; optical solar reflectors; quadrant detectors; surface acoustic wave filters; field programmable gate arrays; hybrid integrated circuits; mass simulators; master local oscillators; traveling wave tube amplifiers; transmit receive integrated assembly amplifiers; linearized traveling wave tube amplifiers; coaxial combiners; payload separation rings; reaction wheels; star tracker optical heads; star tracker electronics units; earth sensors; baffles for star tracker; thermocouples; radio frequency recording and playback systems; power injector assemblies, and pressure switches (duty rates range from duty-free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 27, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at

Chris.Wedderburn@trade.gov or (202) 482–1963.

Dated: October 13, 2017.

Camille R. Evans,

Acting Executive Secretary.

[FR Doc. 2017–22602 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems; Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 1 and 2, 2017, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, November 1

Open Session:

1. Welcome and Introductions
2. Working Group Reports
3. Old Business
4. Industry Presentations: Quantum Computing
5. New business

Thursday, November 2

Closed Session:

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at

Yvette.Springer@bis.doc.gov, no later than October 25, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 27, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (l0)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and l0(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202)482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–22575 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews

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

DATES: Applicable October 18, 2017.

SUMMARY: Based on requests, the Department of Commerce (the Department) is initiating new shipper reviews (NSR) of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) with respect to Anhui Luan Hongyuan Foodstuffs Co., Ltd. (Anhui Luan) and Kunshan Xinrui Trading Co., Ltd. (Kunshan Xinrui). We have determined that these requests meet the statutory and regulatory requirements for initiation.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; Telephone: (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty *Order* on freshwater crawfish tail meat from the PRC published in the **Federal Register** on September 15, 1997.[1] Pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), the Department received timely and properly filed requests for a NSR of the *Order* from Anhui Luan and Kunshan Xinrui during the anniversary month of the antidumping duty *Order.*[2] In its request, Anhui Luan certified that it is both the producer and exporter of the subject merchandise upon which the request was based.[3] In its request, Kunshan Xinrui certified that it is the exporter and Leping Yongle Food Co., Ltd. (Leping Yongle), is the producer of the subject merchandise upon which the request was based.[4]

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Anhui Luan certified that it did not export subject merchandise to the United States during the period of investigation (POI).[5] Similarly, pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(ii)(A) and 19 CFR 351.214(b)(2)(ii)(B), Kunshan Xinrui and Leping Yongle each certified, respectively, that they did not export subject merchandise to the United States during the POI.[6] In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Anhui Luan, Kunshan Xinrui, and Leping Yongle each certified, respectively, that, since the initiation of the investigation, they have never been affiliated with any exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the POI.[7] As required by 19 CFR 351.214(b)(2)(iii)(B), Anhui Luan and Kunshan Xinrui also certified, respectively, that their export activities were not controlled by the government of the PRC.[8]

In addition to the certifications described above, pursuant to 19 CFR

[1] *See Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China,* 62 FR 48218 (September 15, 1997) (*Order*).

[2] *See* Letter from Anhui Luan, ''Freshwater Crawfish Tail Meat from the People's Republic of China Request for New-Shipper Review,'' dated September 15, 2017 (Anhui Luan's NSR Request), and Letter from Kunshan Xinrui, ''Freshwater Crawfish Tail Meat from People's Republic of China: Request for New Shipper Review,'' dated September 19, 2017 (Kunshan Xinrui's NSR Request).

[3] *See* Anhui Luan's NSR Request at Attachment 1.

[4] *See* Kunshan Xinrui's NSR Request at Exhibit 1.

[5] *See* Anhui Luan's NSR Request at Attachment 1.

[6] *See* Kunshan Xinrui's NSR Request at Exhibit 1.

[7] *See* Anhui Luan's NSR Request at Attachment 1; Kunshan Xinrui's NSR Request at Exhibit 1.

[8] *Id.*

351.214(b)(2)(iv), Anhui Luan and Kunshan Xinrui each submitted respective documentation establishing the following: (1) The date on which it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment and subsequent shipments; and (3) the date of its first sale to an unaffiliated customer in the United States.[9]

Period of Review

In accordance with 19 CFR 351.214(g)(1)(i)(A), the period of review (POR) for a NSR initiated in the month immediately following the anniversary month will be the twelve-month period immediately preceding the anniversary month. Therefore, the POR for these NSRs is September 1, 2016, through August 31, 2017.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b), we find that the requests from Anhui Luan and Kunshan Xinrui meet the threshold requirements for initiation of (1) a NSR for shipments of freshwater crawfish tail meat from the PRC produced and exported during the POR by Anhui Luan,[10] and (2) a NSR for shipments of freshwater crawfish tail meat from the PRC produced by Leping Yongle and exported during the POR by Kunshan Xinrui.[11]

The Trade Facilitation and Trade Enforcement Act of 2015 [12] amended section 751(a)(2)(B) of the Act, including provisions which apply to these NSRs. Specifically, the TFTEA amended the Act so that, as of February 24, 2016, the Department no longer instructs U.S. Customs and Border Protection (CBP) to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of a NSR.

Unless extended, the Department intends to issue the preliminary results of these NSRs no later than 180 days from the date of initiation and final results of the reviews no later than 90 days after the date the preliminary results are issued.[13]

It is the Department's usual practice, in cases involving non-market economy countries, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue questionnaires to Anhui Luan and Kunshan Xinrui which will include a section requesting information concerning each company's eligibility for a separate rate. We will rescind the NSR of Anhui Luan or Kunshan Xinrui if we determine that either company has not demonstrated that it is eligible for a separate rate.

Because Anhui Luan certified that it produced and exported subject merchandise, the sale of which is the basis for its request for a NSR, we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise produced and exported by Anhui Luan. Similarly, because Kunshan Xinrui certified that Leping Yongle produced subject merchandise that Kunshan Xinrui exported, the sale of which is the basis for its request for a NSR, we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise produced by Leping Yongle and exported by Kunshan Xinrui.

To assist in its analysis of the *bona fide* nature of Anhui Luan's and Kunshan Xinrui's respective sales, upon initiation of these NSRs, the Department will require Anhui Luan and Kunshan Xinrui, respectively, to submit on an ongoing basis complete transaction information concerning any sales of subject merchandise to the United States that were made subsequent to the POR.

Interested parties requiring access to proprietary information in the NSRs should submit applications for disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: October 12, 2017.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–22600 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See* Anhui Luan's NSR Request at Attachment 2; Kunshan Xinrui's NSR Request at Exhibit 2.

[10] *See* the Memorandum, ''Freshwater Crawfish Tail Meat from the People's Republic of China: Initiation Checklist for Antidumping Duty New Shipper Review of Anhui Luan Hongyuan Foodstuffs Co., Ltd.,'' dated concurrently with this notice.

[11] *See* the Memorandum, ''Freshwater Crawfish Tail Meat from the People's Republic of China: Initiation Checklist for Antidumping Duty New Shipper Review of Kunshan Xinrui Trading Co., Ltd.,'' dated concurrently with this notice.

[12] The Trade Facilitation and Trade Enforcement Act of 2015, H.R. 644, Public Law 114–125 (February 24, 2016) (TFTEA).

[13] *See* section 751(a)(2)(B)(iii) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of Changed Circumstances Review and Intent To Reinstate Certain Companies in the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (the Department) is conducting a changed circumstances review of the antidumping duty order on stainless steel bar (SS Bar) from India to determine whether Venus Wire Industries Pvt. Ltd. and its affiliates Precision Metals, Sieves Manufacturers (India) Pvt. Ltd., and Hindustan Inox Ltd. (collectively, Venus Group), or Viraj Profiles Ltd. (Viraj) have resumed dumping SS Bar and whether the antidumping order should be reinstated for SS Bar from India produced and/or exported by the Venus Group and produced and/or exported by Viraj. The period of review is July 1, 2015, through June 31, 2016.

We preliminarily determine that the Venus Group and Viraj (collectively, the respondents) have sold SS Bar at less than normal value (NV) and that SS Bar produced and/or exported by the respondents should be reinstated in the antidumping order on SS Bar from India. We will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of SS Bar produced and/or exported by the respondents and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Interested parties are invited to comment on these preliminary results.

DATES: Applicable October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order is SS bar. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00. The HTSUS subheadings are provided for convenience and

customs purposes only; the written description of the scope of the order is dispositive.[1]

Basis for Reinstatement

In requesting revocation, pursuant to 19 CFR 351.222(b)(2)(i)(B), the respondents agreed to immediate reinstatement of the order, so long as any exporter or producer is subject to the order, if the Secretary concludes that subsequent to the revocation, certain respondents sold SS Bar at less than NV.[2] Under 19 CFR 351.222(b)(2)(i)(B) as long as any exporter or producer is subject to an antidumping duty order which remains in force, an entity previously granted a revocation may be reinstated under that order if it is established that the entity has resumed the dumping of subject merchandise.

In this case, because other exporters in India remain subject to the SS Bar order, the order remains in effect, and the respondents may be reinstated in the order. The Department conditionally revoked the order with respect to respondents based in part upon their agreement to immediate reinstatement in the antidumping duty order if the Department were to find that the companies resumed dumping of SS Bar from India.[3]

As discussed in the Preliminary Decision Memorandum, we have examined the respondents' responses and have preliminarily found that the respondents' dumping margin for the review period is greater than *de minimis,* on the basis of adverse facts available. Accordingly, we preliminarily intend to reinstate the respondents in the antidumping duty order on SS Bar from India.

Methodology

The Department is conducting this changed circumstances review in accordance with section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the period June 1, 2015, through May 31, 2016:

Producer/exporter	Weighted-average dumping margin (percent)
Venus Wire Industries Pvt. Ltd. and its affiliates Precision Metals, Sieves Manufacturers (India) Pvt. Ltd., and Hindustan Inox Ltd	30.92
Viraj Profiles Ltd[4]	30.92

Disclosure and Public Comment

Normally, the Department discloses to interested parties the calculations performed in connection with the preliminary results of changed circumstances review within five days after public announcement of the preliminary results of changed circumstances review in accordance with 19 CFR 351.224(b). Because the Department preliminarily applied AFA to each of the respondents in this changed circumstances review, in accordance with section 776 of the Act, there are no calculations to disclose.

As explained in the Preliminary Decision Memorandum, we intend to send a final supplemental questionnaire to the Venus Group after these preliminary results of review. We will disclose the schedule for submitting briefs and requesting a hearing to all interested parties at a later date.

Reinstatement and Suspension of Liquidation

Because we have preliminarily established that SS Bar from India produced and/or exported by the respondents is being sold at less than NV, the respondents are hereby preliminarily reinstated in the antidumping duty order. We will instruct CBP to suspend liquidation of all entries of subject merchandise produced and/or exported by the respondents, entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Furthermore, a cash deposit requirement of 30.92 percent will be in effect for all shipments of the subject merchandise produced and/or exported by either the Venus Group or Viraj, entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice. This requirement shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.We are issuing and publishing these preliminary results of review in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b) of the Department's regulations.

Dated: October 12, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Collapsing
V. Use of Facts Otherwise Available and Adverse Inferences
a. The Venus Group
b. Viraj

[1] For a complete description of the scope of the order, *see* Memorandum titled, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Changed Circumstances Review of Stainless Steel Bar from India,'' (Preliminary Decision Memorandum), dated concurrently with and hereby adopted by this notice.

[2] *See Stainless Steel Bar from India; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part,* 69 FR 55409, 55411 (September 14, 2004) (*Viraj Revocation*) and *Stainless Steel Bar from India: Final Results of the Antidumping Duty Administrative Review, and Revocation of the Order, in Part,* 76 FR 56401, 56403 (September 13, 2011) (*Venus Revocation*).

[3] *Id.*

[4] Viraj Alloys, Ltd., Viraj Forgings, Ltd., and Viraj Impoexpo, Ltd., are collectively now known as Viraj Profiles Limited. In July 2006, Viraj Forgings Ltd. merged with Viraj Alloys Ltd.; in April 2007, Viraj Alloys and Viraj Impoexpo Ltd. merged into Viraj Profiles Ltd.

VI. Conclusion

[FR Doc. 2017–22601 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–053]

Certain Aluminum Foil From the People's Republic of China: Deferral of Preliminary Determination of the Less-Than-Fair-Value Investigation—Correction Notice

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

DATES: Applicable October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Erin Kearney at (202) 482–0167, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 2017, the Department of Commerce (the Department) published a notice of the deferral of the preliminary determination in the less-than-fair-value investigation of aluminum foil from the People's Republic of China (PRC).[1] In the *Deferral Notice,* the Department inadvertently published an incorrect date of the deferred preliminary determination.[2]

Correction

The Department expects to issue the preliminary determination no later than November 30, 2017.

Dated: October 12, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–22599 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Aluminum Foil from the People's Republic of China: Deferral of Preliminary Determination of the Less-Than-Fair-Value Investigation,* 82 FR 47481 (October 12, 2017) (*Deferral Notice*).

[2] *Id.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE201

Notice of Availability of the Deepwater Horizon Oil Spill Texas Trustee Implementation Group Final 2017 Restoration Plan and Finding of No Significant Impact

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

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP), entered in: Oil Spill by the Oil Rig ''Deepwater Horizon'' in the Gulf of Mexico, on April 20, 2010, MDL No. 2179 in the United States District Court for the Eastern District of Louisiana, the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Texas Trustee Implementation Group (Texas TIG) have prepared the Final 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters (Final RP/EA). The Final RP/EA describes and, in conjunction with the associated Finding of No Significant Impact (FONSI), selects 13 preferred alternatives considered by the Texas TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Texas TIG evaluated alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The selected projects are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The Federal Trustees of the Texas TIG have determined that implementation of the Final RP/EA is not a major Federal Action significantly affecting the quality of the human environment within the context of NEPA. They have concluded a FONSI is appropriate, and, therefore, an Environmental Impact Statement will not be prepared. The purpose of this notice is to inform the public of the approval and availability of the Final RP/EA and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Final RP/EA and FONSI at *http://www.gulfspillrestoration.noaa.gov.* Alternatively, you may request a CD of the Final RP/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**). In addition, you may view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

FOR FURTHER INFORMATION CONTACT:

- National Oceanic and Atmospheric Administration—Jamie Schubert, *Jamie.Schubert@noaa.gov, 409–621–1248;*
- Texas Parks and Wildlife Department—Don Pitts, *Don.Pitts@tpwd.texas.gov, 512–389–8754.*

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire, and subsequently sank 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 maritime oil spill in United States history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas also was released to the environment as a result of the spill.

The *Deepwater Horizon* Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 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.

The DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damages claims with BP in a Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Texas Restoration Area are now chosen and managed by the Texas TIG. The Texas TIG is comprised of the following DWH Trustees:

- Texas Parks and Wildlife Department;
- Texas General Land Office;
- Texas Commission on Environmental Quality;
- U.S. Department of the Interior, as represented by National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture; and
- U.S. Environmental Protection Agency.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Types considered in the Final RP/EA, as well as the OPA criteria against which project ideas were evaluated, can be viewed in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

Background

On July 6, 2016, the Texas TIG posted a public notice at *http://www.gulfspillrestoration.noaa.gov* requesting new or revised proposals by August 31, 2016, regarding natural resource restoration in the Texas Restoration Area for the 2016–2017 planning years. The notice stated that the Texas TIG is prioritizing restoration planning efforts on Restoration Types that were not addressed previously by Early Restoration: (1) Restore and conserve wetland, coastal, and nearshore habitats; (2) restore water quality through nutrient reduction (nonpoint source); and (3) replenish and protect oysters.

A Notice of Availability of the *Deepwater Horizon* Oil Spill Texas Trustee Implementation Group Draft 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters (Draft RP/EA) was published in the **Federal Register** on May 18, with a correction published on June 1, 2017. The Draft RP/EA proposed 13 restoration project alternatives consistent with the Restoration Types selected in the PDARP/PEIS. The Texas TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The Texas TIG provided the public with 33 days to review and provide comment on the Draft RP/EA. During the public review period, which ended on June 19, 2017, the Texas TIG held two public meetings in Corpus Christi (June 7, 2017) and La Marque (June 8, 2017). The Texas TIG considered the public comments received, which informed the Texas TIG's analyses and selection of the restoration projects in the Final RP/EA. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 7 of the Final RP/EA.

Overview of the Final RP/EA

The Final RP/EA is being released in accordance with OPA, the OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

In the Final RP/EA, the Texas TIG selects as its preferred alternatives for the following Restoration Types: (1) Wetland, coastal, and nearshore habitats; and (2) oysters. For the water quality (nonpoint source) Restoration Type, the Texas TIG has determined additional restoration planning is necessary, and does not propose or select any restoration projects in this RP/EA.

For wetland, coastal, and nearshore habitats, the Final RP/EA selects the following preferred project alternatives:

- Bird Island Cove Habitat Restoration Engineering,
- Essex Bayou Habitat Restoration Engineering,
- Dredged Material Planning for Wetland Restoration,
- McFaddin Beach and Dune Restoration,
- Bessie Heights Wetland Restoration,
- Pierce Marsh Wetland Restoration,
- Indian Point Shoreline Erosion Protection,
- Bahia Grande Hydrologic Restoration,
- Follets Island Habitat Acquisition,
- Mid-Coast Habitat Acquisition,
- Bahia Grande Coastal Corridor Habitat Acquisition, and
- Laguna Atascosa Habitat Acquisition.

For oysters, the Final RP/EA selects Oyster Restoration Engineering as the preferred project alternative.

The Texas TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In the Final RP/EA, the Texas TIG presents to the public its plan for providing partial compensation to the public for injured natural resources and ecological services in the Texas Restoration Area. The selected projects are intended to continue the process of restoring natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost of the selected projects is $45,761,000. Additional restoration planning for the Texas Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Final RP/EA and FONSI can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority: The authority for this action is OPA (33 U.S.C. 2701 *et seq.*) and the OPA NRDA regulations at 15 CFR part 990.

Dated: October 13, 2017.

Christopher Meaney,

Acting Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2017–22607 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF711

Caribbean Fishery Management Council; Public Meetings; Cancellation

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

ACTION: Notice of meeting cancellation.

SUMMARY: The Caribbean Fishery Management Council's Scientific and Statistical Committee is cancelling the 5-day meeting that was to be held from October 30, 2017 to November 3, 2017 due to the devastation of the island from the hurricanes.

FOR FURTHER INFORMATION CONTACT: Mr. Miguel A. Rolón, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The meeting was published in the **Federal Register** on October 11, 2017 (82 FR 47190). The meeting will be rescheduled at a later date and announced in the **Federal Register**.

Dated: October 12, 2017.

Jeffrey N. Lonergan,

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

[FR Doc. 2017–22467 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF769

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish (MSB) Committee will hold a public meeting to review and develop comments regarding options being considered to modify the Atlantic Herring Fishery Management Plan, which could impact the MSB fisheries.

DATES: The meeting will be held Monday, November 6, 2017, from 9 a.m. to noon.

ADDRESSES: The meeting will be held via webinar: *http://mafmc.adobeconnect.com/msb-com-nov-2017/.* Call-in information is provided upon logging onto the webinar.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* will also have details on the proposed agenda and any briefing materials.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council is considering changes to Atlantic Herring management measures that could impact MSB fishing. The MSB Committee will receive an update on the options under consideration, and if appropriate develop comments for the New England Fishery Management Council to consider.

Although other non-emergency issues not on the agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: October 13, 2017.

Jeffrey N. Lonergan,

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

[FR Doc. 2017–22642 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Vessel and Gear Identification Requirements

AGENCY: National Marine Fisheries Service (NMFS), 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 by December 18, 2017.

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 *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Adam Bailey, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701, telephone: 727–824–5305, or email: *adam.bailey@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries in the exclusive economic zone of the Caribbean, Gulf of Mexico, and South Atlantic regions under various fishery management plans (FMPs). The regional fishery management councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The regulations implementing the FMPs are located at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. The NMFS Southeast Region requires that all permitted fishing vessels must mark their vessel with the official identification number or some form of identification. A vessel's official number, under most regulations, is required to be displayed

on the port and starboard sides of the deckhouse or hull, and weather deck. In addition, certain fisheries are required to display their assigned color code. The official number and color code identify each vessel and should be visible at distance from the sea and in the air. These markings provide law enforcement personnel with a means to monitor fishing, at-sea processing, and other related activities, to ascertain whether the vessel's observed activities are in accordance with those authorized for that vessel. The identifying official number is used by NMFS, the United States Coast Guard, and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Vessels that are authorized for particular fisheries are readily identified, gear violations are more readily prosecuted, and this allows for more cost-effective enforcement.

In addition to vessel marking, requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Act. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The requirements imposed in the Southeast Region are for coral aquacultured live rock; golden crab traps; mackerel gillnet floats; spiny lobster traps; black sea bass pots; and buoy gear.

II. Method of Collection

Markings, such as numbers, are placed directly on the vessels and gear.

III. Data

OMB Control Number: 0648–0358.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,825.

Estimated Time per Response: Vessel marking: 45 minutes. Gear marking: aquacultured live rocks, 10 seconds each; golden crab traps, 2 minutes each; spiny lobster traps, 7 minutes each; sea bass pots, 16 minutes each; and mackerel gillnets, and buoy gear, 20 minutes each.

Estimated Total Annual Burden Hours: 50,687.

Estimated Total Annual Cost to Public: $670,901 in recordkeeping and 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: October 12, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–22547 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF746

Marine Mammals; File No. 21315

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Alaska Department of Fish and Game (Lori Quakenbush, Responsible Party) P.O. Box 25526, Juneau, AK 99802, has applied in due form for a permit to collect, receive, import, and export marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before November 17, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21315 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 21315 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Lisa Lierheimer or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The objectives of the proposed research are to obtain information on population status and distribution, stock structure, age distribution, mortality rates, productivity, feeding habits, and health that would be used for conservation and management purposes. The applicant proposes to collect, receive, import, and export biological samples from up to 500 cetaceans and 1,000 pinnipeds (excluding walrus) annually from legal, foreign and domestic subsistence-hunts; scientists in academic, Federal, and state institutions involved in legally authorized marine mammal research; dead beach-cast species; and incidental commercial fisheries bycatch. Import/export activities would occur worldwide. No live animal takes are being requested under this permit. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to

prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 13, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–22565 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Representative and Address Provisions

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), invites comment on a proposed extension of an existing information collection: 0651–0035 (Representative and Address Provisions).

DATES: Written comments must be submitted on or before December 18, 2017.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0035 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *Raul.Tamayo@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection includes the information necessary to submit a request to grant or revoke power of attorney for an application, patent, or reexamination proceeding, and for a registered practitioner to withdraw as attorney or agent of record. This collection also includes the information necessary to change the correspondence address for an application, patent, or reexamination proceeding, to request a Customer Number and manage the correspondence address and list of practitioners associated with a Customer Number, and to designate or change the correspondence address or fee address for one or more patents or applications by using a Customer Number.

Under 35 U.S.C. 2 and 37 CFR 1.31–1.32, power of attorney may be granted to one or more joint inventors or a person who is registered to practice before the USPTO to act in an application or a patent. In particular, for an application filed before September 16, 2012, or for a patent which issued from an application filed before September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.41(b) (pre-AIA)) or the assignee of the entire interest of the applicant. For an application filed on or after September 16, 2012, or for a patent which issued from an application filed on or after September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.42) or the patent owner.

The rules of practice (37 CFR 1.33) also provide for a correspondence address and daytime telephone number to be supplied for receiving notices, official letters, and other communications from the USPTO. For an application filed before September 16, 2012, the address and number may be supplied by a practitioner of record, all of the applicants, or an assignee. In addition, a practitioner not of record may supply the address and number for an application filed before September 16, 2012, if the practitioner is named in the transmittal papers accompanying the original application and if an oath or declaration by any of the inventors has yet to be filed. For an application filed on or after September 16, 2012, the address and number may be supplied by a practitioner of record or the applicant. A practitioner not of record who acts in a representative capacity may supply the address and number for an application filed on or after September 16, 2012, if the practitioner is named in the application transmittal papers and if any power of attorney has yet to be appointed.

37 CFR 1.36 provides for the revocation of a power of attorney at any stage in the proceedings of a case. 37 CFR 1.36 also provides a path by which a registered patent attorney or patent agent who has been given a power of attorney may withdraw as attorney or agent of record.

The USPTO's Customer Number practice permits applicants, patent owners, assignees, and practitioners of record, or the representatives of record for a number of applications or patents, to change the correspondence address of a patent application or patent with one change request instead of filing separate requests for each patent or application. Customers may request a Customer Number from the USPTO and associate this Customer Number with a correspondence list or a list of registered practitioners. Any changes to the address or practitioner information associated with a Customer Number will be applied to all patents and applications associated with said Customer Number.

The Customer Number practice is optional, in that changes of correspondence address or power of attorney may be filed separately for each patent or application without using a Customer Number. However, a Customer Number associated with the correspondence address for a patent application is required in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO Web site. The PAIR system gives authorized individuals secure online access to application status information, but only for patent applications that are linked to a Customer Number. Customer Numbers may be associated with U.S. patent applications as well as international Patent Cooperation Treaty (PCT) applications. The use of a Customer Number also is required in order to grant power of attorney to more than ten practitioners or to establish a separate ''fee address'' for maintenance fee purposes that is different from the correspondence address for a patent or application.

Customers may use a Customer Number Upload Spreadsheet to designate or change the correspondence address or fee address for a list of patents or applications by associating them with a Customer Number. The Customer Number Upload Spreadsheet may not be used to change the power of attorney for patents or applications. Customers may download a Microsoft Excel template with instructions from the USPTO Web site to assist them in preparing the spreadsheet in the proper format.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0035.

Form Numbers: PTO/AIA/80, PTO/AIA/81, PTO/AIA/81B, PTO/AIA/82A, PTO/AIA/82B, PTO/AIA/122, PTO/AIA/123, PTO/SB/80, PTO/SB/81, PTO/SB/81A, PTO/SB/81B, PTO/SB/81C, PTO/SB/83, PTO/SB/84, PTO/SB/124, PTO/SB/124, and PTO–2248.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profits; and not-for-profits institutions.

Estimated Number of Annual Respondents: 501,905 responses per year. Estimates for numbers of responses are based on previous respondent numbers and the anticipated participation trends over the next three years.

Estimated Time per Response: The USPTO estimates that the response time for activities related to Representative Address Provisions will take the public between 0.05 hours (3 minutes) to 1.5 hours (90 minutes) to complete (See Table 1). This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to do this, regardless of whether the public is submitting the information in paper form or electronically.

Estimated Total Annual Respondent Burden Hours: 28,479.25 hours.

Estimated Total Annual Respondent Cost Burden: $4,369,751.25. The USPTO expects that *Requests for Withdrawal as Attorney or Agent* and the two petitions in this collection will be prepared by attorneys, while the other items in this collection will be prepared by paraprofessionals. The professional hourly rate for attorneys is $438 and the professional hourly rate for paraprofessionals is $145. These rates are established by estimates in the 2017 Report on the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $4,369,751.25 per year.

IC No.	Items	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden (c) = (a) × (b)	Rate ($) (d)	Estimated hourly cost (e) = (c) × (d)
1	Power of Attorney to Prosecute Applications Before the USPTO.	0.05 (3 minutes)	4,000	200.00	145.00	$29,000.00
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence.	0.05 (3 minutes)	350,000	17,500.00	145.00	2,537,500.00
3	Patent—Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address.	0.05 (3 minutes)	300	15.00	145.00	2,175.00
4	Reexamination—Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address.	0.05 (3 minutes)	100	5.00	145.00	725.00
5	Reexamination—Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address.	0.05 (3 minutes)	70	3.50	145.00	507.50
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.	0.20 (12 minutes)	4,000	800.00	438.00	350,400.00
7	Authorization to Act in a Representative Capacity	0.05 (3 minutes)	750	37.50	145.00	5,437.50
8	Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants.	1.00 (60 minutes)	10	10.00	438.00	4,380.00
9	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants.	1.00 (60 minutes)	10	10.00	438.00	4,380.00
10	Change of Correspondence Address for Application or Patent.	0.05 (3 minutes)	130,000	6,500.00	145.00	942,500.00
11	Patent Owner Change of Correspondence Address—Reexamination Proceeding.	0.05 (3 minutes)	25	1.25	145.00	18.25
12	Third Party Requester Change of Correspondence Address—Reexamination Proceeding.	0.05 (3 minutes)	40	2.00	145.00	290.00
13	Request for Customer Number Data Change	0.20 (12 minutes)	1,600	320.00	145.00	46,400.00
14	Request for Customer Number	0.20 (12 minutes)	8,500	1,700.00	145.00	246,500.00
15	Customer Number Upload Spreadsheet	1.50 (90 minutes)	600	900.00	145.00	130,500.00
16	Request to Update a PCT Application with a Customer Number.	0.25 (15 minutes)	1,900	475.00	145.00	68,875.00
Totals			501,905	28,479.25		4,369,751.25

Estimated Total Annual Non-hour Respondent Cost Burden: $13,950.74. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of filing fees and postage costs.

Filing Fees

The two petitions in this collection have associated filing fees under 37 CFR 1.17(f), resulting in $8,000 in filing fees.

IC No.	Item	Estimated annual responses (a)	Filing fee ($) (b)	Total non-hour cost burden (c) = (a) × (b)
8	Petitions Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants.	10	400.00	$4,000.00

IC No.	Item	Estimated annual responses (a)	Filing fee ($) (b)	Total non-hour cost burden (c) = (a) × (b)
9	Petitions to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants.	10	400.00	4,000.00
Total	.....	20	.....	8,000.00

Postage Costs

Although the USPTO prefers that the items in this collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 2% of the 501,305 items will be submitted in the mail and that all 600 of the customer number upload spreadsheets will be submitted by mail. The existing first-class postage costs are $0.49 per submission. In addition, the customer number uploaded spreadsheets are submitted to the USPTO by mail, with a postage rate of $1.73 per submission.

There is a total of $5,950.74 in postage costs associated with this collection.

Item	Responses	Postage cost	Total postage costs
Non-electronic Responses	10,026	0.49	4,912.74
Customer Number Upload Spreadsheets	600	1.73	1,038.00
Totals	10,626	.....	5,950.74

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the forms of filing fees ($8,000) and postage costs ($5,950.74), is $13,950.74 per year.

IV. Request for Comments

Comments submitted in response to this to this notice will be summarized or included in the request for OMB approval of this information collection. They also will become a matter of public record.

Comments are required 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 costs) 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, *e.g.,* the use of automated collection techniques or other forms of information technology.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2017–22618 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Patent Examiner Employment Application''

The United States Patent and Trademark Office (USPTO) 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 Examiner Employment Application.

OMB Control Number: 0651–0042.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 10,660 responses per year.

Average Hours per Response: The USPTO estimates that the response time for the employment application will take the public approximately 30 minutes (0.50 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Burden Hours: 5,330 hours.

Cost Burden: $0.00. There are no filing fees or start-up, maintenance, record keeping, or postage costs associated with this information collection.

Needs and Uses: The use of automated application submissions provides a user-friendly electronic candidate inventory that allows management to review potential applications in real time. An applicant seeking a patent examiner position supplies information to the USPTO that assists Human Resource Specialists and hiring managers and demonstrates whether or not the applicant possess the basic qualifications for the position for which they are applying.

Affected Public: Individuals.

Frequency: On occasion.

Respondents: 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 ''0651–00## copy request'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before November 17, 2017 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.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2017–22619 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Admission To Practice and Roster of Registered Patent Attorneys and Agents Admitted To Practice Before the United States Patent and Trademark Office (USPTO)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed information collection proposed extension of an existing information collection.

DATES: Written comments must be submitted on or before December 18, 2017.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0012 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email to *Dahlia.George@uspto.gov* with ''0651–0012 comment'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

The USPTO administers the statute through 37 CFR 1.21, 10.14 and 11.5 through 11.12. These rules address the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO, including the fee requirements. The Office of Enrollment and Discipline (OED) collects information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects information to administer and maintain the roster of attorneys and agents registered to practice before the USPTO. Information concerning registered attorneys and agents is published by the OED in a public roster that can be accessed through the USPTO Web site. The information in this collection is used by the USPTO to review applications for the examination for registration and to determine whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

II. Method of Collection

Individuals desiring to participate in the Register of Patent Attorneys may submit material in electronic form or by mail following guidance provided by the Office of Enrollment and Discipline.

III. Data

OMB Number: 0651–0012.

IC Instruments and Forms: PTO–158, PTO–158A, PTO–158T, PTO–107A, PTO–107R, PTO–107S, PTO–275, PTO–1209, PTO–2126, PTO–2149 and PTO–2150.

Type of Review: Extension of a Previously Existing Information Collection.

Affected Public: Individuals.

Estimated Number of Annual Respondents: 18,458. Estimates for numbers of annual responses are based on the previously received number of responses and the anticipated participation trends over the next three years.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 1 minute (0.01 hours) to 40 hours to complete this information, depending upon the application (see Table 1 below). This includes the time to gather the necessary information, prepare the forms, and submit the items to the USPTO.

Estimated Total Annual Respondent Burden Hours: 18,559.39 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: $8,090,661.34. The USPTO expects that attorneys will complete the items in this collection. The professional hourly rate for attorneys is $438. The rate is established by estimates in the 2017 Report for the Economic Survey of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $8,090,661.34 per year.

TABLE 1—RESPONDENT COSTS

IC No.	Item	Hours	Responses (yr)	Burden (hrs/yr)	Rate ($/hr)	Estimated respondent cost
	(a)	(b)	(c) = (a) × (b)	(d)	(e) = (c) × (d)	
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) Form PTO–158.	0.50	2,611	1,305.50	$438	$571,809.00

TABLE 1—RESPONDENT COSTS—Continued

IC No.	Item	Hours	Responses (yr)	Burden (hrs/yr)	Rate ($/hr)	Estimated respondent cost
	(a)	(b)	(c) = (a) × (b)	(d)	(e) = (c) × (d)	
1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) Form PTO–158.	0.50	19	9.50	438	4,161.00
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO–158A.	0.50	10	5.00	438	2,190.00
3	Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination waived) Form PTO–158T.	0.50	3	1.50	438	657.00
4	Mandatory Survey—Register of Patent Attorneys and Agents PTO–107S.	0.50	5,000	2,500	438	1,095,000.00
5	Registration Examination to Become a Registered Practitioner.	7.00	1,982	13,874	438	6,076,812.00
6	Undertaking under 37 CFR 11.10(b) PTO/275	0.33	159	53	438	23,214.00
7	Data Sheet—Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO–107A.	0.17	916	152.67	438	68,868.00
7	Data Sheet—Register of Patent Attorneys and Agents (foreign applicants) PTO–107A.	0.17	100	16.67	438	7,300.00
7	Data Sheet—Register of Patent Attorneys and Agents (former examiners seeking registration) PTO–107R.	0.17	100	16.67	438	7,300.00
8	Oath or Affirmation PTO–1209	0.08	1,116	93	438	40,734.00
9a	Reinstatement to the Register PTO–107A, PTO–107R.	0.01	53	0.88	438	386.90
9b	Written request for reconsideration and further review of disapproval notice of application.	1.50	30	45	438	19,710.00
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c).	0.75	20	15	438	6,570.00
10	Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions).	0.05	6,300	315	438	137,970.00
11	Reasonable Accommodation PTO 158R	4.0	39	156	438	68,328.00
Totals			18,458	18,559.39		8,090,661.34

Estimated Total Annual (Non-hour) Respondent Cost Burden: Estimated Total Annual Non-hour Respondent Cost Burden: $1,546,909.00. There are no capital start-up or maintenance costs associated with this information collection. There are, however, non-hour costs due to recordkeeping requirements, filing fees, and postage costs.

The General Requirements Bulletin recommends that ''applicants should make and keep a copy of every document submitted to the office in connection with an application for registration.'' The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the submissions and that approximately 5,176 responses will be made per year, for a total of 413 hours. Using the professional rate of $438 per hour for intellectual property attorneys, the USPTO estimates that the record keeping cost associated with this copy requirement will be $181,752 per year.

An additional cost comes from the requirement for an Oath statement for each member of the patent bar; an item which requires the services of a notary public. The average fee for having a document notarized is $6. The USPTO estimates that it will receive 1,116 responses to this information collection per year as a result of this notary requirement, for a total cost of $6,696.00 per year, for a total recordkeeping cost of $195,620.00.

TABLE 2—RECORDKEEPING COSTS

IC No.	Item	Hours	Responses (yr)	Burden (hrs/yr)	Rate ($/hr)	Estimated respondent cost
		(a)	(b)	(c) = (a) × (b)	(d)	(e) = (c) × (d)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) Form PTO–158.	0.08	2,630	219.17	$438.00	$95,995.00
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO–158A.	0.08	10	0.83	438.00	365.00
3	Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination waived) Form PTO–158T.	0.08	3	0.25	438.00	109.50
6	Undertaking under 37 CFR 11.10(b) PTO/275	0.08	159	13.25	438.00	5,803.50
7	Data Sheet—Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO–107A.	0.08	1,116	93.00	438.00	40,734.00
8	Oath or Affirmation PTO–1209	0.08	1,116	93.00	438.00	40,734.00
8	Oath or Affirmation Cost of Notary Public		1,116		6 Cost of notary public	6,696.00
9a	Reinstatement to the Register PTO–107A, PTO–107R.	0.08	53	4.42	438.00	1,934.50
9b	Written request for reconsideration and further review of disapproval notice of application.	0.08	30	2.50	438.00	1,095.00
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c).	0.08	20	1.67	438.00	730.00
11	Reasonable Accommodation PTO 158R	0.08	39	3.25	438.00	1,423.50
Totals			6,292	431.33		195,620.00

There are also filing fees associated with this collection. The application fees for registration to practice before the USPTO vary depending on whether the applicant is a current applicant, a former examiner, or a foreign resident, or seeking reinstatement to the Register to become active upon leaving the USPTO. The fee for administration of the computerized examination to become a registered patent practitioner also varies depending on how the examination is administered. The total annual non-hour cost burden associated with filing fees is $776,920.00.

TABLE 3—FILING FEES

IC No.	Item	Responses (yr)	Filing Fee ($)	Total non-hour cost burden ($/hr)
		(a)	(b)	(c)=(a) × (b)
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam).	2,611	$40.00	$104,400.00
1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived).	19	40.00	760.00
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO–158A.	10	40.00	400.00
3	Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived).	3	40.00	120.00
5	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by the USPTO (USPTO-administered exam).	20	450.00	9,000.00
5	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam).	2,382	200.00	476,400.00

TABLE 3—FILING FEES—Continued

IC No.	Item	Responses (yr) (a)	Filing Fee ($) (b)	Total non-hour cost burden ($/hr) (c)=(a) × (b)
7	Data Sheet—Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO–107A.	916	100.00	91,600.00
7	Data Sheet—Register of Patent Attorneys and Agents (foreign applicants) PTO–107A.	100	100.00	10,000.00
7	Data Sheet—Register of Patent Attorneys and Agents (former examiners seeking registration) PTO–107R.	100	100.00	10,000.00
9a	Reinstatement to the Register PTO–107A, PTO–107R	53	100.00	5,300.00
9b	Written request for reconsideration and further review of disapproval notice of application.	30	130.00	3,900.00
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) ..	20	130.00	2,600.00
9d	Petition for reinstatement after disciplinary removal under 37 CFR 11.60	4	1,600.00	6,400.00
9f	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a)(10) (those who must prove fitness to practice).	35	1,600.00	56,000.00
Totals		6,303	—	776,920.00

Postage costs are also associated with this collection. Estimates for postage range from $0.49 to $1.73 per mailed submission, depending upon the item sent. The postage costs estimated at $2,260.53 for this collection and are outlined in the table below.

TABLE 4—POSTAGE COSTS

IC No.	Item	Responses (a)	Postage fee ($) (b)	Total non-hour cost burden (a) × (b) = c
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam).	2,611	$0.61	$1,592.71
1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived).	19	0.61	11.59
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO–158A.	10	0.49	4.90
3	Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived).	3	0.61	1.83
7	Data Sheet—Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO–107A.	916	0.49	448.84
7	Data Sheet—Register of Patent Attorneys and Agents (foreign applicants) PTO–107A.	100	0.49	49.00
7	Data Sheet—Register of Patent Attorneys and Agents (former examiners seeking registration) PTO–107A.	100	0.49	49.00
9a	Reinstatement to the Register PTO–107A, PTO–107R	53	0.49	25.97
9b	Written request for reconsideration and further review of disapproval notice of application.	30	0.61	18.30
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) ..	20	1.73	34.60
11	Reasonable Accommodation PTO 158R	39	0.61	23.79
Totals		3,901		2,260.53

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of filing fees and postage is $779,180.53 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

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, *e.g.,* the use of automated collection techniques or other forms of information technology.

Marcie Lovett,

Records and Information Governance Division Director, OCTO United States Patent and Trademark Office.

[FR Doc. 2017–22617 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; Substantive Submissions Made During the Prosecution of the Trademark Application

The United States Patent and Trademark Office (USTPO) 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: Substantive Submissions Made During the Prosecution of the Trademark Application.

OMB Control Number: 0651–0054.

Form Number(s):

- PTO 1553
- PTO 1581
- PTO 2194
- PTO 2195
- PTO 2200
- PTO 2202

Type of Request: Revision of a currently approved collection.

Number of Annual Respondents: 374,972 responses.

Average Hours per Response: The USPTO expects that it will take the public approximately 10 to 35 minutes (0.17 to 0.58 hours) to gather the necessary information, create the document, and submit the completed request, depending upon the type of request and the method of submission (electronic or paper).

Burden Hours: 101,400.37 hours annually.

Cost Burden: $42,650,873.51.

Needs and Uses: This collection of information is required by the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO. Such individuals and businesses may also submit various communications to the USPTO, including providing additional information needed to process a request to delete a particular filing basis from an application or to divide an application identifying multiple goods and/or services into two or more separate applications. Applicants may seek a six-month extension of time to file a statement that the mark is in use in commerce or submit a petition to revive an application that abandoned for failure to submit a timely response to an Office action or a timely statement of use or extension request. In some circumstances, an applicant may expressly abandon an application by filing a written request for withdrawal of the application. The rules implementing the Trademark Act are set forth in 37 CFR part 2. The forms in this collection are available in electronic format through the Trademark Electronic Application System (TEAS).

The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed at the USPTO Web site.

Affected Public: Businesses or other for-profits; not-for-profit institutions; individuals.

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 ''0651–0054 copy request'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, 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 November 17, 2017 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.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2017–22620 Filed 10–17–17; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before November 17, 2017.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by ''OMB Control No. 3038–0059.''

- *By email addressed to: OIRAsubmissions@omb.eop.gov;* or
- *By mail addressed to:* the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') by either of the following methods. The copies should refer to ''OMB Control No. 3038–0059.''

- *By submission through the Commission's Web site: http://comments.cftc.gov.* Please follow the instructions for submitting comments through the Web site;
- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; or

• *By hand delivery/courier to:* The address listed above for submission by mail.

A copy of the supporting statements for the collection of information discussed herein may be obtained by visiting *http://RegInfo.gov.*

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: David Steinberg, Commodity Futures Trading Commission, phone: 202–418–5102, fax: 202–418–5527, email: *dsteinberg@cftc.gov,* and refer to OMB Control No. 3038–0059.

SUPPLEMENTARY INFORMATION:

Title: Part 41 Relating to Security Futures Products (OMB Control No. 3038–0059). This is a request for extension of a currently approved information collection.

Abstract: Section 4d(c) of the Commodity Exchange Act (''CEA''), 7 U.S.C. 6d(c), requires the CFTC to consult with the Securities and Exchange Commission (''SEC'') and issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to firms that are fully registered with the SEC as brokers or dealers and the CFTC as futures commission merchants involving provisions of the CEA that pertain to the treatment of customer funds. The CFTC, jointly with the SEC, issued regulations requiring such dually-registered firms to make choices as to how its customers' transactions in security futures products will be treated, either as securities transactions held in a securities account or as futures transactions held in a futures account. How an account is treated is important in the unlikely event of the insolvency of the firm. Only securities accounts receive insurance protection under provisions of the Securities Investor Protection Act. By contrast, only futures accounts are subject to the protections provided by the segregation requirements of the CEA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 4, 2017 (82 FR 36384). The Commission did not receive any comments specifically addressing the 60-Day Notice.

Burden Statement: The respondent burden for this collection is estimated to average 1.57 hours per response. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 44.

Estimated number of responses: 943.

Estimated total annual burden on respondents: 1,482 hours.

Frequency of collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: October 13, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–22608 Filed 10–17–17; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

BUREAU OF CONSUMER FINANCIAL PROTECTION

Consumer Advisory Board Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act (FACA), this notice sets forth the announcement of a public meeting of the Consumer Advisory Board (CAB or Board) of the Bureau of Consumer Financial Protection (CFPB or Bureau). The notice also describes the functions of the Board.

DATES: The meeting date is Thursday, November 2, 2017, 10:00 a.m. to 5:30 p.m. eastern standard time.

ADDRESSES: The meeting location is the Hilton Tampa Downtown, 211 North Tampa Street, Tampa, FL 33602.

FOR FURTHER INFORMATION CONTACT: Crystal Dully, Outreach and Engagement Associate, 202–435–9588, *CFPB_CABandCouncilsEvents@cfpb.gov,* Consumer Advisory Board and Councils Office, External Affairs, 1275 First Street NE., Washington, DC 20002.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3 of the Charter of the Consumer Advisory Board states that:

The purpose of the Board is outlined in section 1014(a) of the Dodd-Frank Act, which states that the Board shall ''advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws'' and ''provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.'' To carry out the Board's purpose, the scope of its activities shall include providing information, analysis, and recommendations to the Bureau. The Board will generally serve as a vehicle for market intelligence and expertise for the Bureau. Its objectives will include identifying and assessing the impact on consumers and other market participants of new, emerging, and changing products, practices, or services.

II. Agenda

The Consumer Advisory Board will discuss Know Before You Owe: Reverse Mortgages, financial well-being, trends and themes, and payday, vehicle title, and certain high-cost installment loans.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meeting. The comments will be provided to the CAB members for consideration. There will also be an opportunity for public comment at the meeting. Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,*

202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. CFPB will strive to provide, but cannot guarantee that accommodation will be provided for late requests.

Individuals who wish to attend the Consumer Advisory Board meeting must RSVP to *cfpb_cabandcouncilsevents@cfpb.gov* by noon, November 1, 2017. Members of the public must RSVP by the due date and must include ''CAB'' in the subject line of the RSVP.

III. Availability

The Board's agenda will be made available to the public on October 18, 2017, via *www.consumerfinance.gov.* Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and transcript of this meeting will be available after the meeting on the CFPB's Web site *www.consumerfinance.gov.*

Dated: October 13, 2017.

Leandra English,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2017–22629 Filed 10–17–17; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Tuesday, October 24, 2017, 10:00 a.m.–12:00 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East-West Highway, Bethesda, MD.

STATUS: Commission Meeting—Open to the Public.

MATTER TO BE CONSIDERED: *Decisional Matter:* Fiscal Year 2018 Operating Plan.

A live webcast of the Meeting can be viewed at *https://www.cpsc.gov/live.*

CONTACT PERSON FOR MORE INFORMATION: Rockelle Hammond, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: October 13, 2017.

Alberta E. Mills,

Acting Secretary.

[FR Doc. 2017–22661 Filed 10–16–17; 4:15 pm]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Request To Transfer a Segal Education Award Amount, Accept/Decline Award Transfer Form, Request To Revoke Transfer of Education Award Form, and Rescind Acceptance of Award Transfer Form

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), 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 and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of the Award Transfer forms: Request to Transfer a Segal Education Award Amount, Accept/Decline Award Transfer Form, Request to Revoke Transfer of Education Award Form, and Rescind Acceptance of Award Transfer Form. These forms enable AmeriCorps members and recipients to meet the legal requirements of the award transfer process. Copies of the information collection requests can be obtained by contacting the office listed in the Addresses section of this Notice.

Copies of this information collection request, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Nahid Jarrett, at 202–606–6753 or email to *njarrett@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

DATES: Comments may be submitted, identified by the title of the information collection activity, by November 17, 2017.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of the National Service Trust, Attn: Ms. Nahid Jarrett, Trust Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) Electronically through *www.regulations.gov.*

(2) *By mail sent to:* Corporation for National and Community Service, National Service Trust, Attention: Nahid Jarrett, 250 E. St. SW., Washington, DC 20525.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Current Action

CNCS seeks to renew the current information. Except to add the categories of stepchild and step grandchild to the list of qualified recipients of the award transfer, only slight formatting and editing changes have been made.

The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current forms until the revised forms are approved by OMB. The current information collection is due to expire on September 30, 2017.

Description: AmeriCorps members may offer to transfer all or part of their qualified education awards to certain family members. Provision is made to accept the transfer or not, to rescind acceptance or revoke the transfer. These processes are implemented electronically where possible but paper forms are available if necessary.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Request to Transfer a Segal Education Award Amount, Accept/Decline Award Transfer Form, Request to Revoke Transfer of Education Award Form, and Rescind Acceptance of Award Transfer Form.

OMB Number: 3045–0136.

Agency Number: None.

Affected Public: AmeriCorps members with eligible education awards and qualified recipients.

Total Respondents: 1420.

Frequency: Annually.

Average Time per Response: Averages 5 minutes.

Estimated Total Burden Hours: 118.33.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or 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.

Dated: October 13, 2017.

Maggie Taylor-Coates,

Director of the Office of the National Service Trust.

[FR Doc. 2017–22640 Filed 10–17–17; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Health Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Health Board will take place.

DATES: Open to the public on Thursday, November 2, 2017 from 9:00 a.m. to 12:30 p.m. Open to the public on Thursday, November 2, 2017 from 1:30 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Board Room, Naval Medical Center Portsmouth, 620 John Paul Jones Circle, Portsmouth, Virginia 23708 (Pre-meeting screening for installation access and registration required; see guidance in **SUPPLEMENTARY INFORMATION**, ''Meeting Accessibility'').

FOR FURTHER INFORMATION CONTACT: CAPT Juliann Althoff, Medical Corps, US Navy, (703) 681–6653 (Voice), (703) 681–9539 (Facsimile), *juliann.m.althoff.mil@mail.mil* (Email). Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042. Web site: *http://www.health.mil/dhb.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) 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 102–3.140 and 102–3.150.

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the November 2, 2017 meeting, will be available at the Defense Health Board's (DHB) Web site, *https://health.mil/dhb.* Any other materials presented in the meeting may be obtained at the meeting.

Purpose of the Meeting: The DoD is publishing this notice to announce a Federal Advisory Committee meeting of the DHB. The DHB provides independent advice and recommendations to maximize the safety and quality of, as well as access to, health care for DoD health care beneficiaries. The purpose of the meeting is to receive information briefings on current issues related to military medicine.

Agenda: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the meeting is open to the public from 9:00 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:00 p.m. on November 2, 2017. The DHB anticipates receiving overview briefings on Navy Medicine East, Naval Medical Center Portsmouth, the Tidewater enhanced Multi-Service Market, Navy and Marine Corps Public Health Center, U.S. Fleet Forces Command Fleet Health Services, McDonald Army Health Center, the 633rd Medical Group, and Air Combat Command. Any changes to the agenda can be found at the link provided in this **SUPPLEMENTARY INFORMATION** section.

Meeting Accessibility: Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must register by emailing their name, rank/title, and organization/company to *dha.ncr.dhb.mbx.defense-health-board@mail.mil* or by contacting Ms. Camille Gaviola at (703) 681–6686 or *camille.m.gaviola.civ@mail.mil* no later than 12:00 p.m. on Thursday, October 26, 2017. Additional details will be required from all members of the public not having installation access. *Special Accommodations:* Individuals requiring special accommodations to access the public meeting should contact Ms. Camille Gaviola at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Any member of the public wishing to provide comments to the DHB may do so in accordance with section 10(a)(3) of the Federal Advisory Committee Act, 41 CFR 102–3.105(j) and 102–3.140, and the procedures described in this notice. Written statements may be submitted to the DHB Designated Federal Officer (DFO), CAPT Juliann Althoff, at *juliann.m.althoff.mil@mail.mil* and should be no longer than two type-written pages and include the issue, a short discussion, and a recommended course of action. Supporting documentation may also be included, to establish the appropriate historical context and to provide any necessary background information. If the written statement is not received at least five (5) business days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting. The DFO will review all timely submissions with the DHB President and ensure that they are provided to members of the DHB before the meeting that is subject to this notice. After reviewing the written comments, the President and the DFO may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The DFO, in consultation with the DHB President, may allot time for members of the public to present their issues for review and discussion by the DHB.

Dated: October 13, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–22606 Filed 10–17–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Visible Welding, LLC

AGENCY: Department of the Navy; DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant a revocable, nonassignable, exclusive license in the United States to Visible Welding LLC, to practice the Government owned invention described in U.S. Patent No. 9,307,156:

LONGWAVE INFRARED IMAGING OF A HIGH TEMPERATURE HIGH INTENSITY LIGHT SOURCE.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Carderock Division, Naval Surface Warfare Center, Code 00L, 9500 MacArthur Boulevard, West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Joseph Teter Ph.D., Director, Technology Transfer Office, Carderock Division, Naval Surface Warfare Center, Code 00T, 9500 MacArthur Boulevard, West Bethesda, MD 20817–5700, telephone 301 227–4299.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: October 12, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–22576 Filed 10–17–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14581–002]

Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments; Turlock Irrigation District and Modesto Irrigation District, California

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 14581–002.

c. *Date Filed:* October 11, 2017.

d. *Applicant:* Turlock Irrigation District and Modesto Irrigation District, California.

e. *Name of Project:* La Grange Hydropower Project.

f. *Location:* The La Grange Project is located on the Tuolumne River in Stanislaus and Tuolumne Counties, California. Portions of the project occupy public lands managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Steve Boyd, Turlock Irrigation District, 333 East Canal Drive, Turlock, California 95381–0949, (209) 883–8300; and Anna Brathwaite, Modesto Irrigation District, P.O. Box 4060, Modesto, CA 95352, (209) 526–7384.

i. *FERC Contact:* Jim Hastreiter at (503) 552–2760 or *james.hastreiter@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:*

La Grange Dam and Spillway

The primary project feature is La Grange dam, a 310-foot-long, 131-foot-high, masonry arch dam. The un-gated spillway crest of the dam is at elevation 296.5 feet mean sea level (msl). A slide gate in the face of La Grange dam can discharge about 200 cubic feet per second (cfs) to the Tuolumne River.

La Grange Reservoir

La Grange reservoir extends upstream for approximately 11,352.5 feet at a normal water surface elevation of 296.46 feet msl. The surface of the reservoir at the normal surface elevation is over 58 acres and the storage capacity is over 500 acre-feet.

Intakes, Tunnels, Forebay, Canal Headgates, Powerhouse Intake

The Modesto Irrigation District (MID) headworks, canal, and sluice gates are part of MID's retired irrigation canal facilities that currently discharge flow from the reservoir into the Tuolumne River on the right bank about 400 feet downstream of La Grange dam.

The Turlock Irrigation District (TID) intake and tunnel is located on the left bank of the La Grange dam and spillway just upstream of the dam and consists of two separate structures. One structure contains two 8-foot by 11-foot, 10-inch-high control gates driven by electric motor hoists. The second structure is located to the left of the first structure and contains a single 8-foot by 12-foot control gate. Water diverted at the intake control gates is conveyed to a 600-foot-long tunnel leading to the 110-foot-long concrete forebay for the TID non-project Upper Main Canal. Water delivered to TID's irrigation system is regulated at the non-project canal headworks, consisting of six 5-foot-wide by 8-foot-tall slide gates.

Water delivered to the powerhouse is diverted at the west side of the canal through three 7.5-foot-wide by 14-foot-tall concrete intake bays protected by a trashrack structure. Manually operated steel gates are used to regulate the discharge of water through two intakes one leading to a 235-foot long, 5-foot-diameter penstock and the other leading to a 212-foot-long, 7-foot-diameter penstock. Immediately upstream and adjacent to the penstock intakes are two automated 5-foot-high by 4-foot-wide sluice gates that discharge water over a steep rock outcrop to the tailrace channel just upstream of the powerhouse.

Powerhouse

The 72-foot by 29-foot concrete powerhouse is located approximately 0.2 miles downstream of La Grange dam on the left bank of the Tuolumne River. The powerhouse contains two Francis turbine-generator units with a maximum capacity of 4.9 megawatts. One turbine unit has a rated output of 1,650 horsepower (hp) at 140 cfs and 115 feet of net head and the other with a rated output of 4,950 hp at 440 cfs and 115 feet of net head. The powerhouse produces an average annual generation of 19,638 megawatt-hours.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:*

The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	October 2017.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	December 2017.

Milestone	Target date
Commission issues Draft Environmental Impact Statement (EIS)	July 2018.
Comments on Draft EIS	September 2018.
Modified Terms and Conditions	November 2018.
Commission Issues Final EIS	February 2019.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the Notice of Ready for Environmental Analysis.

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22531 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2685–029]

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests; New York Power Authority

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2685–029.

c. *Date filed:* April 27, 2017.

d. *Applicant:* New York Power Authority (NYPA).

e. *Name of Project:* Blenheim-Gilboa Pumped Storage Project (Blenheim-Gilboa Project).

f. *Location:* The existing project is located on Schoharie Creek, in the Towns of Blenheim and Gilboa in Schoharie County, New York. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert Daly, Licensing Manager, New York Power Authority, 123 Main Street, White Plains, New York 10601. Telephone: (914) 681–6564, Email: *Rob.Daly@nypa.gov.*

i. *FERC Contact:* Andy Bernick, Telephone (202) 502–8660, and email *andrew.bernick@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2685–029.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. The existing Blenheim-Gilboa Project consists of the following: (1) A 2.25-mile-long, 30-foot-wide earth and rock fill embankment dike with a maximum height of 110 feet, constructed at Brown Mountain and forming the 399-acre Upper Reservoir (operating at the maximum and extreme minimum elevations of 2,003 feet and 1,955 feet National Geodetic Vertical Datum of 1929 [NGVD 29], respectively) with 15,085 acre-feet of usable storage and dead storage of 3,706 acre-feet below elevation 1,955 feet NGVD 29; (2) a 655-foot-long emergency spillway with a 25-foot-wide asphaltic concrete crest at elevation 2,005 feet NGVD 29 and a capacity of 10,200 cubic feet per second (cfs); (3) an intake system that includes: (i) a 125-foot-wide hexagonal-shaped intake cover with trash racks with a clear spacing of 5.25 inches; (ii) a 1,042-foot-long, 28-foot-diameter, concrete-lined vertical shaft in the bottom of the Upper Reservoir; (iii) a 906-foot-long horizontal, concrete-lined rock tunnel; and (iv) a 460-foot-long concrete-lined manifold that distributes flow to four 12-foot-diameter steel-lined penstocks, each with a maximum length of about 1,960 feet, to four pump-turbines located at the powerhouse; (4) a 526-foot-long, 172-foot-wide, and 132-foot-high multi-level powerhouse located along the east bank of the Lower Reservoir at the base of Brown Mountain, containing four reversible pump turbines that each produce approximately 290 megawatts (MW) in generation mode, and have a total maximum discharge of 12,800 cfs during generation and 10,200 cfs during pumping; (5) a bottom trash rack with a clear spacing of 5.625 inches, and four upper trash racks with a clear spacing of 5.25 inches; (6) an 1,800-foot-long central core, rock-filled lower dam with a maximum height of 100 feet that impounds Schoharie Creek to form the 413-acre Lower Reservoir (operating at the maximum and minimum elevations of 900 feet and 860 feet NGVD 29, respectively) with 12,422 acre-feet of usable storage and dead storage of 3,745 acre-feet below 860 feet NGVD 29; (7) three 38-foot-wide by 45.5-foot-high Taintor gates at the left end of the lower dam; (8) a 425-foot-long, 134-foot-wide concrete spillway structure with a crest elevation of 855 feet NGVD 29; (9) a 238-foot-long, 68.5-foot-deep concrete stilling basin; (10) a low level outlet with four discharge valves of 4, 6, 8, and 10 inches for release of 5 to 25 cfs, and two 36-inch-diameter Howell-Bunger valves to release a combined flow of 25 to 700 cfs; (11) a switchyard on the eastern bank of Schoharie Creek adjacent to the powerhouse; and (12) appurtenant facilities.

During operation, the Blenheim-Gilboa Project's pump-turbines may be turned on or off several times throughout the day, but the project typically generates electricity during the day when consumer demand is high and other power resources are more expensive. Pumping usually occurs at night and on weekends when there is excess electricity in the system available for use. According to a July 30, 1975, settlement agreement, NYPA releases a minimum flow of 10 cubic feet per second (cfs) during low-flow periods when 1,500 acre-feet of water is in storage, and 7 cfs when less than 1,500 acre-feet is in storage. For the period 2007 through 2016, the project's average annual generation was about 374,854 megawatt-hours (MWh) and average annual energy consumption from pumping was about 540,217 MWh.

m. A copy of the application is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary

link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title PROTEST or MOTION TO INTERVENE; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural Schedule:* The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of motions to intervene and protests	December 11, 2017.
Issuance of Ready for Environmental Analysis notice	January 4, 2018.
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions	March 5, 2018.
Reply comments due	April 19, 2018.
Commission Issues Draft EA	September 1, 2018.
Comments on Draft EA	October 1, 2018.
Modified terms and conditions due	November 30, 2018.
Commission issues Final EA	February 28, 2019.

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22534 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IS17–522–000]

Supplemental Notice of Technical Conference; Colonial Pipeline Company

On September 29, 2017, a notice was issued stating that a technical conference will be held to address the effect of the tariff changes proposed by Colonial Pipeline Company in its June 23, 2017 filing in this docket. The technical conference will be held on Wednesday, October 25, 2017 at 9:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

For interested persons who cannot attend the technical conference, a call-in number has been established. Dial in from your phone:

From within local Wash, DC area 202–502–6888

From outside Local Wash, DC area 1–877–857–1347

Meeting ID: 0255

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22530 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–1–000]

Notice of Request Under Blanket Authorization; Texas Gas Transmission, LLC

Take notice that on October 3, 2017, Texas Gas Transmission, LLC. (Texas Gas), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed a prior notice application pursuant to sections 157.205, 157.216(b) of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and Texas Gas's blanket certificate issued in Docket No. CP82–407–000. Texas Gas requests to abandon certain natural gas pipeline assets and ancillary auxiliary facilities and appurtenances located in Terrebonne Parish, Louisiana, all as more fully set forth in the request, which is on file with the Commission and open to public inspection. The proposed application is referred to as the CBD/DST Pipeline Abandonment Project Application. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, Texas Gas proposes to (i) abandon in place approximately 4.4 miles and abandon by removal 2.4 miles of 8-inch pipeline designated as the Calliou Bay—Dog Lake (CBD) Pipeline, (ii) abandon in place approximately 10.1 miles and abandon by removal 1.7 miles of 10-inch pipeline designated as the Deep Saline—Peltex (DST) Pipeline, and (iii) abandon by removal two platforms including associated boat landings, tube turns, including risers, meter facilities, associated piping, and other auxiliary appurtenances.

Any questions regarding this application should be directed to Kathy D. Fort, Manager, Certificates and Tariffs, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046 or phone (713) 479–8033.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22535 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–1–000.

Applicants: Columbia Gas of Ohio, Inc.

Description: Tariff filing per 284.123(b),(e)/: COH SOC effective 9–28–2017; Filing Type: 980.

Filed Date: 10/10/17.

Accession Number: 201710105248.

Comments/Protests Due: 5 p.m. ET 10/31/17.

Docket Number: PR18–2–000.

Applicants: Acacia Natural Gas, L.L.C.

Description: Tariff filing per 284.123(b)(2)+(g): Acacia Natural Gas Petition for Rate Approval to be effective 11/1/2017; Filing Type: 1310.

Filed Date: 10/10/17.

Accession Number: 201710105329.

Comments Due: 5 p.m. ET 10/31/17.

284.123(g) Protests Due: 5 p.m. ET 12/11/17.

Docket Numbers: RP18–27–000.

Applicants: Empire Pipeline, Inc.

Description: § 4(d) Rate Filing: GT&C 18 and Other Minor Changes to be effective 11/9/2017.

Filed Date: 10/10/17.

Accession Number: 20171010–5290.

Comments Due: 5 p.m. ET 10/23/17.

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 date(s). 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: October 11, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22528 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–53–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization; CXA La Paloma, LLC

This is a supplemental notice in the above-referenced proceeding CXA La Paloma, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 1, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22529 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2299–082]

Notice of Amended Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments; Turlock Irrigation District and Modesto Irrigation District, California

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2299–082.

c. *Date Filed:* October 11, 2017.

d. *Applicant:* Turlock Irrigation District and Modesto Irrigation District, California.

e. *Name of Project:* Don Pedro Hydropower Project.

f. *Location:* The Don Pedro Project is located on the Tuolumne River in Tuolumne County, California. Portions of the project occupy public lands managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 79 (a)–825(r).

h. *Applicant Contacts:* Steve Boyd, Turlock Irrigation District, 333 East Canal Drive, Turlock, California 95381–0949, (209) 883–8300; and Anna Brathwaite, Modesto Irrigation District, P.O. Box 4060, Modesto, CA 95352, (209) 526–7384.

i. *FERC Contact:* Jim Hastreiter at (503) 552–2760 or *james.hastreiter@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:*

Don Pedro Dam and Reservoir

The primary project feature is Don Pedro Dam, a 1,900-foot-long and 580-foot-high zoned earth and rockfill structure. The top of the dam is at elevation 855 feet mean sea level (msl).

Don Pedro Reservoir extends upstream for approximately 24 miles at the normal maximum water surface elevation of 830 feet (msl). The surface area of the reservoir at the 830-foot elevation is approximately 12,960 acres and the gross storage capacity is 2,030,000 acre-feet.

Don Pedro Spillway

Don Pedro Spillway is divided into two sections, one gated and one ungated, located immediately adjacent to one another in a saddle area west of the main dam. The gated spillway section is 135-feet-long, with a permanent crest elevation of 800 feet, and includes three radial gates each 45 feet wide by 30 feet high. The ungated spillway is an ogee section 995 feet long with a crest elevation of 830 feet msl and a top of abutment elevation of 855 feet msl. The spillway capacity at a reservoir water level of 850 feet msl is 472,500 cubic feet per second (cfs). Flow releases over the ungated ogee-crest section of the spillway have occurred only once since project construction, in early January 1997. Flows at the spillway are released to Gasburg Creek, which in turn flows into Twin Gulch, and then back into the Tuolumne River approximately 1.5 miles downstream of the main dam.

Outlet Works

The project facilities include a set of outlet works located at the left (east) abutment of the main dam. The outlet works consist of three individual gate housings, each containing two 4-feet-by-5-feet slide gates. The outlet works are situated in a 3,500-foot-long concrete lined tunnel that originally served as the water diversion tunnel during project construction. The inlet to the tunnel has an invert elevation of 342 feet msl and the outlet, which is located approximately 400 feet downstream of the powerhouse, has an invert of 310 feet. At a reservoir water surface elevation of 830 feet msl, the total hydraulic capacity of the outlet works is 7,500 cfs.

Power Intake and Tunnel

Flows are delivered from the reservoir to the powerhouse via a 2,960-foot-long power tunnel located in the left (east) abutment of the main dam. The tunnel transitions from an 18-foot 6-inch concrete-lined section to a 16-foot steel-lined section. Emergency closure can be provided by a 21-foot-high by 12-foot-wide fixed-wheel gate that is operated from a chamber at the top of the gate shaft. Flows from the power tunnel are delivered to the four-unit powerhouse and a hollow-jet control valve in the powerhouse.

Powerhouse

Located immediately downstream of the main dam, the Don Pedro powerhouse contains four turbine-generator units and a 72-inch hollow jet valve. The reinforced-concrete powerhouse is 171 feet long, 110 feet high and 148 feet wide. It houses four Francis turbine generator units with a nameplate capacity of 168 megawatts (MW) and a maximum output at optimum conditions of approximately 203 MW. Combined hydraulic capacity of the four units under maximum head is approximately 5,500 cfs.

The powerhouse also contains a 72-inch hollow jet valve located in the east end of the powerhouse with a centerline elevation at discharge of 299 feet msl. The hydraulic capacity of the hollow jet valve is 3,000 cfs. While turbine Units 1 through 3 discharge directly to the river channel, Unit 4 discharges to the outlet works tunnel approximately 250 feet upstream of the tunnel outlet. Water to Unit 4 is delivered through a bifurcation from the hollow jet valve pipe. With Unit 4 in operation, the hollow-jet valve capacity is reduced from 3,000 cfs to 800 cfs. The powerhouse tailwater during turbine operation varies from a low elevation of about 298 feet msl to a high elevation of about 303 feet msl under normal operating conditions. The tailwater elevation at the outlet works tunnel is approximately 300 feet msl.

Switchyard

The project switchyard is located atop the powerhouse at elevation 340 feet msl. The switchyard provides power delivery and electrical protection to the Districts' transmission systems. The switchyard includes isolated phase buses, circuit breakers, and four transformers that raise the 13.8 kilovolt (kV) generator voltage to 69 kV transmission voltage.

Gasburg Creek Dike

Don Pedro dam spillway discharges into Gasburg Creek. Gasburg Creek dike is located near the downstream end of the spillway, and directs flows from Gasburg Creek into Twin Gulch where spillway discharges join the Tuolumne River approximately 1.5 miles downstream of the Don Pedro powerhouse. Gasburg Creek dike consists of an impervious earth and rockfill dam approximately 75 feet in height, with a slide-gate controlled 18-inch-diameter conduit. The top of Gasburg Creek dike is at elevation 725 feet msl.

Dikes A, B, and C

The project includes three small embankments—Dikes A, B, and C—constructed in low saddles on the reservoir rim with top elevations of 855 feet msl. Dike A is located between the main dam and spillway. Dikes B and C are located east of the main dam.

Recreation Facilities

The project has three developed recreation areas, Fleming Meadows, Blue Oaks, and Moccasin Point. Primitive and semi-primitive lakeshore camping occurs on much of the rest of its shores. The project provides both floating and shoreline restrooms in addition to those at the developed recreation areas. Facilities also include hazard marking, regulatory buoy lines, and other open water-based features including houseboat marinas and a marked water-ski slalom course.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	October 2017.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	December 2017.
Commission issues Draft Environmental Impact Statement (EIS)	July 2018.
Comments on Draft EIS	September 2018.
Modified Terms and Conditions	November 2018.
Commission Issues Final EIS	February 2019.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the Notice of Ready for Environmental Analysis.

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22533 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–186–000.

Applicants: American Transmission Company LLC.

Description: Amendment to Application (Exhibit N) for Authorization Under Section 203 of the Federal Power Act of American Transmission Company LLC.

Filed Date: 10/11/17.

Accession Number: 20171011–5155.

Comments Due: 5 p.m. ET 11/1/17.

Docket Numbers: EC18–4–000.

Applicants: Cleco Power LLC, Attala Transmission LLC, Perryville Energy Partners, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc.

Description: Joint Application for Section 203 Approval of Cleco Power LLC, et al.

Filed Date: 10/11/17.

Accession Number: 20171011–5205.

Comments Due: 5 p.m. ET 11/1/17.

Docket Numbers: EC18–5–000.

Applicants: RE Tranquillity LLC, RE Garland LLC, RE Garland A LLC, RE Mustang LLC, RE Mustang 3 LLC, RE Mustang 4 LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, Expedited Action and Shortened Comment Period of RE Tranquillity LLC, et al.

Filed Date: 10/11/17.

Accession Number: 20171011–5206.

Comments Due: 5 p.m. ET 11/1/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1069–005; ER12–2381–002; ER10–1484–016.

Applicants: MP2 Energy LLC, MP2 Energy NE LLC, Shell Energy North America (US), L.P.

Description: Notice of Non-Material Change in Status of MP2 Energy LLC, et al.

Filed Date: 10/11/17.

Accession Number: 20171011–5212.

Comments Due: 5 p.m. ET 11/1/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17–1529–000.

Applicants: DOM Solar Lessor I, LP.

Description: Refund Report of DOM Solar Lessor I, LP [CMEEC—Bozrah].

Filed Date: 10/10/17.

Accession Number: 20171010–5401.

Comments Due: 5 p.m. ET 10/31/17.

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: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22526 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1061–098]

Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process; Pacific Gas & Electric Company

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 1061–098.

c. *Date Filed:* August 22, 2017.

d. *Submitted By:* Pacific Gas & Electric Company.

e. *Name of Project:* Phoenix Hydroelectric Project.

f. *Location:* On the South Fork Stanislaus River and in the Tuolumne River Basin, in Tuolumne County, California. The project occupies public lands administered by the U.S. Forest Service and the Bureau of Land Management.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Debbie Powell, Sr. Director Power Generation, Pacific Gas & Electric Company, P.O. Box 770000, MCN11D–1138m, San Francisco, CA 94177; (415) 973–8400; email—*DWPt@pge.com.*

i. *FERC Contact:* Jim Hastreiter at (503) 552–2760; or email at *james.hastreiter@ferc.gov*.

j. Pacific Gas & Electric Company filed its request to use the Traditional Licensing Process on August 22, 2017. Pacific Gas & Electric Company provided public notice of its request on August 22, 2017. In a letter dated October 23, 2017, the Director of the Division of Hydropower Licensing approved Pacific Gas & Electric Company's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the California State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Pacific Gas & Electric Company as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Pacific Gas & Electric Company filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 1061–098. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 2020.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22532 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–3–000.

Applicants: La Paloma Generating Company, LLC, CXA La Paloma, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Waivers, and Request for Expedited Action of La Paloma Generating Company, LLC, et al.

Filed Date: 10/10/17.

Accession Number: 20171010–5368.

Comments Due: 5 p.m. ET 10/31/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–22–001.

Applicants: PPL Electric Utilities Corporation, PJM Interconnection, L.L.C.

Description: Tariff Amendment: PPL submits amendment to the Att. H–8G revisions filed in Docket No. ER18–22 to be effective 1/1/2018.

Filed Date: 10/12/17.

Accession Number: 20171012–5091.

Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–53–000.

Applicants: CXA La Paloma, LLC.

Description: Baseline eTariff Filing: Market Based Rate Application to be effective 10/11/2017.

Filed Date: 10/10/17.

Accession Number: 20171010–5314.

Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–59–000.

Applicants: Raven Power Marketing LLC.

Description: Tariff Cancellation: Notice of Cancellation to be effective 10/13/2017.

Filed Date: 10/12/17.

Accession Number: 20171012–5061.

Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–60–000.

Applicants: Sapphire Power Marketing LLC.

Description: Tariff Cancellation: Notice of Cancellation to be effective 10/13/2017.

Filed Date: 10/12/17.

Accession Number: 20171012–5062.

Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–61–000.

Applicants: Portland General Electric Company.

Description: § 205(d) Rate Filing: Att K Revision Filing to be effective 12/12/2017.

Filed Date: 10/12/17.

Accession Number: 20171012–5063.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–62–000.
Applicants: MATL LLP.
Description: § 205(d) Rate Filing: Removal of Interconnection-wide Transmission Planning Process to be effective 12/12/2017.
Filed Date: 10/12/17.
Accession Number: 20171012–5072.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–63–000.
Applicants: Idaho Power Company.
Description: § 205(d) Rate Filing: Attachment K–2017 NTTG Updates to be effective 12/12/2017.
Filed Date: 10/12/17.
Accession Number: 20171012–5074.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–64–000.
Applicants: Northern Indiana Public Service Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: NIPSCO submits Interconnection Agreement SA No. 4247 to be effective 7/19/2017.
Filed Date: 10/12/17.
Accession Number: 20171012–5075.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–65–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Wholesale Market Participation Agreement No. 4812; Queue W4–036 to be effective 9/26/2017.
Filed Date: 10/12/17.
Accession Number: 20171012–5093.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–66–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: OATT Revised Attachment K ? Eliminate I/C Wide Planning Process to be effective 12/12/2017.
Filed Date: 10/12/17.
Accession Number: 20171012–5100.
Comments Due: 5 p.m. ET 11/2/17.

Docket Numbers: ER18–67–000.
Applicants: Portland General Electric Company.
Description: § 205(d) Rate Filing: NTTG Revised Funding Agreement to be effective 1/1/2018.
Filed Date: 10/12/17.
Accession Number: 20171012–5101.
Comments Due: 5 p.m. ET 11/2/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–3–000.
Applicants: PacifiCorp.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of PacifiCorp.
Filed Date: 10/12/17.
Accession Number: 20171012–5105.
Comments Due: 5 p.m. ET 11/2/17.

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: October 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22527 Filed 10–17–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0566; FRL–9969–74–OAR]

Extension of Comment Period on Draft Documents Related to the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a 30-day extension of the comment period on two draft documents titled, *Risk and Exposure Assessment for the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides, External Review Draft* (draft REA) and *Policy Assessment for the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides, External Review Draft* (draft PA). The EPA is extending the comment period for an additional 30 days to provide stakeholders and the public with additional time to review these documents and to prepare meaningful comments. The original comment period was to end on October 18, 2017. The extended comment period will now close on November 17, 2017.

DATES: The comment period for the document published in the **Federal Register** on September 19, 2017 (82 FR 43756) is extended. Comments must be received on or before November 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0566, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, Cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.* The draft REA and draft PA are available via the Internet at *https://www.epa.gov/naaqs/sulfur-dioxide-so2-primary-air-quality-standards.*

FOR FURTHER INFORMATION CONTACT: Dr. Nicole Hagan, Office of Air Quality Planning and Standards (Mail Code C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3153; fax number: (919) 541–5315; email: *hagan.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through *http://regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2. *Tips for Preparing your Comments.* When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree; suggest alternative and substitute language for your requested changes.
- Describe any assumption and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Information Specific to the Documents

Two sections of the Clean Air Act (CAA) govern the establishment and revision of the national ambient air quality standards (NAAQS). Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in his ''judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare''; ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources''; and ''for which . . . [the Administrator] plans to issue air quality criteria . . .'' (42 U.S.C. 7408(a)(1)(A)–(C)). Air quality criteria are intended to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . .'' (42 U.S.C. 7408(a)(2)). Under section 109 (42 U.S.C. 7409), the EPA establishes primary (health-based) and secondary (welfare-based) NAAQS for pollutants for which air quality criteria are issued. Section 109(d) requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria. Section 109(d)(2) requires that an independent scientific review committee ''shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of the existing criteria and standards as may be appropriate . . . .'' Since the early 1980s, this independent review function has been performed by the Clean Air Scientific Advisory Committee (CASAC).

Presently, the EPA is reviewing the air quality criteria and primary NAAQS for sulfur oxides.[1] The EPA's overall plan for this review is presented in the *Integrated Review Plan for the Primary NAAQS for Sulfur Dioxide* (IRP). The EPA is currently working to finalize the *Integrated Science Assessment for Sulfur Oxides—Health Criteria* (ISA), the second draft of which was reviewed by the CASAC at a public meeting in March 2017 (82 FR 11449). The *Risk and Exposure Assessment Planning Document for the Review of the Primary National Ambient Air Quality Standards for Sulfur Oxides* (REA Planning Document) was also reviewed by the CASAC at this meeting (82 FR 11449). The draft REA and draft PA, which build on information presented in these documents, were the subject of review by the CASAC at a public meeting on September 18–19, 2017 (82 FR 37213). The EPA will consider comments received from the CASAC and the public in preparing revisions to these documents. The draft REA and PA documents, and other documents in this review, referenced above, are available on the EPA's Technology Transfer Network Web site at *https://www.epa.gov/naaqs/sulfur-dioxide-so2-primary-air-quality-standards.*

The notice of availability for the draft REA and draft PA was originally published on September 19, 2017, with the public comment period closing on October 18, 2017 (82 FR 43756). We received a request from a member of the public to extend the comment period by 30 days. After considering this request, we are extending the comment period and, as described above, it will now close on November 17, 2017.

Dated: October 11, 2017.

Stephen Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2017–22678 Filed 10–17–17; 8:45 am]

BILLING CODE 6560–50–P

[1] The indicator for the current standard is sulfur dioxide.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0812]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0812.

Title: Regulatory Fee True-Up, Waiver or Exemption.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and Not-for-profit institutions.

Number of Respondents and Responses: 19,674 respondents and 19,774 responses.

Estimated Time per Response: 0.25 hours–1 hour.

Frequency of Response: Annual, on occasion and one-time reporting requirements; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 158 and 47 U.S.C. 159, Sections 4(i), 4(j) 8, 9, and 303(r) of the Communications Act, as amended.

Total Annual Burden: 10,016 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Licensees or regulatees concerned about disclosure of sensitive information in any submissions to the Commission may request confidential treatment pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from them.

This information collection consolidates and revises the currently approved information collection requirements under OMB Control Numbers 3060–0655 and 3060–1064 into 3060–0812.

The Commission provides broadcast licensees and commercial mobile radio service (CMRS) licensees with a ''true-up'' opportunity to update or otherwise correct their assessed fee amounts well before the actual due date for payment of regulatory fees. Providing a ''true-up'' opportunity is necessary because the data sources that are used to generate the fee assessments are subject to change at time of transfer or assignment of the license. The ''true-up'' is also an opportunity for regulatees to correct inaccuracies.

Per 47 CFR 1.1119 and 1.1166, the FCC may, upon a properly submitted written request, waive or defer collection of an application fee or waive, reduce, or defer payment of a regulatory fee in a specific instance for good cause shown where such action would promote the public interest. When submitting the request, no specific form is required.

FCC requires that when licensees or regulates request exemption from regulatory fees based on their non-profit status, they must file a one-time documentation sufficient to establish their non-profit status. The documentation may take the form of an IRS Determination Letter, a state charter indicating non-profit status, proof of church affiliation indicating tax exempt status, etc.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22636 Filed 10–17–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0512]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 18, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0512.

Title: ARMIS Annual Summary Report.

Form Number: FCC Report 43–01.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 93 respondents; 93 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 219 and 220 of the Communications Act of 1934, as amended.

Total Annual Burden: 744 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Ordinarily questions of a sensitive nature are not involved in the ARMIS Report 43–01. The Commission contends that areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The information contained in FCC Report 43–01 helps the Commission fulfill its regulatory responsibilities regarding pole attachment rates. The Commission has granted all carriers forbearance from ARMIS 43–01 with the exception that carriers are still required to file pole attachment cost data. These data are required to allow the Commission to fulfill its responsibilities under Section 224 of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22634 Filed 10–17–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1030]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 18, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1030.

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

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents: 254 respondents; 7,798 responses.

Estimated Time per Response: 0.25 to 5 hours.

Frequency of Response: Annual, semi-annual, one time, and on occasion reporting requirements, recordkeeping

requirement, third-party disclosure requirements, and every ten years reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, and 333 of the Communications Act of 1934, as amended, and sections 6003, 6004, and 6401 of the Middle Class Tax Relief Act of 2012, Public Law 112–96, 126 Stat. 156, 47 U.S.C. 151, 152, 154(i), 201, 301, 302(a), 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1403, 1404, and 1451.

Total Annual Burden: 14,358 hours.

Total Annual Cost: $767,785.

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (''OMB'') to obtain the full three-year clearance. The Commission has not changed the reporting, recordkeeping and/or third-party disclosure requirements. We are adjusting estimates of the currently approved information collection to more accurately reflect our current estimates by decreasing some estimates and adding estimates for previously reported, periodic collections that will be active during the three-year approval period.

The currently approved information collections under Control No. 3060–1030 relate to three groups of Advanced Wireless Service (''AWS'') spectrum, commonly referred to as AWS–1, AWS–3, and AWS–4. The FCC's policies and rules apply to application, licensing, operating and technical rules for this spectrum. The respondents are AWS licensees, incumbent Fixed Microwave Service (FS) and Broadband Radio Service (BRS) licensees that relocate out of the AWS bands, and AWS Clearinghouses that keep track of cost sharing obligations. AWS licensees also have coordination requirements with certain Federal Government incumbents.

The information collection requirements are used by incumbent licensees and new entrants to negotiate relocation agreements and to coordinate operations to avoid interference. The information also will be used by the clearinghouses to maintain a national database, determine reimbursement obligations of entrants pursuant to the Commission's rules, and notify such entrants of their reimbursement obligations. Additionally, the information will be used to facilitate dispute resolution and for FCC oversight of the clearinghouses and the cost-sharing plan.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2017–22633 Filed 10–17–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX and 3060–0761]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 17, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–XXXX.

Title: Transition from TTY to Real-Time Text Technology, CG Docket No. 16–145 and GN Docket No. 15–178.

Form Number: N/A.

Type of Review: New collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents and Responses: 967 respondents; 5,557 responses.

Estimated Time per Response: 0.2 hours (12 minutes) to 60 hours.

Frequency of Response: Annual, ongoing, one-time, and semiannual reporting requirements; recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefit. The statutory authority can be found at sections 4(i), 225, 255, 301, 303(r), 316, 403, 715, and 716 of the Communications Act of 1934, as amended, and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, 47 U.S.C. 154(i), 225, 255, 301, 303(r), 316, 403, 615c, 616, 617; Public Law 111–260, 106, 124 Stat. 2751, 2763 (2010).

Total Annual Burden: 127,360 hours.

Total Annual Cost: No cost.

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

Privacy Impact Assessment: This information collection does not affect individuals or households; therefore, the Privacy Act is not impacted.

Needs and Uses: TTY technology provides the primary means for people with disabilities to send and receive text communications over the public switched telephone network (PSTN). Changes to communications networks, particularly ongoing technology transitions from circuit switched to IP-based networks and from copper to wireless and fiber infrastructure, have affected the quality and utility of TTY technology, prompting discussions on transitioning to an alternative advanced communications technology for text communications. Accordingly, on December 16, 2016, the Commission released Transition from TTY to Real-Time Text Technology, Report and Order, document FCC 16–169, 82 FR 7699, January 23, 2017, amending its rules that govern the obligations of wireless service providers and manufacturers to support TTY technology to permit such providers and manufacturers to provide support for real-time text (RTT) over wireless IP-based networks to facilitate an effective and seamless transition to RTT in lieu of continuing to support TTY technology.

In document FCC 16–169, the Commission adopted measures requiring the following:

(a) Each wireless provider and manufacturer that voluntarily transitions from TTY technology to RTT over wireless IP-based networks and services is encouraged to develop consumer and education efforts that include (1) the development and dissemination of educational materials that contain information pertinent to the nature, purpose, and timelines of the RTT transition; (2) Internet postings, in an accessible format, of information about the TTY to RTT transition on the Web sites of covered entities; (3) the creation of a telephone hotline and an online interactive and accessible service that can answer consumer questions about RTT; and (4) appropriate training of staff to effectively respond to consumer questions. All consumer outreach and education should be provided in accessible formats including, but not limited to, large print, Braille, videos in American Sign Language and that are captioned and video described, emails to consumers who have opted to receive notices in this manner, and printed materials. Service providers and manufacturers are also encouraged to coordinate with consumer, public safety, and industry stakeholders to develop and distribute education and outreach materials. The information will inform consumers of alternative accessible technology available to replace TTY technology that may no longer be available to the consumer through their provider or on their device.

(b) Each wireless provider that requested or will request and receives a waiver of the requirement to support TTY technology over wireless IP-based networks and services must apprise their customers, through effective and accessible channels of communication, that (1) until TTY is sunset, TTY technology will not be supported for calls to 911 services over IP-based wireless services, and (2) there are alternative PSTN-based and IP-based accessibility solutions for people with disabilities to reach 911 services. These notices must be developed in coordination with PSAPs and national consumer organizations, and include a listing of text-based alternatives to 911, including, but not limited to, TTY capability over the PSTN, various forms of PSTN-based and IP-based TRS, and text-to-911 (where available). The notices will inform consumers on the loss of the use of TTY for completing 911 calls over the provider's network and alert them to alternatives service for which TTY may be used.

(c) Once every six months, each wireless provider that requests and receives a waiver of the requirement to support TTY technology must file a report with the Commission and inform its customers regarding its progress toward and the status of the availability of new IP-based accessibility solutions. Such reports must include (1) information on the interoperability of the provider's selected accessibility solution with the technologies deployed or to be deployed by other carriers and service providers, (2) the backward compatibility of such solution with TTYs, (3) a showing of the provider's efforts to ensure delivery of 911 calls to the appropriate PSAP, (4) a description of any obstacles incurred towards achieving interoperability and steps taken to overcome such obstacles, and (5) an estimated timetable for the deployment of accessibility solutions. The information will inform consumers of the progress towards the availability of alternative accessible means to replace TTY, and the Commission will be able to evaluate the reports to determine if any changes to the waivers are warranted or of any impediments to progress that it may be in a position to resolve.

OMB Control Number: 3060–0761.

Title: Section 79.1, Closed Captioning of Video Programming, CG Docket No. 05–231.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; and Not-for-profit entities.

Number of Respondents and Responses: 59,995 respondents; 512,831 responses.

Estimated Time per Response: 0.25 (15 minutes) to 60 hours.

Frequency of Response: Annual reporting requirements; Third party disclosure requirement; Recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this obligation is found at section 713 of the Communications Act of 1934, as amended, 47 U.S.C. 613, and implemented at 47 CFR 79.1.

Total Annual Burden: 702,562 hours.

Annual Cost Burden: $35,638,596.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints, Inquiries, and Requests for Dispute Assistance.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints, Inquiries, and Requests for Dispute Assistance'' in the **Federal Register** on August 15, 2014, published at 79 FR 48152, which became effective on September 24, 2014.

Privacy Act Impact Assessment: Yes.

Needs and Uses: The Commission seeks to extend existing information collection requirements in its closed

captioning rules (47 CFR 79.1), which require that, with some exceptions, all new video programming, and 75 percent of ''pre-rule'' programming, be closed captioned. The existing collections include petitions by video programming providers, producers, and owners for exemptions from the closed captioning rules, responses by commenters, and replies; complaints by viewers alleging violations of the closed captioning rules, responses by video programming distributors (VPDs) and video programmers, recordkeeping in support of complaint responses, and compliance ladder obligations in the event of a pattern or trend of violations; records of monitoring and maintenance activities; caption quality best practices procedures; making video programming distributor contact information available to viewers in phone directories, on the Commission's Web site and the Web sites of video programming distributors (if they have them), and in billing statements (to the extent video programming distributors issue them); and video programmers filing contact information and compliance certifications with the Commission.

On February 19, 2016, the Commission adopted the Closed Captioning Quality Second Report and Order, published at 81 FR 57473, August 23, 2016, amending its rules to allocate the responsibilities of VPDs and video programmers with respect to the provision and quality of closed captioning. The Commission took the following actions, among others:

(a) Required video programmers to file certifications with the Commission that (1) the video programmer (i) is in compliance with the rules requiring the inclusion of closed captions, and (ii) either is in compliance with the captioning quality standards or has adopted and is following related Best Practices; or (2) is exempt from the captioning obligation and specifies the exemption claimed.

(b) Revised the procedures for receiving, serving, and addressing television closed captioning complaints in accordance with a burden-shifting compliance model.

(c) Established a compliance ladder for the Commission's television closed captioning quality requirements.

(d) Required VPDs to use the Commission's web form when providing contact information to the VPD registry.

(e) Required video programmers to register their contact information with the Commission for the receipt and handling of written closed captioning complaints.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22632 Filed 10–17–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10445—Putnam State Bank, Palatka, Florida

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Putnam State Bank, Palatka, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Putnam State Bank on June 15, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: October 13, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–22548 Filed 10–17–17; 8:45 am]

BILLING CODE 6714–01–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.: 011383–048.

Title: Venezuelan Discussion Agreement.

Parties: Hamburg-Süd; King Ocean Services Limited, Inc.; and Seaboard Marine Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The amendment deletes Seafreight Line, Ltd. as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: October 13, 2017.

JoAnne D. O'Bryant,

Program Analyst.

[FR Doc. 2017–22624 Filed 10–17–17; 8:45 am]

BILLING CODE 6731–AA–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 November 3, 2017.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Director of Applications) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *SSX2, LLC, Tallahassee, Florida*; to be added to the Smith family control group, which controls Capital City Bank Group, Inc., and its subsidiary, Capital City Bank, both of Tallahassee, Florida.

Board of Governors of the Federal Reserve System, October 13, 2017.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2017–22621 Filed 10–17–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10054 and CMS–10106]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 18, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number_____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10054 New Technology Payments for APCs Under the Outpatient Prospective Payment System

CMS–10106 Medicare Authorization to Disclose Personal Health Information

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* New Technology Payments for APCs Under the Outpatient Prospective Payment System; *Use:* CMS needs to keep pace with emerging new technologies and make them accessible to Medicare beneficiaries in a timely manner. It is necessary that we continue to collect appropriate information from interested parties such as hospitals, medical device manufacturers, pharmaceutical companies and others that bring to our attention specific services that they wish us to evaluate for New Technology APC payment. We are making no changes to the information that we collect. The information that we seek to continue to collect is necessary to determine whether certain new services are eligible for payment in New Technology APCs, to determine appropriate coding and to set an appropriate 4 payment rate for the new technology service. The intent of these provisions is to ensure timely beneficiary access to new and appropriate technologies *Form Number:* CMS–10054 (OMB control number: 0938–0860); *Frequency:* Annually; *Affected Public:* Private Sector; Business or Other for-profits; *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 160. (For policy questions regarding this collection contact Joshua McFeeters at 410–786–9732).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Authorization to Disclose Personal Health Information; *Use:* Unless permitted or required by law, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (§ 164.508) prohibits Medicare (a HIPAA covered entity) from disclosing an individual's protected health information without a valid authorization. In order to be valid, an authorization must include specified core elements and statements. Medicare will make available to Medicare beneficiaries a standard, valid authorization to enable beneficiaries to request the disclosure of their protected health information. This standard authorization will simplify the process of requesting information disclosure for beneficiaries and minimize the response time for Medicare. Form CMS–10106, the Medicare Authorization to Disclose Personal Health Information, will be used by Medicare beneficiaries to authorize Medicare to disclose their protected health information to a third party. *Form Number:* CMS–10106 (OMB control number: 0938–0930); *Frequency:* Occasionally; *Affected Public:*

Individuals or Households; *Number of Respondents:* 2,200,000; *Total Annual Responses:* 2,200,000; *Total Annual Hours:* 550,000. (For policy questions regarding this collection contact Sam Jenkins at 410–786–3261.)

Dated: October 13, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–22630 Filed 10–17–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0426]

Submission for OMB Review; Comment Request; Child and Family Services Plan (CFSP), Annual Progress and Services Review (APSR), and Annual Budget Expenses Request and Estimated Expenditures (CFS–101)

Description: Under title IV–B, subparts 1 and 2, of the Social Security Act (the Act), States, Territories, and Tribes are required to submit a Child and Family Services Plan (CFSP). The CFSP lays the groundwork for a system of coordinated, integrated, and culturally relevant family services for the subsequent five years (45 CFR 1357.15(a)(1)). The CFSP outlines initiatives and activities the State, Territory, and Tribes will carry out in administering programs and services to promote the safety, permanency, and well-being of children and families, including, as applicable, those activities conducted under the John H. Chafee Foster Care Independence Program (Section 477 of the Act) and the State grant authorized by the Child Abuse Prevention and Treatment Act. By June 30 of each year, States, Territories, and Tribes are also required to submit an Annual Progress and Services Report (APSR) and a financial report called the CFS–101. The APSR is a yearly report that discusses progress made by a State, Territory or Tribe in accomplishing the goals and objectives cited in its CFSP (45 CFR 1357.16(a)). The APSR contains new and updated information about service needs and organizational capacities throughout the five-year plan period. The CFS–101 has three parts. Part I is an annual budget request for the upcoming fiscal year. Part II includes a summary of planned expenditures by program area for the upcoming fiscal year, the estimated number of individuals or families to be served, and the geographical service area. Part III includes actual expenditures by program area, numbers of families and individuals served by program area, and the geographic areas served for the last complete fiscal year.

Respondents: States, Territories, and Tribes must complete the CFSP, APSR, and CFS–101. States and Territories must also report data annually on caseworker visits with children in foster care. Tribes are exempted from the caseworker visits reporting requirement of the CFSP/APSR. There are approximately 189 Tribal entities that currently receive IV–B funding. There are 53 States (including Puerto Rico, the District of Columbia, and the U.S. Virgin Islands) that must complete the CFSP, APSR, and CFS–101. There are a total of 242 possible respondents.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
APSR	242	1	80	19,360
CFSP	48.4	1	120.25	5,820.10
CFS–101, Parts I, II, and III	242	1	5	1,210
Caseworker Visits	53	1	99.33	5,264.49

Estimated Total Annual Burden Hours: 31,654.59.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–22519 Filed 10–17–17; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1003]

Center for Devices and Radiological Health: Experiential Learning Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration's (FDA) Center for Devices and Radiological Health (CDRH or Center) is announcing the 2018 Experiential Learning Program (ELP). This training is intended to provide CDRH and other FDA staff with an opportunity to understand laboratory practices, quality system management, patient perspective/input, and challenges that impact the medical device development life cycle. The purpose of this document is to invite medical device industry, academia, and health care facilities, and others to participate in this formal training program for CDRH and other FDA staff, or to contact CDRH for more information regarding the ELP.

DATES: Submit electronic proposals for participation in the ELP within the dates provided at the ELP Web site at: *https://www.fda.gov/scienceresearch/sciencecareeropportunities/ucm380676.htm.*

ADDRESSES: For access to the docket to read background documents, go to *https://www.regulations.gov* and insert

the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Christian Hussong, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5261, Silver Spring, MD 20993–0002, 240–402–2246, *Christian.Hussong@fda.hhs.gov* or ELP Management, *ELP@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

CDRH is responsible for ensuring the safety and effectiveness of medical devices marketed in the United States. Additionally, CDRH assures patients and providers have timely and continued access to high-quality, safe, and effective medical devices. Since CDRH has identified Partnering with Patients and Promoting a Culture of Quality and Organizational Excellence as strategic priorities, for the 2018 ELP, our goal is to specifically understand the perspective of our stakeholders and understand implementation of these topics within their institutions. The Center encourages applicants to consider including opportunities to discuss patient perspective and incorporating quality system design and management in their proposals as they contribute to the success of the device development life cycle.

CDRH is committed to advancing regulatory science, providing industry with predictable, consistent, transparent, and efficient regulatory pathways, and helping to ensure consumer confidence in medical devices marketed in the United States and throughout the world. The ELP is intended to provide CDRH and other FDA staff with an opportunity to understand the laboratory and manufacturing practices, quality system management, patient perspective/input, and other challenges and how they impact the medical device development life cycle. ELP is a collaborative effort to enhance communication with our stakeholders to facilitate medical device reviews. The Center is committed to understanding current industry practices, innovative technologies, regulatory impacts and needs, and how patient perspective and quality systems management advances the development and evaluation of medical devices, and to monitor the performance of marketed devices.

These formal training visits are not intended for FDA to inspect, assess, judge, or perform a regulatory function (*e.g.,* compliance inspection), but rather, they are an opportunity to provide CDRH and other FDA staff a better understanding of the products they review, how they are developed, the voice of the patient, challenges related to quality systems development and management in the product life cycle, and how medical devices fit into the larger health care system. CDRH is formally requesting participation from industry, academia, and clinical facilities, medical device incubators and accelerators, health technology assessment groups, and those that have previously participated in the ELP or other FDA site visit programs.

Additional information regarding the CDRH ELP, including the table of areas of interest, submission dates, a sample request, and an example of the site visit agenda, is available on CDRH's Web site at: *https://www.fda.gov/scienceresearch/sciencecareeropportunities/ucm380676.htm.*

II. CDRH ELP

A. Areas of Interest

In the ELP training program, groups of CDRH and other FDA staff will observe operations in the areas of research, device development, in making coverage decisions and assessments, incorporating patient information and reimbursement, manufacturing, and health care facilities. The areas of interest for visits include various topics identified by managers at CDRH and other areas within FDA. These areas of interest are listed on the ELP Web site and are intended to be updated quarterly.

To submit a proposal addressing one of the Center's training needs, visit the link for the table of areas of interest at: *https://www.fda.gov/ScienceResearch/ScienceCareerOpportunities/UCM380676.htm.* Once you have determined an area of interest to address in your ELP proposal, follow the instructions in section III to complete the site visit request template and agenda provided at: *https://www.fda.gov/downloads/ScienceResearch/ScienceCareerOpportunities/UCM392988.pdf* and at: *https://www.fda.gov/downloads/ScienceResearch/ScienceCareerOpportunities/UCM487190.pdf.*

Submit all proposals at *ELP@fda.hhs.gov* within the dates provided at the ELP Web site at: *https://www.fda.gov/scienceresearch/sciencecareeropportunities/ucm380676.htm.*

B. Site Selection

CDRH and FDA will be responsible for its own staff travel expenses associated with the site visits. CDRH and FDA will not provide funds to support the training provided by the site to the ELP. Selection of potential facilities will be based on CDRH and FDA's priorities for staff training and resources available to fund this program. In addition to logistical and other resource factors, all sites must have a successful compliance record with FDA or another Agency with which FDA has a memorandum of understanding (if applicable). If a site visit involves a visit to a separate physical location of another firm under contract with the site, that firm must agree to participate in the ELP and must also have a satisfactory compliance history, and must be listed in the proposal along with a Facility Establishment Identifier number, if applicable.

III. Request To Participate

Information regarding the CDRH ELP, including a sample request and an example of a site visit agenda, and submission dates is available on CDRH's Web site at: *https://www.fda.gov/scienceresearch/sciencecareeropportunities/ucm380676.htm.* Proposals to participate should be submitted to *ELP@fda.hhs.gov,* within the dates provided, at the ELP Web site at *https://www.fda.gov/scienceresearch/sciencecareeropportunities/ucm380676.htm.*

Dated: October 13, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22626 Filed 10–17–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5569]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Device Tracking

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is

announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for the tracking of medical devices.

DATES: Submit either electronic or written comments on the collection of information by December 18, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 18, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 18, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–5569 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Device Tracking.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Device Tracking—21 CFR Part 821

OMB Control Number 0910–0442—Extension

Section 211 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115) became effective on February 19, 1998. FDAMA amended the previous medical device tracking provisions under section 519(e)(1) and (2) of the Federal Food,

Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360i(e)(1) and (2)) that were added by the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629). Unlike the tracking provisions under SMDA, which required tracking of any medical device meeting certain criteria, FDAMA allows FDA discretion in applying tracking provisions to medical devices meeting certain criteria and provides that tracking requirements for medical devices can be imposed only after FDA issues an order. In the **Federal Register** of February 8, 2002 (67 FR 5943), FDA issued a final rule that conformed existing tracking regulations to changes in tracking provisions effected by FDAMA under part 821 (21 CFR part 821).

Section 519(e)(1) of the FD&C Act, as amended by FDAMA, provides that FDA may require by order that a manufacturer adopt a method for tracking a class II or III medical device, if the device meets one of the three following criteria: (1) The failure of the device would be reasonably likely to have serious adverse health consequences, (2) the device is intended to be implanted in the human body for more than 1 year (referred to as a ''tracked implant''), or (3) the device is life-sustaining or life-supporting (referred to as a ''tracked l/s-l/s device'') and is used outside a device user facility.

Tracked device information is collected to facilitate identifying the current location of medical devices and patients possessing those devices, to the extent that patients permit the collection of identifying information. Manufacturers and FDA (where necessary) use the data to: (1) Expedite the recall of distributed medical devices that are dangerous or defective and (2) facilitate the timely notification of patients or licensed practitioners of the risks associated with the medical device.

In addition, the regulations include provisions for: (1) Exemptions and variances; (2) system and content requirements for tracking; (3) obligations of persons other than device manufacturers, *e.g.,* distributors; (4) records and inspection requirements; (5) confidentiality; and (6) record retention requirements.

Respondents for this collection of information are medical device manufacturers, importers, and distributors of tracked implants or tracked l/s-l/s devices used outside a device user facility. Distributors include multiple and final distributors, including hospitals.

The annual hourly burden for respondents involved with medical device tracking is estimated to be 615,380 hours per year. The burden estimates cited in tables 1 through 3 are based on the number of device tracking orders issued in the last 3 years, an average of 12 tracking orders annually. FDA estimates that approximately 22,000 respondents may be subject to tracking reporting requirements.

Under § 821.25(a), device manufacturers subject to FDA tracking orders must adopt a tracking method which can provide certain device, patient, and distributor information to FDA within 3 to 10 working days. Assuming one occurrence per year, FDA estimates it would take a firm 20 hours to provide FDA with location data for all tracked devices and 56 hours to identify all patients and/or multiple distributors possessing tracked devices.

Under § 821.25(d) manufacturers must notify FDA of distributor noncompliance with reporting requirements. Based on the number of audits manufacturers conduct annually, FDA estimates it would receive no more than one notice in any year, and that it would take 1 hour per incident.

Under § 821.30(c)(2), multiple distributors must provide data on current users of tracked devices, current device locations, and other information, upon request from a manufacturer or FDA. FDA has not made such a request and is not aware of any manufacturer making a request. Assuming one multiple distributor receives one request in a year from either a manufacturer or FDA, and that lists may be generated electronically, the Agency estimates a burden of 1 hour to comply.

Under § 821.30(d) distributors must verify data or make required records available for auditing, if a manufacturer provides a written request. FDA's estimate of the burden for distributor audit responses assumes that manufacturers audit database entries for 5 percent of tracked devices distributed. Each audited database entry prompts one distributor audit response. Because lists may be generated electronically, FDA estimates a burden of 1 hour to comply.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Discontinuation of business—821.1(d)	1	1	1	1	1
Exemption or variance—821.2 and 821.30(e)	1	1	1	1	1
Notification of failure to comply—821.25(d)	1	1	1	1	1
Multiple distributor data—821.30(c)(2)	1	1	1	1	1
Total					4

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Tracking information—821.25(a)	12	1	12	76	912
Record of tracking data—821.25(b)	12	46,260	555,120	1	555,120
Standard operating procedures—821.25(c) [2]	12	1	12	63	756
Manufacturer data audit—821.25(c)(3)	12	1,124	13,488	1	13,488
Multiple distributor data and distributor tracking records—821.30(c)(2) and (d)	22,000	1	22,000	1	22,000

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Total					592,276

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] One-time burden.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Acquisition of tracked devices and final distributor data—821.30(a) and (b)	22,000	1	22,000	1	22,000
Multiple distributor data and distributor tracking records—821.30(c)(2) and (d)	1,100	1	1,100	1	1,100
Total					23,100

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimate for this information collection has not changed since the last OMB approval.

This document also refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget under the PRA (44 U.S.C. 3501–3520). The collections of information found in §§ 821.2(b), 821.25(e), and 821.30(e) have been approved under OMB control number 0910–0191.

Dated: October 11, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–22550 Filed 10–17–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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; SBIR/STTR Applications in Drug Discovery and Development.

Date: November 13, 2017.

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: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel-Neural Regulation of Cancer.

Date: November 13, 2017.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Manzoor Zarger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Vascular and Hematology.

Date: November 13, 2017.

Time: 2:00 p.m. to 4:15 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: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Parasites-Vectors and Fungi.

Date: November 14–15, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biomaterials, Delivery, and Nanotechnology.

Date: November 14–15, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Hilton Washington DC/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 17–094: Maximizing Investigator's Research Award (R35).

Date: November 14, 2017.

Time: 8:00 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: Maqsood A Wani, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114,

MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Musculoskeletal, Oral and Skin Systems.

Date: November 14, 2017.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Maximizing Investigators' Research Award (R35).

Date: November 14–15, 2017.

Time: 8:00 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: Anita Szajek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–827–6276, *anita.szajek@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: HIV/AIDS Innovative Research Applications.

Date: November 14, 2017.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biochemistry and Biophysics of Biological Macromolecules Fellowship Applications.

Date: November 15, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel ''PAR–16–064: Small Grants for New Investigators to Promote Diversity in Health-Related Research (R21)''.

Date: November 15–16, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, Bethesda, MD 20892, 301–827–4417, *jianxinh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell and Molecular Biology.

Date: November 15–16, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Amy Kathleen Wernimont, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, Bethesda, MD 20892, 301–827–6427, *amy.wernimont@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biochemistry and Biophysics of Biological Macromolecules Fellowship Applications.

Date: November 15, 2017.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Sudha Veeraraghavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1504, *sudha.veeraraghavan@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Translational Research in Pediatric and Obstetric Pharmacology and Therapeutics.

Date: November 15, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vaccine, Host Defense and Inflammation.

Date: November 15, 2017.

Time: 3:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@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: October 12, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22569 Filed 10–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Lasker Clinical Research Scholars Program Si2/R00.

Date: November 13, 2017.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G41B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC9823 Bethesda, MD 20892–9823, (240) 669–5068, *zhuqing.li@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 12, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22571 Filed 10–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

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 as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: November 12–14, 2017.

Closed: November 12, 2017, 7:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate programmatic concerns and personnel qualifications.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: November 13, 2017, 8:30 a.m. to 11:55 a.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: November 13, 2017, 11:55 a.m. to 1:45 p.m.

Agenda: To review and evaluate programmatic concerns and personnel qualifications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Open: November 13, 2017, 1:45 p.m. to 4:35 p.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: November 13, 2017, 4:35 p.m. to 5:25 p.m.

Agenda: To review and evaluate programmatic concerns and personnel qualifications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: November 13, 2017, 6:15 p.m. to 10:00 p.m.

Agenda: To review and evaluate programmatic concerns and personnel qualifications.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: November 14, 2017, 8:30 a.m. to 11:20 a.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: November 14, 2017, 11:20 a.m. to 1:00 p.m.

Agenda: To review evaluate programmatic concerns and personnel qualifications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Open: November 14, 2017, 1:00 p.m. to 2:00 p.m.

Agenda: Poster Session.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: November 14, 2017, 2:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate programmatic concerns and personnel qualifications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Darryl C. Zeldin, Scientific Director & Principal Investigator, Division of Intramural Research, National Institute of Environmental Health Sciences, NIH, 111 TW Alexander Drive, Mail drop A2–09, Research Triangle Park, NC 27709, 919–541–1169, *zeldin@niehs.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 13, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22574 Filed 10–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–17–034: NIDDK Exploratory Clinical Trials in Small Business-Diabetics and its Complications.

Date: November 13, 2017.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, Md 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Cystic Fibrosis Clinical and Translation Centers.

Date: December 4–5, 2017.

Time: 8:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, Md 20892–2542, 301–594–4721, *ryan.morris@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research;

93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 12, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22573 Filed 10–17–17; 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; PAR–17–094: Maximizing Investigators' Research Award (R35).

Date: November 2–3, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–435–1236, *smirnove@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–094: Maximizing Investigators' Research Award (R35).

Date: November 2, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Maqsood A Wani, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering Sciences.

Date: November 2, 2017.

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; Member Conflict: Cardiovascular Sciences.

Date: November 7, 2017.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology.

Date: November 8–9, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 301–435–1221, *andrea.keane-myers@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering Sciences.

Date: November 8, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: 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; Fellowship: Infectious Diseases and Microbiology.

Date: November 13–14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marines' Memorial Club & Hotel, 609 Sutter Street, San Francisco, CA 94102.

Contact Person: Tamara Lyn McNealy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, Bethesda, md 20747, 301–827–2372, *tamara.mcnealy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Diagnostics and Treatments.

Date: November 13–14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Psycho/Neuropathology Lifespan Development, STEM Education.

Date: November 13–14, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Elia E Femia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3108, Bethesda, MD 20892, 301–827–7189, *femiaee@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: November 13, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: 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: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: November 13–14, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Suites Old Town, 801 North Saint Asaph Street, Alexandria, VA 22314.

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business Hematology.

Date: November 13–14, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bukhtiar H Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: November 13–14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Clara M Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1041, *chengc@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Molecular and Cellular Biology Study Section.

Date: November 13, 2017.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Zika Virus Complications.

Date: November 13–14, 2017.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park, 2660 Woodley Rd NW., Washington, DC 20008.

Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Zika Virus Complications.

Date: November 13, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott—Wardman Park Washington DC, 2660 Woodley Road, Northwest, Washington, DC 20008.

Contact Person: Kenneth M. Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@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: October 12, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22568 Filed 10–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Partnerships for the Development of Tools to Advance Therapeutic Discovery for Select Antimicrobial Resistant Gram-Negative Bacteria (R01).

Date: November 8–9, 2017.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Yong Gao, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G13B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Rockville, MD 20892–7616, (240) 669–5048, *yong.gao@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 13, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22572 Filed 10–17–17; 8:45 am]

BILLING CODE 4140–01–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, 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 Pathway to Independence Grant Applications K99.

Date: November 1–2, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: October 13, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22570 Filed 10–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate

interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same from the previous quarter. For the calendar quarter beginning October 1, 2017, the interest rates for overpayments will be 3 percent for corporations and 4 percent for non-corporations, and the interest rate for underpayments will be 4 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates in this notice are applicable from October 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Shandy Plicka, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 298–1717.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2017–18, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2017, and ending on December 31, 2017. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). These interest rates are subject to change for the calendar quarter beginning January 1, 2018, and ending March 31, 2017.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	123117	4	4	3

Dated: October 5, 2017.

Sean M. Mildrew,

Acting Chief Financial Officer, Office of Finance.

[FR Doc. 2017–22579 Filed 10–17–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2017–N117; FXES11130100000–178–FF01E00000]

U.S. Endangered Species; Receipt of Recovery Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on an application for a permit to conduct activities intended to enhance the propagation or survival of endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits certain activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA also requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, we must receive your written comments by November 17, 2017.

ADDRESSES:

Requesting Copies of Applications or Public Comments: Copies of the application or public comments on the application in this notice may be obtained by any party who submits a written request to the following office within 30 days of the date of publication of this notice, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552): Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE. 11th Avenue, Portland, OR 97232–4181.

Submitting Comments: You may submit comments by one of the following methods. Please specify the applicant name(s) and permit number(s) to which your comments pertain (*e.g.,* TE–XXXXXX).

- *Email: permitsR1ES@fws.gov.* Please refer to the respective permit number (*e.g.,* Application No. TE–XXXXXX) in the subject line of your email message.
- *U.S. Mail:* Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Colleen Henson, Recovery Permits Coordinator, Ecological Services, (503) 231–6131 (phone); *permitsR1ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on an application for a permit to conduct activities intended to promote recovery of endangered species. With some exceptions, the Endangered Species Act (16 U.S.C. 1531 *et seq.;* ESA) prohibits certain activities with endangered species unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing this permit.

Background

The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of permits and require that we invite public comment before issuing permits for activities involving endangered species. A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Application Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following application.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE–09155B	Renee Robinette Ha, University of Washington, Seattle, Washington.	Mariana crow (*Corvus kubaryi*).	Island of Rota, Commonwealth of the Northern Mariana Islands.	Survey, monitor, research.	Collection of ectoparasites, passive recording of nesting birds using audio recording units.	Amend.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Contents of Public Comments

Please make your comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

Next Steps

If the Service decides to issue a permit to the applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 9, 2017.

Theresa E. Rabot,

Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2017–22566 Filed 10–17–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO220000.L10200000.PK0000; OMB Control Number 1004–0041]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Authorizing Grazing Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Land Management (BLM), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before November 17, 2017.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov,* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the BLM at U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Washington, DC 20240, Attention: Jean Sonneman; or by email to *jesonnem@blm.gov.* Please reference OMB Control Number 1004–0041 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Maggie Marston by email at *mmarston@blm.gov,* or by telephone at 202–912–7444. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, the BLM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** Notice with a 60-day public comment period soliciting comments on this collection of information was published on April 12, 2017 (82 FR 17863). The BLM received one comment. The comment did not address this collection of information. Therefore, the BLM did not change the collection in response to the comment.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comments addressing the following issues: (1) Is the collection necessary to the proper functions of the BLM; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BLM minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this Notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BLM is required by the Taylor Grazing Act (43 U.S.C. 315–315r) and Subchapter IV of the Federal Land Policy and Management Act (43 U.S.C. 1751–1753) to manage domestic livestock grazing on public lands consistent with land use plans, principles of multiple use and sustained yield, and other relevant factors. Compliance with these statutory provisions necessitates collection of information on matters such as permittee and lessee qualifications for a grazing permit or lease, base property used in conjunction with public lands, and the actual use of public lands for domestic livestock grazing. Most permits and leases are in effect for 10 years and are renewable if the BLM determines that the terms and conditions of the expiring permit or lease are being met.

Title of Collection: Authorizing Grazing Use.

OMB Control Number: 1004–0041.

Form Numbers: 4130–1, 4130–1a, 4130–1b, 4130–3a, 4130–4, 4130–5.

Type of Review: Extension of currently approved collection.

Respondents/Affected Public: Any U.S. citizen or validly licensed business may apply for a BLM grazing permit or lease. The BLM administers nearly 18,000 permits and leases for grazing domestic livestock, at least part of the year on public lands.

Total Estimated Number of Annual Respondents: 15,000.

Total Estimated Number of Annual Responses: 33,810.

Estimated Completion Time per Response: Varies from 10 to 35 minutes, depending on the activity.

Total Estimated Number of Annual Burden Hours: 7,811.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: The BLM collects the information on Forms 4130–1, 4130–1a, 4130–1b, and 4130–4 on occasion. The BLM collects the information on Forms 4130–3a and 4130–5 annually.

Total Estimated Annual Nonhour Burden Cost: $30,000.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Mark Purdy,

Management Analyst, Bureau of Land Management.

[FR Doc. 2017–22615 Filed 10–17–17; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–344 (Fourth Review)]

Tapered Roller Bearings 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 to determine whether revocation of the antidumping duty order on tapered roller bearings 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: October 6, 2017.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), 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 (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://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 October 6, 2017, the Commission determined that it would 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)). In response to the Commission's notice of institution (82 FR 30898, July 3, 2017), the Commission found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate. 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: October 13, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–22551 Filed 10–17–17; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–678–679 and 681–682 (Fourth Review)]

Stainless Steel Bar From Brazil, India, Japan, and Spain; Notice of Commission Determination To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

[1] Vice Chairman Johanson and Commissioner Broadbent voted to conduct a full review of the order. Chairman Schmidtlein and Commissioner Williamson voted to conduct an expedited review of the order.

DATES: October 6, 2017.

FOR FURTHER INFORMATION CONTACT: Amanda Lawrence (202–205–3185), 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 (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On October 6, 2017, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that the domestic parties' group response to its notice of institution was adequate and that the respondent interested parties' group responses to its notice of institution for the reviews on subject imports from Japan and Spain were adequate. The Commission found that the respondent interested parties' group responses to its notice of institution for the reviews on subject imports from Brazil and India were inadequate. However, the Commission determined to conduct full reviews concerning the orders on stainless steel bar from Brazil and India to promote administrative efficiency in light of its decision to conduct full reviews of the orders on stainless steel bar from Japan and Spain. 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: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 12, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–22522 Filed 10–17–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1005]

Certain L-Tryptophan, L-Tryptophan Products, and Their Methods of Production; Commission Determination to Review a Final Initial Determination Finding No Section 337 Violation; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review a final initial determination (''FID'') of the presiding administrative law judge (''ALJ'') finding no violation of section 337 of the Tariff Act of 1930, as amended. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–4716. 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 *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://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 Investigation No. 337–TA–1005 on June 14, 2016, based on a complaint filed by Complainants Ajinomoto Co., Inc. of Tokyo, Japan and Ajinomoto Heartland Inc. of Chicago, Illinois (collectively, ''Ajinomoto'' or ''Complainants''). *See* 81 FR 38735–6 (June 14, 2016). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain L-tryptophan, L-tryptophan products, and their methods of production, by reason of infringement of certain claims of U.S. Patent No. 7,666,655 (''the '655 patent'') and U.S. Patent No. 6,180,373 (''the '373 patent''). *Id.* The notice of investigation identified CJ CheilJedang Corp. of Seoul, Republic of Korea; CJ America, Inc. of Downers Grove, Illinois; and PT CheilJedang Indonesia of Jakarta, Indonesia (collectively ''CJ'' or ''Respondents'') as respondents in this investigation. *See id.* The Office of Unfair Import Investigations is not a party to the investigation.

On August 11, 2017, the ALJ issued his FID finding no violation of section 337. Specifically, the FID finds that: (1) Respondents' accused products do not infringe the asserted claims of the '373 or the '655 patents either literally or under the doctrine of equivalents; (2) claim 10 of the '373 patent is invalid for indefiniteness and lack of written description; (3) claim 20 of the '655 patent is invalid for lack of written description; and (4) Complainants' products do not satisfy the technical prong of the domestic industry requirement with respect to the '655 or the '373 patents. In addition, should the Commission find a violation of section 337, the RD recommends that the Commission issue: (1) A limited exclusion order against Respondents' accused products; and (2) a cease and desist order against Respondent CJ America.

The Commission has determined to review the FID in its entirety. In connection with its review, the parties are requested to brief their positions with reference to the applicable law and the evidentiary record regarding the questions provided below:

1. Please explain, with textual support from the McKitrick reference (JX–5), discussed at column 6, lines 29–37 of the '373 patent, whether McKitrick discloses measuring serine sensitivity via a forward assay, a reverse assay, or both.

2. Please explain whether and why the specific conditions and methods of McKitrick (JX–5) and Bauerle (JX–37), discussed in the '373 patent specification, were not closely followed to establish infringement of the '373 patent. Please provide factual as well as legal support to explain whether the methods employed provide adequate proof of infringement.

3. Assuming prosecution history estoppel arising from the amendment of the term a ''protein that has several amino acid deletions, substitutions, insertions, or additions as compared to SEQ ID NO:2'' during prosecution of the '655 patent, is relevant to the scope of the term ''said protein consists of the amino acid sequence of SEQ ID NO: 2'' in claim 9, please explain whether or not any estoppel presumption is rebutted.

4. Please explain the relevance of Exhibit CX–487 (Random House Dictionary definition of ''replace'') on the claim construction of the term ''replacing the native promoter'' in the '655 patent claims and include a copy of the CX–487 exhibit.

In addition, in connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994) (Comm'n Op.).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the questions identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainants are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the date that the asserted patents expire and the HTSUS numbers under which the accused products are imported. Complainants are further requested to supply the names of known importers of the products at issue in this investigation.

Written submissions and proposed remedial orders must be filed no later than close of business on October 27, 2017. Reply submissions must be filed no later than the close of business on November 3, 2017. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1005'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 12, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–22524 Filed 10–17–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–049]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 31, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. No. TA–201–75 (Remedy) (Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled into Other Products)).
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 16, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–22690 Filed 10–16–17; 4:15 pm]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Existing Collection in Use Without and OMB Number FBI Hazardous Devices School Application

AGENCY: Hazardous Device School Critical Incident Response Group, Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Critical Incident Response Group (CIRG), Hazardous Devices School (HDS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until December 18, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mark H. Wall, Supervisory Management and Program Analyst, FBI, Hazardous Devices School, 7010 Redstone Road, Huntsville, AL 35898.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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.

Overview of This Information Collection

1. *Type of Information Collection:* Approval of a new collection.

2. *The Title of the Form/Collection:* Federal Bureau of Investigation Hazardous Devices School Course Application.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number FD–731. Federal Bureau of Investigation (FBI).

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* This form is utilized by the FBI, Hazardous Devices School to information needed during a review process of the identification and qualification of prospective students, and to initiate a review of security clearance status prior to being granted access to law enforcement sensitive and classified facilities and information.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1000 respondents will complete each form within approximately 45 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 750 total annual burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: October 13, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–22554 Filed 10–17–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of Members to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the Appointment of the individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to serve on the Department's Performance Review Board:

Permanent Membership

Chair—Deputy Secretary
Vice-Chair—Assistant Secretary for Administration and Management
Alternate Vice-Chair—Chief Human Capital Officer—Sydney T. Rose
Executive Secretary—Director, Executive Resources—Lucy Cunningham
Performance Officer—Director, Performance Management Center

Rotating Membership—Appointments Expire on 09/30/20

BLS—Jay A. Mousa, Associate Commissioner for Office of Field Operations
ETA—Leo Miller, Regional Administrator, Philadelphia
MSHA—Patricia W. Silvey, Deputy Assistant Secretary for Operations
OASAM—Tonya Manning, Director, Cyber Security and Chief Information Security Officer
OCFO—Kevin Brown, Associate Deputy Chief Financial Officer
OFCCP—Marika Litras, Director of Enforcement
OLMS—Stephen J. Willertz, Director, Office of Enforcement and International Union Audits
OSHA—Amanda Edens, Director of Technical Support and Emergency Management
OSHA—Kenneth Nishiyama-Atha, Safety and Health Administrator, Chicago
OWCP—Vincent Alvarez, Administrative Officer
SOL—Michael D. Felsen, Regional Solicitor, Boston
SOL—Stanley Keen, Regional Solicitor, Atlanta
SOL—Jeffrey L. Nesvet, Associate Solicitor for Employment and Training Legal Services
WB—Joan Y. Harrigan-Farrelly, Deputy Director
WHD—Patrice R. Torres, Assistant Administrator for Administrative Operations

FOR FURTHER INFORMATION CONTACT: Ms. Lucy Cunningham, Director, Office of Executive Resources, Room N2453, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Ave. NW., Washington, DC 20210, telephone: (202) 693–6624.

Signed at Washington, DC, on October 5, 2017.

R. Alexander Acosta,

Secretary of Labor.

[FR Doc. 2017–22614 Filed 10–17–17; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management; Public Availability of Department of Labor FY 2016 Service Contract Inventory

AGENCY: Office of the Assistant Secretary for Administration and Management, Labor.

ACTION: Notice of public availability of FY 2016 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Department of Labor (DOL) is publishing this notice to advise the public of the availability of its FY 2016 Service Contract Inventory. This inventory provides information on service contract actions over $25,000 made in FY 2016. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP).

OFPP's guidance is available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The Department of Labor has posted its inventory and a summary of the inventory on the agency's Web site at

the following link: *https://www.dol.gov/general/aboutdol#budget.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Ngozi Ofili in the DOL/Office of Procurement Policy at (202) 693–7247 or *ofili.ngozi.e@dol.gov.*

Dated: September 29, 2017.

Edward C. Hugler,

Deputy Assistant Secretary for Administration and Management.

[FR Doc. 2017–22611 Filed 10–17–17; 8:45 am]

BILLING CODE 4510–04–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0032]

Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Construction Standards on Posting Emergency Telephone Numbers and Maximum Safe Floor Load Limits.

DATES: Comments must be submitted (postmarked, sent, or received) by December 18, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0032, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2011–0032) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

Two construction standards, ''Medical Services and First Aid'' (§ 1926.50), and ''General Requirements for Storage'' (§ 1926.250), contain posting provisions. Paragraph (f) of § 1926.50 requires employers to conspicuously post emergency telephone numbers for physicians, hospitals, or ambulances at their worksites if 911 emergency telephone service is not locally available; in the event that a worker has a serious injury at a worksite, this posting requirement helps expedite emergency medical treatment of the worker. Paragraph (a)(2) of § 1926.250 specifies that employers must post the maximum safe load limits of floors located in storage areas inside buildings or other structures under construction, unless the floors or slabs are on grade (sitting on the ground). This provision prohibits employers from overloading floors in areas used to store material and equipment where a structure's floors are not supported directly by the ground. This requirement is intended to prevent floor collapses which could seriously injure or kill workers.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the two construction standards, ''Medical Services and First Aid'' paragraph (f) of § 1926.50, and ''General Requirements for Storage'' paragraph (a)(2) of § 1926.250. The Agency is proposing an adjustment increase of its current burden hour estimate from 106,178

burden hours to 181,624 burden hours for a total increase of 75,446 burden hours associated with these two standards. The increase is due to the increase in the number of affected construction projects. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Construction Standards on the Posting of Emergency Telephone Numbers and Floor Load Limits (29 CFR 1926.50 and 29 CFR 1926.250).

OMB Control Number: 1218–0093.

Affected Public: Business or other for-profits.

Number of Respondents: 716,589.

Number of Responses: 716,589.

Frequency of Responses: On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 181,624.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0032). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on October 10, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–22582 Filed 10–17–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Certification of Medical Necessity (CM–893). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be received by December 18, 2017.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95).

I. Background: The Office of Workers' Compensation Programs administers the Federal Black Lung Workers' Compensation Program. The Black Lung Benefits Act (30 U.S.C. 901, et seq.) and its implementing regulations necessitate this information collection. The regulations at 20 CFR 725.701 et seq., establish miner eligibility for medical services and supplies for the length of time required by the miner's pneumoconiosis and related disability. 20 CFR 725.706 requires prior approval before ordering an apparatus where the purchase price exceeds $300.00. 20 CFR 725.707 provides for the ongoing supervision of the miner's medical care, including the necessity, character and sufficiency of care to be furnished; gives the authority to request medical reports; and indicates the right to refuse payment for failing to submit any report required. Because of the above legislation and regulations, it was necessary to devise a form to collect the required information. The form is the CM–893, Certificate of Medical Necessity (CMN). The CM–893, Certificate of Medical Necessity is completed by the coal miner's doctor and is used by the Division of Coal Mine Workers' Compensation to determine if the miner meets impairment standards to qualify for durable medical equipment and home nursing. This information collection is currently approved for use through February 28, 2018.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions: The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to carry out its responsibility to determine the eligibility for reimbursement of medical benefits to Black Lung recipients.

Agency: Office of Workers' Compensation Programs.

Type of Review: Revision.

Title: Certificate of Medical Necessity.

OMB Number: 1240–0024.

Agency Number: CM–893.

Affected Public: Individuals or households; Business or other for profit, and Not-for-profit institutions.

Total Respondents: 1,500.

Total Annual Responses: 1,500.

Average Time per Response: 23 minutes.

Estimated Total Burden Hours: 563.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or 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.

Dated: October 3, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2017–22609 Filed 10–17–17; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Rehabilitation Action Report (OWCP–44). A copy of the proposed information collection request can be obtained by contacting the office listed below in the date section of this Notice. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be submitted by December 18, 2017.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) and the Longshore and Harbor Workers' Compensation Act (LHWCA). These acts provide vocational rehabilitation services to eligible workers with disabilities. Section 8104(a) of the FECA and § 939(c) of the LHWCA provide that eligible injured workers are to be furnished vocational rehabilitation services, and § 8111(b) of the FECA and § 908(g) of the LHWCA provide that persons undergoing such vocational rehabilitation receive maintenance allowances as additional compensation. Form OWCP–44 is used to collect information necessary to decide if maintenance allowances should continue to be paid. Form OWCP–44 is submitted to OWCP by contractors hired to provide vocational rehabilitation services. Form OWCP–44 gives prompt notification of key events that may require OWCP action in the vocational rehabilitation process. This information collection is currently approved for use through December 31, 2017.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* 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 submissions of responses.

III. Current Actions: The Department of Labor seeks the approval for the extension of this currently approved information collection in order to ascertain the status of a rehabilitation case and to expedite adjudicatory claims action based on events arising from a rehabilitation effort.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Rehabilitation Action Report.

OMB Number: 1240–0008.

Agency Number: OWCP–44.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Government.

Total Respondents: 4,066.

Total Annual Responses: 4,066.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 678.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or 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.

Dated: October 4, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2017–22610 Filed 10–17–17; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 17–076]

International Space Station National Laboratory Advisory Committee; Charter Renewal

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of renewal of the charter of the International Space Station

National Laboratory Advisory Committee.

Pursuant to Sections 14(b)(1) and 9(c) of the Federal Advisory Committee Act, as amended (Pub. L. 92–463, 5 U.S.C. App.), and after consultation with the Committee Management Secretariat, General Services Administration, the NASA Acting Administrator has determined that renewal of the charter of the International Space Station National Laboratory Advisory Committee is in the public interest in connection with the performance of duties imposed on NASA by law. This committee is established under Section 602 of the NASA Authorization Act of 2008 (Pub. L. 110–422, 51 U.S.C. Section 70906). The renewed charter is for a two-year period ending October 6, 2019. For further information, contact Ms. Marla K. King, NASA Headquarters, 300 E Street SW., Washington, DC 20456, phone: (202) 358–1148; email: *marla.k.king@nasa.gov.*

Patricia D. Rausch,

Advisory Committee Management Division, National Aeronautics and Space Administration.

[FR Doc. 2017–22549 Filed 10–17–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2018–001]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records they no longer need to conduct agency business. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by November 17, 2017. Once NARA finishes appraising the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA); 8601 Adelphi Road; College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: NARA publishes notice in the **Federal Register** for records schedules they no longer need to conduct agency business. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending:

1. Department of the Army, Agency-wide (DAA–AU–2017–0015, 1 item, 1 temporary item). Master files of an electronic information system used to maintain inventory of assets that may contain hazardous materials.

2. Department of the Army, Agency-wide (DAA–AU–2017–0018, 1 item, 1 temporary item). Master files of an electronic information system used to maintain geospatial images of Tobyhanna Army Depot installation infrastructure.

3. Department of the Army, Agency-wide (DAA–AU–2017–0020, 1 item, 1 temporary item). Master files of an electronic information system used to maintain geospatial images of Anniston Army Depot installation infrastructure.

4. Department of Defense, Defense Logistics Agency (DAA–0361–2017–

0008, 1 item, 1 temporary item). Records related to technical inspection of products.

5. Department of Defense, Defense Logistics Agency (DAA–0361–2017–0010, 1 item, 1 temporary item). Records related to inventory management.

6. Department of Defense, Defense Logistics Agency (DAA–0361–2017–0011, 2 items, 2 temporary items). Master files and outputs of an electronic information system used to manage energy-related products.

7. Environmental Protection Agency, Agency-wide (DAA–0412–2017–0003, 1 item, 1 temporary item). Electronic copies of email records dated prior to 2007.

8. Federal Maritime Commission, Office of Consumer Affairs and Dispute Resolution Services (DAA–0358–2017–0004, 5 items, 5 temporary items). Records related to dispute resolution case files.

9. Office of Personnel Management, Retirement Services (DAA–0478–2017–0001, 2 items, 1 temporary item). Records related to retirement case files. Proposed for permanent retention are case files of high profile individuals.

10. Office of Personnel Management, Agency-wide (DAA–0478–2017–0008, 4 items, 4 temporary items). Records of the Voting Rights Program, including guidance, procedures, personnel and travel records, observer reports, and training records.

11. Securities and Exchange Commission, Agency-wide (DAA–0266–2017–0002, 1 item, 1 temporary item). Electronic data copied or downloaded from electronic information systems maintained in data marts and data warehouses.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2017–22543 Filed 10–17–17; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0094]

Agreement State Program Policy Statement; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision to policy statement; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on October 6, 2017, regarding consolidation of two policy statements on the NRC's Agreement State programs. This action is necessary to provide the policy statement revision which was inadvertently left out of the previously published FRN.

DATES: The correction is effective October 18, 2017.

ADDRESSES: Please refer to Docket ID NRC–2016–0094 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0094. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Lance Rakovan, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2589, email: *Lance.Rakovan@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the FR on October 6, 2017, in FR Doc. 2017–21542, please add the Agreement State Program Policy statement.

The text of the Agreement State Program Policy statement is attached.

Dated at Rockville, Maryland, this 12th day of October 2017.

For the Nuclear Regulatory Commission.

Helen Chang,

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

Attachment

Agreement State Program Policy Statement

A. Purpose

The purpose of this policy statement for the Agreement State Program is to describe the respective roles and responsibilities of the U.S. Nuclear Regulatory Commission (NRC) and Agreement States in the administration of programs carried out under Section 274 of the Atomic Energy Act of 1954, as amended (AEA).[1] Section 274 provides broad authority for the NRC to establish a unique Federal and State relationship in the administration of regulatory programs for the protection of public health and safety in the industrial, medical, commercial, and research uses of agreement material. This policy statement supersedes the September 1997 ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' and ''Statement of Principles and Policy for the Agreement State Program.''

This policy statement addresses the Federal-State interaction under the AEA to (1) establish and maintain agreements with States under Subsection 274b. that provide for discontinuance by the NRC, and the assumption by the State, of responsibility for administration of a regulatory program for the safe use of agreement material; (2) ensure that post-agreement interactions between the NRC and Agreement State radiation control programs are coordinated; and (3) ensure Agreement States provide adequate protection of public health and safety and maintain programs that are compatible with the NRC's regulatory program.

Although not defined in the AEA, the National Materials Program (NMP) is a term used to describe the broad collective effort within which both the NRC and the Agreement States function in carrying out their respective regulatory programs for agreement material. The vision of the NMP is to provide a coherent national system for the regulation of agreement material with the goal of protecting public health and safety through compatible regulatory programs. Through the NMP, the NRC and Agreement States function as regulatory partners.

B. Background

This policy statement is intended solely as guidance for the NRC and the Agreement States in the implementation of the Agreement State Program. This policy statement does not itself impose legally binding requirements on the Agreement States. In addition, nothing in this policy

[1] Subsection 274b. of the AEA authorizes the NRC to enter into an agreement by which the NRC discontinues and the State assumes regulatory authority over some or all of these materials. The material over which the State receives regulatory authority under such agreement is termed ''agreement material.''

statement expands the legal authority of Agreement States beyond that already granted to them by Section 274 of the AEA and other relevant legal authority; nor does this policy statement diminish or constrain the NRC's authority under the AEA. Implementation procedures adopted pursuant to this policy statement shall be consistent with the legal authorities of the NRC and the Agreement States.

This policy statement presents the NRC's policy for determining the adequacy and compatibility of Agreement State programs. This policy statement clarifies the meaning and use of the terms ''adequate to protect public health and safety'' and ''compatible with the NRC's regulatory program'' as applied to Agreement State programs. The terms ''adequate'' and ''compatible'' represent fundamental concepts in the Agreement State programs authorized in 1959 by Section 274 of the AEA. Subsection 274d. states that the NRC shall enter into an Agreement under Subsection 274b. that discontinues the NRC's regulatory authority over specified AEA radioactive materials and activities within a State, provided that the State's program is adequate to protect public health and safety and is compatible with the NRC's regulatory program. Subsection 274g. authorizes and directs the NRC to cooperate with States in the formulation of standards to assure that State and NRC programs for protection against hazards of radiation will be coordinated and compatible. Subsection 274j.(1) requires the NRC to periodically review the Agreements and actions taken by States under the Agreements to ensure compliance with the provisions of Section 274.

The NRC and Agreement State radiation control programs maintain regulatory authority for the safe and secure handling, use, and storage of agreement material. These programs have always included the security of agreement material as an integral part of their health and safety mission as it relates to controlling and minimizing the risk of exposure to workers and the public. Following the events of September 11, 2001, the NRC and Agreement States developed and implemented enhanced security measures. For the purposes of this policy statement, public health and safety includes the physical protection of agreement material.

C. Statement of Legislative Intent

In 1954, the AEA did not initially specify a role for the States in regulating the use of nuclear material. Many States were concerned as to what their responsibilities in this area might be and expressed interest in clearly defining the boundaries of Federal and State authority over nuclear material. This need for clarification was particularly important in view of the fact that although the Federal Government retained sole responsibility for protecting public health and safety from the radiation hazards of AEA radioactive materials—defined as byproduct, source, and special nuclear material—the States maintained the responsibility for protecting the public from the radiation hazards of other sources such as x-ray machines and naturally occurring radioactive material.

Consequently, in 1959, Congress enacted Section 274 of the AEA to establish a statutory framework under which States could assume, and the NRC could discontinue, regulatory authority over byproduct, source, and small quantities of special nuclear material insufficient to form a critical mass. The NRC continued to retain regulatory authority over the licensing of certain facilities and activities, including nuclear reactors, quantities of special nuclear material sufficient to form a critical mass, the export and import of nuclear materials, and matters related to common defense and security.

The legislation did not authorize a wholesale, immediate relinquishment or abdication by the Commission [2] of its regulatory responsibilities but only a gradual, carefully considered turnover. Congress recognized that the Federal Government would need to assist the States to ensure that they developed the capability to exercise their regulatory authority in a competent and effective manner. Accordingly, the legislation authorized the NRC to provide training, with or without charge, and other services to State officials and employees as the Commission deems appropriate. However, in rendering this assistance, Congress did not intend that the NRC would provide any grants to a State for the administration of a State regulatory program. This was fully consistent with the objectives of Section 274 to qualify States to assume independent regulatory authority over certain defined areas under their Agreement and to permit the NRC to discontinue its regulatory responsibilities in those areas.

In order to discontinue its authority, the NRC must find that the State program is adequate to protect public health and safety and compatible with the NRC program for the regulation of agreement material. In addition, the NRC has an obligation, pursuant to Subsection 274j. of the AEA, to periodically review existing Agreement State programs to ensure continued adequacy and compatibility. Subsection 274j. of the AEA provides that the NRC may terminate or suspend all or part of its agreement with a State if the NRC finds that such termination is necessary to protect public health and safety or that the State has not complied with the provisions of Subsection 274j. In these cases, the NRC must offer the State reasonable notice and opportunity for a hearing. In cases where the State has requested termination of the agreement, notice and opportunity for a hearing are not necessary. In addition, the NRC may temporarily suspend all or part of an agreement in the case of an emergency situation.

D. Program Implementation

1. Implementation of the Agreement State Program is described below and includes (a) Principles of Good Regulation; (b) performance evaluation on a consistent and systematic basis; (c) the responsibility to ensure adequate protection of public health and safety, including physical protection of agreement material; (d) compatibility in areas of national interest; and (e) sufficient flexibility in program implementation and administration to accommodate individual State needs.

i. Principles of Good Regulation

In 1991, the Commission adopted the ''Principles of Good Regulation'' to serve as a guide to both agency decision making and the individual behavior of NRC employees. There are five Principles of Good Regulation: Independence, openness, efficiency, clarity, and reliability. Adherence to these principles has helped to ensure that the NRC's regulatory activities have been of the highest quality and are appropriate and consistent. The ''Principles of Good Regulation'' recognize that strong, vigilant management and a desire to improve performance are prerequisites for success, for both regulators and the regulated industry. The NRC's implementation of these principles has served the public, the Agreement States, and the regulated community well. Such principles are useful as a part of a common culture of the NMP that the NRC and the Agreement States share as co-regulators. Accordingly, the NRC encourages each Agreement State to adopt a similar set of principles for use in its own regulatory program. These principles should be incorporated into the day-to-day operational fabric of the NMP.

ii. Performance Evaluation

To ensure that Agreement State programs continue to provide adequate protection of public health and safety and are compatible with the NRC's regulatory program, periodic program evaluation is needed. The NRC, in cooperation with the Agreement States, established and implemented the Integrated Materials Performance Evaluation Program (IMPEP). The IMPEP is a performance evaluation process that provides the NRC and Agreement State management with systematic and integrated evaluations of the strengths and weaknesses of their respective radiation control programs and identification of areas needing improvement.

iii. Adequate to Protect Public Health and Safety

The NRC and the Agreement States have the responsibility to ensure adequate protection of public health and safety in the administration of their respective regulatory programs, including physical protection of agreement material. Accordingly, the NRC and Agreement State programs shall possess the requisite supporting legislative authority, implementing organization structure and procedures, and financial and human resources to effectively administer a radiation control program that ensures adequate protection of public health and safety.

iv. Compatible in Areas of National Interest

The NRC and the Agreement States have the responsibility to ensure that the radiation control programs are compatible. Such radiation control programs should be based on a common regulatory philosophy including the common use of definitions and standards. The programs should be effective

[2] For the purposes of this policy statement, ''Commission'' means the five member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 U.S.C. 5841).

and cooperatively implemented by the NRC and the Agreement States and also should provide uniformity and achieve common strategic outcomes in program areas of national significance.

Such areas include aspects of licensing, inspection and enforcement, response to incidents and allegations, and safety reviews for the manufacture and distribution of sealed sources and devices. Furthermore, communication using a nationally accepted set of terms with common understanding, ensuring an adequate level of protection of public health and safety that is consistent and stable across the nation, and evaluation of the effectiveness of the NRC and Agreement State programs for the regulation of agreement material with respect to protection of public health and safety are essential to maintaining the NMP.

v. Flexibility

With the exception of those compatibility areas where programs should be essentially identical, Agreement State radiation control programs have flexibility in program implementation and administration to accommodate individual State preferences, State legislative direction, and local needs and conditions. A State has the flexibility to design its own program, including incorporating more stringent, or similar, requirements provided that the requirements for adequate protection of public health and safety are met and compatibility is maintained. However, the exercise of such flexibility should not preclude a practice authorized by the AEA, and in the national interest.

2. New Agreements

Section 274 of the AEA requires that once a decision to request Agreement State status is made by the State, the Governor of that State must certify to the NRC that the State desires to assume regulatory responsibility and has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the State that would be covered by the proposed agreement. This certification will be provided in a letter to the NRC that includes supporting documentation. This documentation includes the State's enabling legislation; the radiation control regulations; the radiation control program staffing plan; a narrative description of the State program's policies, practices, and procedures; and a proposed agreement.

The NRC's policy statement, ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement'' (46 FR 7540, January 23, 1981; as amended by policy statements published at 46 FR 36969, July 16, 1981; and 48 FR 33376, July 21, 1983), describes the required content of these documents. The NRC reviews the request and publishes notice of the proposed agreement in the **Federal Register** to provide an opportunity for public comment. After consideration of public comments, if the NRC determines that the proposed State program is adequate for protection of public health and safety and compatible with the NRC's regulatory program, the Governor and Chairman of the NRC sign the agreement.

3. Program Assistance

The NRC will offer training and other assistance to States, such as assistance in developing regulations and program descriptions to help individual States prepare their request for entering into an Agreement and to help them prior to the assumption of regulatory authority. Following approval of the agreement and assumption of regulatory authority by a new Agreement State, to the extent permitted by resources, the NRC may provide training and offer other assistance (such as review of proposed regulatory changes to help Agreement States administer their regulatory responsibilities). Nevertheless, it is the responsibility of each Agreement State to ensure that it has a sufficient number of qualified staff to implement its program. If the NRC is unable to provide the training, the Agreement State will need to do so.

The NRC may also use its best efforts to provide specialized technical assistance to Agreement States to address unique or complex licensing, inspection, incident response, and limited enforcement issues. In areas where Agreement States have particular expertise or are in the best position to provide immediate assistance to the NRC or other Agreement States, they are encouraged to do so. In addition, the NRC and Agreement States will keep each other informed about relevant aspects of their programs.

If an Agreement State experiences difficulty in implementing its program, the NRC will, to the extent possible, assist the State in maintaining the effectiveness of its radiation control program. Under certain conditions, an Agreement State can also voluntarily return all or part of its Agreement State program.

4. Performance Evaluation

Under Section 274 of the AEA, the NRC retains oversight authority for ensuring that Agreement State programs provide adequate protection of public health and safety and are compatible with the NRC's regulatory program. In fulfilling this statutory responsibility, the NRC will determine whether the Agreement State programs are adequate and compatible prior to entrance into a Subsection 274b. agreement and will periodically review the program to ensure it continues to be adequate and compatible after an agreement becomes effective.

To fulfill this responsibility, the NRC, in cooperation with the Agreement States, established and implemented the IMPEP. As described in Management Directive 5.6 ''Integrated Materials Performance Evaluation Program (IMPEP),'' IMPEP is a performance evaluation process that provides the NRC and Agreement States with systematic, integrated, and reliable evaluations of the strengths and weaknesses of their respective radiation control programs and identification of areas needing improvement. The same criteria are used to evaluate and ensure that regulatory programs are adequate to protect public health and safety and that Agreement State programs are compatible with the NRC's program. The IMPEP process employs a Management Review Board (MRB), comprised of senior NRC staff members to make a determination of program adequacy and compatibility. An MRB also includes an Agreement State liaison, provided by the Organization of Agreement States (OAS), as a non-voting member.

As a part of the performance evaluation process, the NRC will take necessary actions to help ensure that Agreement State radiation control programs remain adequate and compatible. These actions may include more frequent IMPEP reviews of Agreement State programs and providing assistance to help address weaknesses or areas needing improvement within an Agreement State program. Monitoring, heightened oversight, probation, suspension, or termination of an agreement may be applied for certain program deficiencies or emergencies (*e.g.* loss of funding, natural or man-made events, pandemic). The NRC's actions in addressing program deficiencies or emergencies will be implemented through a well-defined process that is consistently and fairly applied.

5. Program Funding and Training

Section 274 of the AEA permits the NRC to offer training and other assistance to a State in anticipation of entering into an Agreement with the NRC. Section 274 of the AEA does not allow Federal funding for the administration of Agreement State radiation control programs. Given the importance to public health and safety of having well trained radiation control program personnel, the NRC may offer certain relevant training courses and notify Agreement State personnel of their availability. These training programs also help to ensure compatible approaches to licensing and inspection and thereby strengthen the NMP.

6. Regulatory Development

The NRC and Agreement States will cooperate in the development of both new and revised regulations and policies. Agreement States will have early and substantive involvement in the development of regulations affecting protection of public health and safety and of policies and guidance documents affecting administration of the Agreement State program. The NRC and Agreement States will keep each other informed about their individual regulatory requirements (*e.g.,* regulations, orders, or license conditions) and the effectiveness of those regulatory requirements so that each has the opportunity to make use of proven regulatory approaches to further the effective and efficient use of resources. In order to avoid conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis, Agreement States should inform the NRC of, and provide the opportunity to review and comment on, proposed changes in regulations and significant changes to Agreement State programs, policies, and regulatory guidance.

Two national organizations composed of State radiation control program personnel facilitate participation and involvement with the development of regulations, guidance, and policy. The OAS provides a forum for Agreement States to work with each other and with the NRC on regulatory issues, including centralized communication on radiation protection matters between the Agreement States and the NRC. The

Conference of Radiation Control Program Directors, Inc. (CRCPD) assists its members in their efforts to protect the public, radiation workers, and patients from unnecessary radiation exposure. One product of the CRCPD is the Suggested State Regulations for use by its members. The NRC reviews Suggested State Regulations for compatibility.

E. Adequacy and Compatibility

In accordance with Section 274 of the AEA, any State that chooses to establish an Agreement State program must provide for an acceptable level of protection of public health and safety. This is the ''adequacy'' component. The Agreement State must also ensure that its program supports an overall nationwide program in radiation protection. This is the ''compatibility'' component.

By adopting the criteria for adequacy and compatibility as discussed in this policy statement, the NRC provides a broad range of flexibility in the administration of individual Agreement State programs. Recognizing the fact that Agreement States have responsibilities for radiation sources other than agreement material, the NRC allows Agreement States to fashion their programs to reflect specific State needs and preferences.

The NRC will minimize the number of NRC regulatory requirements that the Agreement States will be requested to adopt in an identical manner to maintain compatibility. At the same time, requirements in these compatibility categories allow the NRC to ensure that an orderly pattern for the regulation of agreement material exists nationwide. The NRC believes that this approach achieves a proper balance between the need for Agreement State flexibility and the need for an NMP that is coherent and compatible in the regulation of agreement material across the country.

Program elements [3] for adequacy focus on the protection of public health and safety within a particular Agreement State, while program elements for compatibility focus on the impacts of an Agreement State's regulation of agreement material on a nationwide basis or its potential effects on other jurisdictions. Some program elements for compatibility may also impact public health and safety; therefore, they may also be considered program elements for adequacy.

In identifying those program elements for adequate and compatible programs, or any changes thereto, the NRC staff will coordinate with the Agreement States.

1. Adequacy

An ''adequate'' program includes those program elements of a radiation control regulatory program necessary to maintain an acceptable level of protection of public health and safety within an Agreement State. An Agreement State's radiation control program is adequate to protect public health and safety if administration of the program provides reasonable assurance of protection of public health and safety in regulating the use of agreement material. The level of protection afforded by the program elements of the NRC's materials regulatory program is presumed to be adequate to provide for reasonable assurance of protection of public health and safety. Therefore, the overall level of protection of public health and safety provided by a State program should be equivalent to, or in some cases can be greater than, the level provided by the NRC program. To provide reasonable assurance of protection of public health and safety, an Agreement State program should contain the five essential program elements, identified in items i. through v. of this section, that the NRC and Agreement States will use to define the scope of the program. The NRC and Agreement States will also consider, when appropriate, other program elements of an Agreement State that appear to affect the program's ability to provide reasonable assurance of the protection of public health and safety.

On the basis of this policy statement, NRC program elements (including regulations) can be placed into five compatibility categories (A, B, C, D, and NRC). In addition, NRC program elements can also be identified as having particular health and safety significance (H&S). These six categories (A, B, C, D, NRC, and H&S) form the basis for evaluating and classifying NRC program elements.

i. Legislation and Legal Authority

Agreement State statutes shall: (a) Authorize the State to establish a program for the regulation of agreement material and provide authority for the assumption of regulatory responsibility under an Agreement with the NRC; (b) authorize the State to promulgate regulatory requirements necessary to provide reasonable assurance of protection of public health and safety; (c) authorize the State to license, inspect, and enforce legally binding requirements such as regulations and licenses; and (d) be otherwise compatible with applicable Federal statutes. In addition, the State should have existing legally enforceable measures such as generally applicable rules, orders, license conditions, or other appropriate measures, necessary to allow the State to ensure adequate protection of public health and safety in the regulation of agreement material in the State. Specifically, Agreement States should adopt legally binding requirements based on those identified by the NRC because of their particular health and safety significance. In adopting such requirements, Agreement States shall implement the essential objectives articulated in the NRC requirements.

ii. Licensing

The Agreement State shall conduct appropriate evaluations of proposed uses of agreement material, before issuing a license to authorize such use, to ensure that the proposed licensee's need and proposed uses of agreement material are in accordance with the AEA and that operations can be conducted safely. Licenses shall provide for reasonable assurance of public health and safety protection in the conduct of licensed activities.

iii. Inspection and Enforcement

The Agreement State shall periodically conduct inspections of licensed activities involving agreement material to provide reasonable assurance of safe licensee operations and to determine compliance with its regulatory requirements. When determined to be necessary by the State, the State should take timely enforcement action through legal sanctions authorized by State statutes and regulations.

iv. Personnel

The Agreement State shall be staffed with a sufficient number of qualified personnel to implement its regulatory program for the control of agreement material.

v. Incidents and Allegations

The Agreement State shall respond to and conduct timely inspections or investigations of incidents, reported events, and allegations involving agreement material within the State's jurisdiction to provide reasonable assurance of protection of public health and safety.

2. Compatibility

A ''compatible'' program consists of those program elements necessary to sustain an orderly pattern of regulation of agreement material. An Agreement State has the flexibility to adopt and implement program elements within the State's jurisdiction (*i.e.,* those items that are not areas of exclusive NRC regulatory authority) that are not addressed by the NRC, or program elements not required for compatibility (*i.e.,* those NRC program elements not assigned to Category A, B, or C). However, such program elements of an Agreement State relating to agreement material shall (1) be compatible with those of the NRC (*i.e.,* should not create conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis); (2) not preclude a practice authorized by the AEA and in the national interest; and (3) not preclude the ability of the NRC to evaluate the effectiveness of Agreement State programs for agreement material with respect to protection of public health and safety. For purposes of compatibility, the State shall adopt program elements assigned Compatibility Categories A, B, and C.

i. Category A—Basic Radiation Protection Standards

This category includes basic radiation protection standards that encompass dose limits, concentration, and release limits related to radiation protection in Part 20 of Title 10 of the *Code of Federal Regulations* (10 CFR), that are generally applicable, and the dose limits for land disposal of radioactive waste in 10 CFR 61.41.[4] Also

[3] For the purposes of this policy statement, ''program element'' means any component or function of a radiation control regulatory program, including regulations and other legally binding requirements imposed on regulated persons, which contributes to implementation of that program.

[4] The NRC will implement this category consistent with its earlier decision in the low-level waste area to allow Agreement States the flexibility to establish pre-closure operational release limit objectives, as low as is reasonably achievable goals, or design objectives at such levels as the State may deem necessary or appropriate, as long as the level of protection of public health and safety is essentially identical to that afforded by NRC requirements.

included in this category are a limited number of definitions, signs, labels, and scientific terms that are necessary for a common understanding of radiation protection principles among licensees, regulatory agencies, and members of the public. Such State standards should be essentially identical to those of the NRC, unless Federal statutes provide the State authority to adopt different standards. Basic radiation protection standards do not include constraints or other limits below the level associated with ''adequate protection'' that take into account considerations such as economic cost and other factors.

ii. Category B—Cross Jurisdictional Program Elements

This category pertains to a limited number of program elements that cross jurisdictional boundaries and that should be addressed to ensure uniformity of regulation on a nationwide basis. Some examples include sealed source and device registration certificates, transportation regulations, radiography certification, access authorization, and security plan requirements. Agreement State program elements shall be essentially identical to those of the NRC. Because program elements used in the Agreement State Program are necessary to maintain an acceptable level of protection of public health and safety, economic factors [5] shall not be considered.

iii. Category C—Other NRC Program Elements

This category includes NRC program elements that are important for an Agreement State to implement in order to avoid conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. Such Agreement State program elements shall embody the essential objective of the corresponding NRC program elements. Agreement State program elements may be more restrictive than NRC program elements; however, they should not be so restrictive as to prohibit a practice authorized by the AEA and in the national interest without an adequate public health and safety or environmental basis related to radiation protection.

iv. Category D—Program Elements Not Required for Compatibility

This category pertains to program elements that do not meet any of the criteria listed in Compatibility Category A, B, or C above and are not required to be adopted for purposes of compatibility.

v. Category NRC—Areas of Exclusive NRC Regulatory Authority

This category consists of program elements over which the NRC cannot discontinue its regulatory authority pursuant to the AEA or provisions of 10 CFR. However, an Agreement State may inform its licensees of these NRC requirements through an appropriate mechanism under the State's administrative procedure laws, as long as the State adopts these provisions solely for the purposes of notification, and does not exercise any regulatory authority as a result.

[5] For the purposes of this policy statement, economic factors are those costs incurred by the regulated community to comply with regulations that impact more than one regulatory jurisdiction in the NMP.

F. Conclusion

The NRC and Agreement States will continue to jointly assess the NRC and Agreement State programs for the regulation of agreement material to identify specific changes that should be considered based on experience or to further improve overall safety, performance, compatibility, and effectiveness.

The NRC encourages Agreement States to adopt and implement program elements that are patterned after those adopted and implemented by the NRC to foster and enhance an NMP that establishes a coherent and compatible nationwide program for the regulation of agreement material.

[FR Doc. 2017–22514 Filed 10–17–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0173]

Information Collection: Domestic Licensing of Production and Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Domestic Licensing of Production and Utilization Facilities.''

DATES: Submit comments by December 18, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0173. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0173 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0173.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The seven supporting statements associated with the part 50 information collections and the burden table are available in ADAMS under Accession Nos. ML17207A259, ML17201K067, ML17201K126, ML17201K169, ML17201J977, ML17201K214, ML17201K024, and ML17283A044, respectively.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities.''

2. *OMB approval number:* 3150–0011.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* As necessary in order for the NRC to meet its responsibilities to conduct a detailed review of applications for licenses and amendments thereto to construct and operate nuclear power plants, preliminary or final design approvals, design certifications, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended (the Act) and to monitor their activities. Reports are submitted daily, monthly, quarterly, annually, semi-annually, and on occasion.

6. *Who will be required or asked to respond:* Licensees and applicants for nuclear power plants and research and test facilities.

7. *The estimated number of annual responses:* 43,621 (43,471 reporting responses + 149 recordkeepers + 1 third-party disclosure response).

8. *The estimated number of annual respondents:* 149.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 3.7M hours (1.1M hours reporting + 2.6M hours recordkeeping + 100 hours third-party disclosure).

10. *Abstract:* Part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' specifies technical information and data to be provided to the NRC or maintained by applicants and licensees so that the NRC may take determinations necessary to protect the health and safety of the public, in accordance with the Atomic Energy Act of 1954, as amended. The reporting and recordkeeping requirements contained in 10 CFR part 50 are mandatory for the affected licensees and applicants.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 12th day of October 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–22447 Filed 10–17–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Alternative Annuity Election, RI 20–80

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an extension without change of a currently approved information collection (ICR), Alternative Annuity Election, RI 20–80.

DATES: Comments are encouraged and will be accepted until December 18, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Alberta Butler, Room 2347–E, or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0168). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 20–80 is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Alternative Annuity Election.

OMB Number: 3206–0168.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 200.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 67.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–22597 Filed 10–17–17; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–242; CP2018–9; CP2018–10]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 20, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–242; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to a Global Plus 1D Negotiated Service Agreement; *Filing Acceptance Date:* October 12, 2017; *Filing Authority:* 39 CFR 3015.5(c)(2); *Public Representative:* Timothy J. Schwuchow; *Comments Due:* October 20, 2017.

2. *Docket No(s).:* CP2018–9; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* October 12, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* October 20, 2017.

3. *Docket No(s).:* CP2018–10; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* October 12, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* October 20, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–22622 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Global Plus 1E

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add the Global Plus 1E product to the Competitive Products List.

DATES: *Date of notice:* October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Kyle Coppin, 202–268–2368.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on October 13, 2017, it filed with the Postal Regulatory Commission a Request of The United States Postal Service to add Global Plus 1E to the Competitive Products List. Documents are available at *www.prc.gov,* Docket Nos. MC2018–7 and CP2018–12.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–22625 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2017, it filed with the Postal Regulatory Commission a *Request of the United*

States Postal Service to Add Priority Mail Express Contract 51 to Competitive Product List. Documents are available at *www.prc.gov,* Docket Nos. MC2018–10, CP2018–17.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–22585 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 59 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–11, CP2018–18.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–22586 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 370 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–9, CP2018–16.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–22584 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 60 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–12, CP2018–19.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–22587 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* October 18, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 13, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 369 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–8, CP2018–15.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–22583 Filed 10–17–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81863; File No. SR–ISE–2017–86]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 723 and Rule 1614

October 12, 2017.

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 October 2, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 723 (Price Improvement Mechanism for Crossing Transactions) and Rule 1614 (Imposition of Fines for Minor Rule Violations) to remove obsolete rule text.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 Rule 723 (Price Improvement Mechanism for Crossing Transactions) and Rule 1614 (Imposition of Fines for Minor Rule Violations) to remove obsolete rule text.

Rule 723 sets forth the requirements for the PIM, which was adopted in 2004 as a price-improvement mechanism on the Exchange.[3] Certain aspects of PIM were adopted on a pilot basis (''Pilot''); specifically, the termination of the exposure period by unrelated orders, and no minimum size requirement of orders eligible for PIM. The Pilot expired on January 18, 2017.

On December 12, 2016, the Exchange filed with the Commission a proposed rule change to make the Pilot permanent, and also to change the requirements for providing price improvement for Agency Orders of less than 50 option contracts (other than auctions involving Complex Orders) where the National Best Bid and Offer (''NBBO'') is only $0.01 wide.[4] The Commission approved this proposal on January 18, 2017.[5]

In modifying the requirements for price improvement for Agency Orders of less than 50 contracts, ISE proposed to amend Rule 723(b) to require Electronic Access Members to provide at least $0.01 price improvement for an Agency Order if that order is for less than 50 contracts and if the difference between the NBBO is $0.01.

ISE adopted a member conduct standard to implement this requirement during the time pursuant to which ISE symbols were migrating from the ISE platform to the Nasdaq INET platform. At the time it proposed the member conduct standard, ISE anticipated that the migration to the Nasdaq platform would be complete on or before July 15, 2017. Accordingly, Rule 723(b) stated that, for the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than July 15, 2017, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, an Electronic Access Member shall not enter a Crossing Transaction unless such Crossing Transaction is entered at a price that is one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, and better than any limit order on the limit order book on the same side of the market as the Agency Order. This requirement applied regardless of whether the Agency Order is for the account of a public customer, or where the Agency Order is for the account of a broker dealer or any other person or entity that is not a Public Customer.

To enforce this requirement, ISE also amended Rule 1614 (Imposition of Fines for Minor Rule Violations). Specifically, ISE added Rule 1614(d)(4), which provides that any Member who enters an order into PIM for less than 50 contracts, while the National Best Bid or Offer spread is $0.01, must provide price improvement of at least one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order, which increment may not be smaller than $0.01. Failure to provide such price improvement will result in members being subject to the following fines: $500 for the second offense, $1,000 for the third offense, and $2,500 for the fourth offense. Subsequent offenses will subject the member to formal disciplinary action. The Exchange will review violations on a monthly cycle to assess these violations. This provision was to be in effect for the period beginning January 19, 2017 until a date specified by the Exchange in a Regulatory Information Circular, which date shall be no later than until September 15, 2017.[6]

In adopting the price improvement requirement for Agency Orders of less than 50 contracts, the Exchange also proposed to amend Rule 723(b) to adopt a systems-based mechanism to implement this requirement, which shall be effective following the migration of a symbol to the Nasdaq INET platform. Under this provision, if the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, the Crossing Transaction must be entered at one minimum price improvement increment better than the NBBO on the opposite side of the market from the Agency Order and better than the limit order or quote on the ISE order book on the same side of the Agency Order.

Subsequent to the approval of the rule change adopting the price improvement requirement and the member conduct standard, the Exchange determined that the migration of symbols to the Nasdaq INET platform would be complete on or before July 31, 2017.[7] This new migration schedule was developed to enable the Exchange to conduct additional systems testing prior to symbol migration. Given the updated migration schedule, the Exchange proposed to extend the effective period of the member conduct standard accordingly until a date specific by the Exchange in a Regulatory Circular, which would be no later than August 15, 2017.[8]

[3] *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (SR–ISE–2003–06).

[4] *See* Securities Exchange Act Release No. 79530 (December 12, 2016), 81 FR 91221 (December 16, 2017) (SR–ISE–2016–29). The Exchange notes that, on April 3, 2017, International Securities Exchange, LLC was re-named Nasdaq ISE, LLC to reflect its new placement within the Nasdaq, Inc. corporate structure in connection with the March 9, 2016 acquisition by Nasdaq of the capital stock of U.S. Exchange Holdings, and the indirect acquisition all of the interests of the International Securities Exchange, LLC, ISE Gemini, LLC and ISE Mercury, LLC. *See* Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017) (SR–ISE–2017–25). ISE Gemini, LLC and ISE Mercury, LLC were also renamed Nasdaq GEMX, LLC (''GEMX'') and Nasdaq MRX, LLC (''MRX''), respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017) (SR–ISEMercury–2017–05).

[5] *See* Securities Exchange Act Release No. 79829 (January 18, 2017), 82 FR 8469 (January 25, 2017) (SR–ISE–2016–29).

[6] While ISE anticipated that the migration of ISE symbols to the Nasdaq INET platform would be complete by July 15, 2017, and its member conduct standard could be eliminated accordingly by that time, ISE Mercury, LLC (now Nasdaq MRX, LLC) also filed a rule change that adopted a similar member conduct standard for its price improvement rule, and that referenced proposed ISE Rule 1614(d)(4) as the means for enforcing its member conduct standard. *See* Securities Exchange Act Release No. 79841 (January 18, 2017), 82 FR 8452 (January 25, 2017) (order approving SR–ISEMercury–2016–25). The Nasdaq MRX re-platforming was scheduled to occur after the ISE re-platforming was complete. Accordingly, ISE proposed that the date for eliminating Rule 1614(d)(4) shall be specified by the Exchange in a Regulatory Information Circular, which date shall be no later than until September 15, 2017.

[7] *See* Data Technical News #2017–14 (May 25, 2017).

[8] *See* Securities Exchange Act Release No. 81212 (July 26, 2017), 82 FR 35864 (August 1, 2017) (SR–ISE–2017–75).

By August 15, 2017, ISE had completed the migration of symbols to the Nasdaq INET platform, and adopted the corresponding systems-based mechanism for enforcing the price improvement requirement where the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01.[9] Accordingly, ISE now proposes to delete the rule text in Rule 723 that implements the member conduct standard and the corresponding provision in Rule 1614 that imposes fines for violations of the member conduct standard.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes this proposal is consistent with the Act because it removes language that implements the member conduct standard where the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01, and the corresponding provision in Rule 1614 that imposes fines for violations of this member conduct standard. As noted above, these provisions have become obsolete, given the migration of all symbols on ISE, GEMX and MRX to the Nasdaq INET system and the corresponding adoption of the systems-based mechanism on each exchange for enforcing this price improvement requirement. The Exchange also notes that the systems-based mechanism for enforcing this price improvement requirement was previously approved by the Commission.[12]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as the rule text to be removed has become obsolete with the migration of all symbols to the Nasdaq INET system and the corresponding adoption of the systems-based mechanism for enforcing the price improvement requirement where the Agency Order is for less than 50 option contracts, and if the difference between the NBBO is $0.01.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay will allow the Exchange to remove the obsolete rule text immediately, minimizing potential investor confusion. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–86. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–

[9] As of the date of filing, GEMX and MRX had also completed the process of migrating their symbols to the Nasdaq INET platform.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See supra* note 6.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

2017–86, and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22538 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–574, OMB Control No. 3235–0648]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:
Rule 498

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (''the Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 498 (17 CFR 230.498) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') permits open-end management investment companies (''funds'') to satisfy their prospectus delivery obligations under the Securities Act by sending or giving key information directly to investors in the form of a summary prospectus (''Summary Prospectus'') and providing the statutory prospectus on a Web site. Upon an investor's request, funds are also required to send the statutory prospectus to the investor. In addition, under rule 498, a fund that relies on the rule to meet its statutory prospectus delivery obligations must make available, free of charge, the fund's current Summary Prospectus, statutory prospectus, statement of additional information, and most recent annual and semi-annual reports to shareholders at the Web site address specified in the required Summary Prospectus legend.[1] A Summary Prospectus that complies with rule 498 is deemed to be a prospectus that is authorized under Section 10(b) of the Securities Act and Section 24(g) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

The purpose of rule 498 is to enable a fund to provide investors with a Summary Prospectus containing key information necessary to evaluate an investment in the fund. Unlike many other federal information collections, which are primarily for the use and benefit of the collecting agency, this information collection is primarily for the use and benefit of investors. The information filed with the Commission also permits the verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

Based on an analysis of fund filings, the Commission estimates that approximately 10,532 portfolios are using a Summary Prospectus. The Commission estimates that the annual hourly burden per portfolio associated with the compilation of the information required on the cover page or the beginning of the Summary Prospectus is 0.5 hours, and estimates that the annual hourly burden per portfolio to comply with the Web site posting requirement is approximately 1 hour, requiring a total of 1.5 hours per portfolio per year.[2] Thus the total annual hour burden associated with these requirements of the rule is approximately 15,798.[3] The Commission estimates that the annual cost burden is approximately $15,900 per portfolio, for a total annual cost burden of approximately $167,458,800.[4]

Estimates of the average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Under rule 498, use of the Summary Prospectus is voluntary, but the rule's requirements regarding provision of the statutory prospectus upon investor request are mandatory for funds that elect to send or give a Summary Prospectus in reliance upon rule 498. The information provided under rule 498 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

October 12, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22542 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81859; File No. SR–BatsEDGA–2017–26]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Certain Rules To Add New Optional Functionality to Orders With a Minimum Quantity Instruction

October 12, 2017.

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 October 5, 2017, Bats EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[18] 17 CFR 200.30–3(a)(12).

[1] 17 CFR 270.498(e)(1).

[2] 0.5 hours per portfolio + 1 hour per portfolio = 1.5 hours per portfolio. The Commission believes that funds that have opted to use the Summary Prospectus have already incurred the estimated one-time hour burden to initially comply with rule 498, and therefore the estimated burden hours to initially comply with rule 498 and the associated costs are not included in these estimates.

[3] 1.5 hours per portfolio × 10,532 portfolios = 15,798 hours.

[4] $15,900 per portfolio × 9,082 portfolios = $144,403,800.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to: (i) Add new optional functionality to orders that include the Minimum Execution Quantity instruction by amending paragraph (h) of Exchange Rule 11.6, Definitions; (ii) amend paragraph (b)(3) of Exchange Rule 11.8 to specify that a Minimum Execution Quantity instruction may be included on a Limit Order with a time-in-force (''TIF'') of Immediate-or-Cancel (''IOC''); and (iii) amend paragraph (e)(3) of Exchange Rule 11.10, Order Execution, to make certain clarifying, non-substantive changes. The proposed amendments are identical to the rules of Bats EDGX Exchange, Inc. (''EDGX'') that were recently published by the Commission for immediate effectiveness.[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) Add new optional functionality to orders that include the Minimum Execution Quantity instruction by amending paragraph (h) of Exchange Rule 11.6, Definitions; (ii) amend paragraph (b)(3) of Exchange Rule 11.8 to specify that a Minimum Execution Quantity instruction may be included on a Limit Order with a TIF of IOC; and (iii) amend paragraph (e)(3) of Exchange Rule 11.10, Order Execution, to make certain clarifying, non-substantive changes. These proposed amendments are identical to changes recently proposed by EDGX that were published by the Commission for immediate effectiveness.[6]

Exchange Rule 11.6(h), Proposed Individual Minimum Size

The Exchange proposes to add new optional functionality that would enhance the utility of the Minimum Execution Quantity instruction by amending paragraph (h) of Exchange Rule 11.6, Definitions. In sum, the proposal would permit an incoming order with a Minimum Execution Quantity to forego executions where multiple resting orders could otherwise be aggregated to satisfy the order's minimum quantity.

A Minimum Execution Quantity enables a User [7] to specify a minimum share amount at which the order will execute. An order with a Minimum Execution Quantity will not execute unless the volume of contra-side liquidity available to execute against the order meets or exceeds the designated minimum. Specifically, Minimum Execution Quantity is an instruction a User may attach to an order with a Non-Displayed [8] instruction or a TIF of IOC [9] requiring the System [10] to execute the order only to the extent that a minimum quantity can be satisfied by execution against a single order or multiple aggregated orders simultaneously.[11] Today, an order with a Minimum Execution Quantity will execute upon entry against a single order or multiple orders if the sum of those orders is equal to or greater than its minimum quantity. An order with a Minimum Execution Quantity instruction may be partially executed upon entry so long as the execution size is equal to or exceeds the minimum quantity provided in the instruction. Any shares remaining after a partial execution will continue to be executed at a size that is equal to or exceeds the quantity provided in the instruction. Where the number of shares remaining after a partial execution are [sic] less than the quantity provided in the instruction, the Minimum Execution Quantity shall be equal to the number of shares remaining. The Minimum Execution Quantity instruction may be coupled with Market Orders with a TIF of IOC,[12] Limit Orders with a Non-Displayed instruction [13] or TIF of IOC (as discussed below), Intermarket Sweep Orders (''ISO'') with a TIF of IOC,[14] MidPoint Peg Orders,[15] and Supplemental Peg Orders.[16]

The Exchange has observed that some market participants avoid sending large orders with a Minimum Execution Quantity instruction to the Exchange out of concern that such orders may interact with small orders entered by professional traders, possibly adversely impacting the execution of their larger order. Institutional orders are often much larger in size than the average order in the marketplace. To facilitate the liquidation or acquisition of a large position, market participants tend to submit multiple orders into the market that may only represent a fraction of the overall institutional position to be executed. Various strategies used by institutional market participants to execute large orders are intended to limit price movement of the security at issue. Executing in small sizes, even if in the aggregate it meets the order's minimum quantity, may impact the market for that security such that the additional orders the market participant has yet to enter into the market may be more costly to execute. If an institution is able to execute in larger sizes, the contra-party to the execution is less likely to be a participant that reacts to short term changes in the stock price, and as such, the price impact to the stock may be less acute when larger individual executions are obtained.[17] As

[5] *See* EDGX Rules 11.6(h), 11.8(b)(3), and 11.10(e)(3). *See also* Securities Exchange Act Release No. 81457 (August 22, 2017), 82 FR 40812 (August 28, 2017) (SR–BatsEDGX–2017–34).

[6] *See supra* note 5.

[7] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

[8] The term ''Non-Displayed'' is defined as ''[a]n instruction the User may attach to an order stating that the order is not to be displayed by the System on the EDGA Book.'' *See* Exchange Rule 11.6(e)(2).

[9] As discussed below, the Exchange also proposes to clarify within Rule 11.6(h) that a Minimum Quantity instruction may also be added to an order with a TIF of IOC. *See e.g.,* Exchange Rules 11.8(a)(3) and (c)(2) (specifying that the Minimum Quantity instruction may be included on Market Orders and ISOs with a TIF of IOC).

[10] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[11] Today, the System will aggregate multiple resting orders to satisfy the incoming order's minimum quantity and a User cannot elect the incoming order to execute against a single resting contra-side order.

[12] *See* Exchange Rule 11.8(a)(3).

[13] *See* Exchange Rule 11.8(b)(3).

[14] *See* Exchange Rule 11.8(c)(2).

[15] *See* Exchange Rule 11.8(d)(2).

[16] *See* Exchange Rule 11.8(f)(2).

[17] The Commission has long recognized this concern: ''[a]nother type of implicit transaction cost reflected in the price of a security is short-term price volatility caused by temporary imbalances in trading interest. For example, a significant implicit cost for large investors (who often represent the consolidated investments of many individuals) is the price impact that their large trades can have on the market. Indeed, disclosure of these large orders can reduce the likelihood of their being filled.'' *See* Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577, 10581 (February 28, 2000) (SR–NYSE–99–48).

a result, these orders are often executed away from the Exchange in dark pools or other exchanges that offer the same functionality as proposed herein,[18] or via broker-dealer internalization.

To attract larger orders with a Minimum Execution Quantity, the Exchange proposes to add new optional functionality that would enhance the utility of the Minimum Execution Quantity instruction. In sum, the proposal would permit a User to elect that its incoming order with a Minimum Execution Quantity execute solely against one or more resting individual orders, each of which must satisfy the order's minimum quantity condition. In such case, the order would forego executions where multiple resting orders could otherwise be aggregated to satisfy the order's minimum quantity, but do not individually satisfy the minimum quantity condition.[19] As discussed above, under the current rule an order with a Minimum Execution Quantity will execute upon entry against any number of smaller contra-side orders that, in aggregate, meet the minimum quantity set by the User. This default behavior will remain. For example, assume there are two orders to sell resting on the EDGA Book [20]—the first for 300 shares and a second for 400 shares, with the 300 share order having time priority ahead of the 400 share order. If a User entered an order with a Minimum Execution Quantity to buy 1,000 shares at $10.00 with a minimum quantity of 500 shares, and the order was marketable against the two resting sell orders for 300 and 400 shares, the System would aggregate both sell orders for purposes of meeting the minimum quantity, thus resulting in executions of 300 shares and then 400 shares respectively with the remaining 300 shares of the an order with a Minimum Execution Quantity being posted to the EDGA Book with a minimum quantity restriction of 300 shares.

The proposed new optional functionality will not allow aggregation of smaller executions to satisfy the minimum quantity of an incoming order with a Minimum Execution Quantity. Using the same scenario as above, but with the proposed new functionality and a Minimum Execution Quantity requirement of 400 shares selected by the User, the order with a Minimum Execution Quantity would not execute against the two sell orders because the 300 share order with time priority at the top of the EDGA Book is less than the incoming order's 400 share Minimum Execution Quantity. The new functionality will cause the order with a Minimum Execution Quantity to be cancelled or posted to the EDGA Book, Non-Displayed, in accordance with the characteristics of the underlying order type [21] when encountering an order with time priority that is of insufficient size to satisfy the minimum execution requirement. If posted, the order with a Minimum Execution Quantity will operate as it does currently and will only execute against individual orders that satisfy its minimum quantity as proposed herein. The Exchange notes that the User entering the order with a Minimum Execution Quantity has expressed its intention not to execute against liquidity below a certain minimum size, and therefore, cedes execution priority when it would lock an order against which it would otherwise execute if it were not for the minimum execution size restriction. The Exchange proposes to add language to paragraph (h) of Rule 11.6 to make clear that the order would cede execution priority in such in [sic] scenario.

As amended, the description of Minimum Execution Quantity under paragraph (h) of Exchange Rule 11.6 would set forth the default behavior of the Minimum Quantity instruction of executing upon entry against a single order or multiple aggregated orders simultaneously. Amended Rule 11.6(h) would set forth the proposed optional functionality where a User may alternatively specify that the incoming order's minimum quantity condition be satisfied by each order resting on the EDGA Book that would execute against the order with the Minimum Execution Quantity instruction. If there are such orders, but there are also orders that do not satisfy the minimum quantity condition, the incoming order with the Minimum Execution Quantity instruction will execute against orders resting on the EDGA Book in accordance with Rule 11.9, Order Priority, until it reaches an order that does not satisfy the minimum quantity condition at which point it would be posted to the EDGA Book or cancelled in accordance with the terms of the order. If, upon entry, there are no orders that satisfy the minimum quantity condition resting on the EDGA Book, the order will either be posted to the EDGA Book or cancelled in accordance with the terms of the order.

The Exchange also proposes to re-price incoming orders with a Minimum Execution Quantity instruction where that order may cross an order posted on the EDGA Book. Specifically, where there is insufficient size to satisfy an incoming order's minimum quantity condition and that incoming order, if posted at its limit price, would cross an order(s) resting on the EDGA Book, the order with the minimum quantity condition will be re-priced to and ranked at the Locking Price.[22] For example, an order to buy at $11.00 with a minimum quantity condition of 500 shares is entered and there is an order resting on the EDGA Book to sell 200 shares at $10.99. The resting order to sell does not contain sufficient size to satisfy the incoming order's minimum quantity condition of 500 shares. The price of the incoming buy order, if posted to the EDGA Book, would cross the price of the resting sell order. In such case, to avoid an internally crossed book, the System will re-price the incoming buy order to $10.99, the Locking Price. This behavior is similar to how the Exchange currently reprices Non-Displayed orders that cross the Protected Quotation of an external market.[23] In addition, both the Investors Exchange, Inc. (''IEX'') and the Nasdaq Stock Market LLC (''Nasdaq'') also re-price similar orders to avoid an internally crossed book.[24]

The rule would further be amended to account for the partial execution against an individual order in accordance with the proposed rule change. Specifically, paragraph (h) of Exchange Rule 11.6 would further be amended to state that that an order with a Minimum Execution Quantity instruction may be partially executed so long as the execution size of the individual order or aggregate size of multiple orders, as applicable, are equal to or exceed the minimum quantity provided in the instruction.

The Exchange also proposes to amend the description of the Minimum Execution Quantity instruction to clarify its operation upon order entry and when the order is posted to the EDGA Book. The Exchange proposes to clarify that upon entry, and by default, an order with a Minimum Execution Quantity

[18] *See supra* note 5.

[19] If no election is made, the System will aggregate multiple resting orders to satisfy the incoming order's minimum quantity.

[20] The term ''EDGA Book'' is defined as ''the System's electronic file of orders.'' *See* Exchange Rule 1.5(d).

[21] *See supra* notes 12 through 16 for a description of the functionality associated with orders that may include a Minimum Execution Quantity.

[22] ''Locking Price'' is defined as ''[t]he price at which an order to buy (sell), that if displayed by the System on the EDGA Book, either upon entry into the System, or upon return to the System after being routed away, would be a Locking Quotation.'' *See* Exchange Rule 11.6(f).

[23] *See* Exchange Rule 11.6(l)(3).

[24] *See* Nasdaq Rule 4703(e). *See* IEX Rule 11.190(h)(2).

will execute against a single order or multiple aggregated orders simultaneously. A User may also specify that the order only against [sic] orders that individually satisfy the order's minimum quantity condition, as proposed herein. Once posted to the EDGA Book,[25] the order may only execute against individual incoming orders with a size that satisfies the minimum quantity condition. The Exchange also proposed to clarify that an order that includes a Minimum Execution Quantity instruction is not eligible to be routed to another Trading Center in accordance with Exchange Rule 11.11, Routing to Away Trading Centers. These proposed changes would add additional specificity to the operation of the Minimum Execution Quantity instruction and are consistent with similar functionality offered by IEX and Nasdaq.[26]

Exchange Rule 11.8(b)(3), Limit Order Clarification

The Exchange also proposes to amend paragraph (b)(3) of Exchange Rule 11.8 to specify that a Minimum Execution Quantity instruction may be included on a Limit Order with a TIF of IOC. Currently, paragraph (b)(3) of Exchange Rule 11.8 states that Minimum Execution Quantity instruction may be placed on a Limit Order with a Non-Displayed instruction. As stated above, the Minimum Execution Quantity instruction may be coupled with, among other order types, Market Orders with a TIF of IOC and ISOs with a TIF of IOC. A Limit Order with a TIF of IOC will never be displayed or posted on the EDGA Book because, by instruction, it is to only execute upon entry, route or cancel back to the User and will never be posted to the EDGA Book.[27] Therefore, current functionality allows a Minimum Execution Quantity instruction to be included on a Limit Order with a TIF of IOC, as that order would not be displayed on the EDGA Book. The Exchange now seeks to add additional specificity to paragraph (b)(3) of Exchange Rule 11.6 to expressly state that a Minimum Execution Quantity instruction may be included on a Limit Order with a TIF of IOC. The Exchange notes that this is also consistent with the treatment of Minimum Quantity Orders on Bats BZX Exchange, Inc. (''BZX'').[28]

Exchange Rule 11.10(e)(3), Replace Messages

The Exchange also proposes to amend paragraph (e)(3) of Rule 11.10, Order Execution, to specify that the Max Floor[29] is associated with an order with a Reserve Quantity and to replace the phrase ''and quantity terms'' with the word ''size''. The rule currently states that other than changing a Limit Order to a Market Order, only the price, Stop Price,[30] the sell long indicator, Short Sale instruction,[31] Max Floor and quantity terms of the order may be changed with a Replace message. If a User desires to change any other terms of an existing order, the existing order must be cancelled and a new order must be entered. The Exchange believes these changes will add additional specificity to the rule and ensure the rule uses terminology consistent with the description of Replace messages and their impact on an order's priority under Exchange Rule 11.9(a)(4).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[32] in general, and furthers the objectives of Section 6(b)(5) of the Act[33] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Exchange Rule 11.6(h), Proposed Individual Minimum Size

The proposed rule change would remove impediments to and promote just and equitable principles of trade because it would provide Users with optional functionality that enhances the use of the Minimum Execution Quantity instruction. The proposed change to the functioning of the Minimum Execution Quantity instruction will provide market participants, including institutional firms who ultimately represent individual retail investors in many cases, with better control over their orders, thereby providing them with greater potential to improve the quality of their order executions. Currently, the rule allows Users to designate a minimum acceptable quantity on an order that may aggregate multiple executions to meet the minimum quantity requirement. Once posted to the book, however, the minimum quantity requirement is equivalent to a minimum execution size requirement. The Exchange is now proposing to provide Users with control over the execution of their orders with a Minimum Execution Quantity instruction by allowing them an option to designate the minimum individual execution size upon entry. The control offered by the proposed change is consistent with the various types of control currently provided by exchange order types. For example, the Exchange and other exchanges offer limit orders, which allow a market participant control over the price it will pay or receive for a stock.[34] Similarly, exchanges offer order types that allow market participants to structure their trading activity in a manner that is more likely to avoid certain transaction cost related economic outcomes.[35]

As discussed above, the functionality proposed herein would enable Users to avoid transacting with smaller orders that they believe ultimately increases the cost of the transaction. Because the Exchange does not have this functionality, market participants, such as large institutions that transact a large number of orders on behalf of retail investors, have avoided sending large orders to the Exchange to avoid potentially more expensive transactions.[36] In this regard, the Exchange notes that the proposed new optional functionality may improve the Exchange's market by attracting more order flow. Such new order flow will further enhance the depth and liquidity on the Exchange, which supports just and equitable principals of trade. Furthermore, the proposed modification to the Minimum Execution Quantity instruction is consistent with providing market participants with greater control over the nature of their executions so that they may achieve their trading goals and improve the quality of their executions.

The Exchange also believes that re-pricing incoming orders with a

[25] Orders will only post to the EDGA Book if they are designated with a TIF instruction that allows for posting. For example, an order [sic] a TIF of IOC or FOK will never post to the EDGA Book.

[26] *See supra* note 5.

[27] *See* Exchange Rule 11.6(q)(1).

[28] *See* BZX Rule 11.9(c)(5) (stating that BZX will only honor a specified minimum quantity on BZX Only Orders that are non-displayed or IOCs).

[29] *See* Exchange Rule 11.6(m)(1).

[30] *See* Exchange Rules 11.8(a)(1) and (b)(1).

[31] *See* Exchange Rule 11.6(o).

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

[34] *See* Exchange Rule 11.8(b).

[35] For example, the Exchange's Post Only instruction. *See* Exchange Rule 11.6(n)(4).

[36] As noted, the proposal is designed to attract liquidity to the Exchange by allowing market participants to designate a minimum size of a contra-side order to interact with, thus providing them with functionality available to them on dark markets.

Minimum Execution Quantity instruction where that order may cross an order posted on the EDGA Book promotes just and equitable principles of trade because it enables the Exchange to avoid an internally crossed book. The proposed re-pricing is also similar to how the Exchange currently reprices Non-Displayed orders that cross the Protected Quotation of an external market.[37] In addition, both IEX and Nasdaq also re-price minimum quantity orders to avoid an internally crossed book. In certain circumstances, Nasdaq re-prices buy (sell) orders to one minimum price increment below (above) the lowest (highest) price of such orders.[38] IEX re-prices non-displayed orders, such as minimum quantity orders, that include a limit price more aggressive than the midpoint of the NBBO to the midpoint of the NBBO.[39]

These proposed amendments are identical to changes recently proposed by EDGX that were published by the Commission for immediate effectiveness.[40] Moreover, the proposed optional functionality for the Minimum Execution Quantity instruction is also substantially similar to that offered by Nasdaq and IEX, both of which have been recently approved by the Commission.[41] Lastly, the proposed clarifications of the handing of orders with a Minimum Execution Quantity upon entry and once posted to the EDGA Book would add additional specificity to the operation of the Minimum Execution Quantity instruction and are consistent with similar functionality offered by Nasdaq.[42]

Clarification to Exchange Rules 11.8(b)(3) and 11.10(e)(3)

The Exchange believes the proposed amendments to paragraph (b)(3) of Rule 11.8 and paragraph (e)(3) of Rule 11.10 are also consistent with the Act in that they will add additional specificity to the rules. In particular, the proposed amendments to paragraph (b)(3) to Rule 11.8 would add additional specificity regarding the order type instructions that may be coupled with a Limit Order. The Exchange notes that this is also consistent with the treatment of Minimum Quantity Orders on BZX,[43] thereby making the rule clearer and avoiding potential investor confusion. Also, the amendments to paragraph (e)(3) of Rule 11.10 will ensure the rule uses terminology consistent with the description of Replace messages and their impact on an order's priority under Exchange Rule 11.9(a)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the Exchange believes the proposed rule change promotes competition because it will enable the Exchange to offer functionality substantially similar to that offered by Nasdaq and IEX.[44] In addition, the proposed amendments to paragraph (b)(3) of Rule 11.8 and paragraph (e)(3) of Rule 11.10 would not have any impact on competition as they simply add additional details to each rule and do not alter current System functionality. Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[45] and paragraph (f)(6) of Rule 19b–4 thereunder.[46] The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGA–2017–26 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-BatsEDGA–2017–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and

[37] *See* Exchange Rule 11.6(l)(3).

[38] *See* Nasdaq Rule 4703(e).

[39] *See* IEX Rule 11.190(h)(2).

[40] *See supra* note 5.

[41] *See* Nasdaq Rule 4703(e) (defining Minimum Quantity). *See also* Securities Exchange Act Release No. 73959 (December 30, 2014), 80 FR 582 (January 6, 2015) (order approving new optional functionality for Minimum Quantity Orders). *See* IEX Rule 11.190(b)(11) and Supplementary Material .03 (defining Minimum Quantity Orders and MinExec with Cancel Remaining and MinExec with AON Remaining). *See also* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (order approving the IEX exchange application, which included IEX's Minimum Quantity Orders). *See also* IEX Rule 11.190(d)(3) (allowing the minimum quantity size of an order to be changed via a replace message).

[42] *See supra* note 5.

[43] *See* BZX Rule 11.9(c)(5) (stating that BZX will only honor a specified minimum quantity on BZX Only Orders that are non-displayed or IOCs).

[44] *See supra* note 41.

[45] 15 U.S.C. 78s(b)(3)(A).

[46] 17 CFR 240.19b–4.

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–BatsEDGA–2017–26, and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22518 Filed 10–17–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81862; File No. SR–CBOE–2017–064]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to the Creation of an Electronic-Only Order Type

October 12, 2017.

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 29, 2017, 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 a rule change to create an electronic-only order type.

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Exchange Rules describe the process by which orders sent into the CBOE will execute electronically and/or via manual handling on the Exchange floor. Orders entered by Trading Permit Holders (''TPHs'') that are marketable against the Exchange's disseminated quotation may execute automatically [3] or after an electronic auction process such as the Exchange's Simple Auction Liaison (''SAL'').[4] In addition, eligible orders may be entered into the Exchanges electronic order book.[5]

Orders that do not execute via electronic processing and are not entered into the electronic book are, by default, routed to either a Public Automated Routing (''PAR'') workstation or an Order Management Terminal (''OMT'') designated by the TPH entering the order. Orders routed to a PAR or OMT can then be executed in open outcry on the Exchange floor. CBOE Rule 6.12 describes the process for routing orders through the Exchange's order handling system (''OHS''). Rule 6.12 states, ''The order handling system is a feature within the Hybrid System to route orders for automatic execution, book entry, open outcry, or further handling by a broker, agent, or PAR Official, in a manner consistent with Exchange Rules and the Act (*e.g.,* resubmit the order to the Hybrid System for automatic execution, route the order from a booth to a PAR workstation, cancel the order, contact the customer for further instructions, and/or otherwise handle the order in accordance with Exchange Rules and the order's terms).''

Rule 6.12(a) states, ''Orders may route through the order handling system for electronic processing in the Hybrid System or to a designated order management terminal or PAR Workstation in any of the circumstances described below. Routing designations may be established based on various parameters defined by the Exchange, order entry firm or Trading Permit Holder, as applicable.'' Rule 6.12(a)(1) further states, ''Under Rules 6.2B, 6.13 and 6.53C, orders or the remaining balance of orders initially routed from an order entry firm for electronic processing that are not eligible for automatic execution or book entry will by default route to a PAR workstation designated by the order entry firm. If an order entry firm has not designated a PAR workstation or if a PAR workstation is unavailable, the remaining balance will route to an order management terminal designated by the order entry firm. If it is not eligible to route to a PAR workstation or order management terminal designated by the order entry firm, the remaining balance will be returned to the order entry firm.''

Rule 6.12A describes PAR functionality. Rule 6.12A specifies that orders will be routed to PAR in accordance with TPH and Exchange order routing parameters. And the orders terms. [sic] Rule 6.12A further specifies that once an order is on PAR the PAR user may (a) submit the order electronically, (b) execute the order in open outcry, (c) route the order to a designated OMT or return the order to the order entry firm, or (d) route the order to an away exchange.

Proposed Rule

The Exchange is proposing a new type of order within CBOE Rule 6.53, electronic-only. The proposed rule states, ''An electronic-only order is an order to buy or sell that is to be executed in whole or in part via electronic processing on the Exchange without routing the order to a PAR workstation or an order management terminal for manual handling on the Exchange floor. Electronic-only orders will be cancelled if routing for manual handling would be required under Exchange Rules.''

Exchange systems will recognize electronic-only orders and will only allow the orders to (a) auto-execute electronically, (b) route to an electronic exchange auction process, or (c) route to the electronic book. If Exchange systems

[47] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* CBOE Rules 6.2B, 6.13, 6.14A, and 6.53A.

[4] *See* CBOE Rule 6.13A.

[5] *See* CBOE Rule 7.4.

determine that, based on the existing routing parameters, an electronic-only order would route to a PAR or a OMT, the order will be cancelled back to the TPH who entered the order. The cancellation will be accompanied by a reason code that indicates it occurred because the order was designated electronic-only.

As noted above Exchange Rules specify that order routing designations may be established based on various parameters defined by the Exchange, order-entry firm or TPH as applicable. Functionally, ''electronic-only'' will act as an order handling designation from the TPH that will prevent an order from routing to a PAR or OMT. TPHs are today free to set routing designations for their orders and move or cancel orders as needed. In today's world, if an order is routed to a PAR or OMT and TPH who entered the order prefers the order not be handled manually, they are free to resubmit the order electronically or cancel the order. However, today, it could result in a manual and time-consuming process of contacting a PAR broker or OMT operator and informing them of their instructions regarding an order. As such, the electronic order type is simply creating an easy and convenient way for market participants to indicate they want a specific order to avoid manual handling.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] 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 facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As mentioned above, electronic-only will act as an order routing designation and does not materially change how orders can be handled or processed today. The electronic-only designation will simply allow order entry firms and TPH to avoid potentially time-consuming steps of retrieving or resubmitting their orders from PAR or OMT. Accordingly the Rule change is specifically designed to remove impediments to and perfect the mechanism of a free and open market.

The proposed rule will not permit unfair discrimination between customers, issuers, brokers, or dealers as it is available to any TPH who routes an order to the Exchange electronically. The electronic-only designation does not provide or remove any routing destinations or functionality TPHs do not already have today through less automated means. The electronic-only designation simply makes keeping an order in the electronic space faster and less labor intensive on TPHs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the electronic-only order designation will be available to all TPHs who route orders electronically to the exchange. Further, the electronic-only designation acts only as a more convenient alternative to TPHs already defined ability to set their own routing parameters on the orders they send to the Exchange. As such, the Exchange does not anticipate the proposed change will result in a reduction of business or order flow to any market participant. Finally, the proposed change will not affect TPHs ability to route or request routing of orders to better priced markets outside CBOE.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2017–064 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–2017–064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

2017–064 and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22537 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81866; File No. SR–BatsBZX–2017–65]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Exchange's Equity Options Platform

October 12, 2017.

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 October 2, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options'') to adopt a new Firm,[6] Broker Dealer[7] and Joint Back Office[8] Non-Penny Pilot[9] Add Volume Tier under footnote 8.

The Exchange currently offers three Firm, Broker Dealer and Joint Back Office Non-Penny Add Volume Tiers under footnote 8, which provide an enhanced rebate ranging from $0.33 to $0.82 per contract for qualifying orders that add liquidity in Non Penny Pilot Securities and yield fee code NF.[10] The Exchange now proposes to add a new Tier 3 and to re-number current Tier 3 as Tier 4.

Currently under Tier 3, to be re-numbered as Tier 4, a Member's orders that yield fee code NF receive an enhanced rebate of $0.82 per contract where the Member has an: (i) ADV[11] greater than or equal to 2.30% of average OCV;[12] (ii) ADAV[13] in Away Market Maker,[14] Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.65% of average OCV; and (iii) ADAV in Non-Customer[15] Non-Penny[16] orders greater than or equal to 0.20% of average OCV. The Exchange proposes to adopt new Tier 3, which would be similar to re-numbered Tier 4 but would have lower criteria and a lower rebate. Specifically, pursuant to new Tier 3 a Member's orders that yield fee code NF would receive an enhanced rebate of $0.53 per contract where the Member has an: (i) ADV greater than or equal to 2.30% of average OCV; (ii) ADAV in Away Market Maker, Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.45% of average OCV; and (iii) ADAV in Non-Customer Non-Penny orders greater than or equal to 0.20% of average OCV. Thus, the second criterion is lower, requiring an ADAV in applicable orders greater than or equal to 1.45% of average OCV rather than 1.65% of average OCV. Otherwise the criteria of Tier 3 are the same as Tier 4. The Exchange also notes that the proposed enhanced rebate of $0.53 is also the same as the enhanced rebate provided pursuant to Tier 2.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule on October 2, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] ''Firm'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[7] ''Broker Dealer'' applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation (''OCC''). *Id.*

[8] ''Joint Back Office'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *Id.*

[9] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.* ''Non-Penny Pilot'' refers to all other issues.

[10] Fee code NF is appended to Firm, Broker Dealer and Joint Back Office orders in Non-Penny Pilot Securities that add liquidity. Orders that yield fee code NF are provided a standard rebate of $0.30 per contract. *Id.*

[11] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day. *Id.*

[12] ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *Id.*

[13] ''ADAV'' means average daily added volume calculated as the number of contracts added per day. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[14] ''Away Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. *Id.*

[15] ''Non-Customer'' applies to any transaction identified by a Member for clearing which is not in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a ''Professional'' as defined in Exchange Rule 16.1. *Id.*

[16] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.* Non-Penny securities are all other securities.

with the objectives of Section 6 of the Act,[17] in general, and furthers the objectives of Section 6(b)(4),[18] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed modification to the Exchange's tiered pricing structure is reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing structures such as that maintained by the Exchange have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. In particular, the proposed change to footnote 8 is a minor change intended to provide an incentive similar to an existing incentive but that is more attainable. The proposed incentive, in turn, is intended to incentivize Members to send increased order flow to the Exchange in an effort to qualify for the enhanced rebates made available by the tier. This increased order flow, in turn, contributes to the growth of the Exchange. The Exchange also believes the rebate associated with the tier is reasonable as it reflects the difficulty in achieving the tier and is the same as that provided under a different volume tier (Tier 2). These incentives remain reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes. The proposed change to the tiered pricing structure is not unfairly discriminatory because it will apply equally to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's tiered pricing structure burdens competition, but instead, enhances competition, as it is intended to increase the competitiveness of the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 thereunder.[20] 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–BatsBZX–2017–65 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–BatsBZX–2017–65. 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–BatsBZX–2017–65, and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22540 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81870; File No. SR–NASDAQ–2017–105]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7030 That Apply to Use of the Nasdaq Testing Facility

October 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Rule 7030 that apply to use of the Nasdaq Testing Facility (''NTF'').

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees that it assesses for use of the NTF.[3] The NTF provides users with a virtual Nasdaq system test environment that closely approximates the production environment and on which they may test their automated systems that integrate with the Exchange. For example, users may test upcoming Exchange releases and product enhancements, as well as test software prior to implementation.

The Exchange assesses certain fees under Rule 7030 for use of the NTF. In pertinent part, Rule 7030(d)(1) states that the Exchange assesses a fee of $285 per hour for ''Active Connection'' testing using current Exchange access protocols during the normal operating hours and $333 per hour for such testing after hours.[4] The Exchange does not currently assess a fee for ''Idle Connections.'' [5]

For purposes of the foregoing fees, an ''Active Connection'' is one that ''commences when the user begins to send and/or receive a transaction to and from the NTF and continues until the earlier of the disconnection or the commencement of an Idle Connection.'' [6] An ''Idle Connection'' is a connection that ''commences after a Period of Inactivity and continues until the earlier of disconnection or the commencement of an Active Connection.'' [7] A ''Period of Inactivity'' is an ''uninterrupted period of time of specified length when the connection is open but the NTF is not receiving from or sending to subscriber any transactions.'' [8]

The Exchange proposes to modify Rule 7030 in several respects. First, the Exchange proposes to decrease and simplify the fees it charges to users [9] for their active use of the NTF. Specifically, the Exchange proposes to eliminate the $333 hourly rate that it presently charges users for Active Connection testing outside of normal operating hours of the NTF such that the Exchange will charge users $285 per hour for Active Connection testing in all instances.

Second, the Exchange proposes to clarify the definition of a Period of Inactivity as well as establish a new fee for users to the extent that they experience one or more Periods of Inactivity while they are connected to the NTF in a given day. Specifically, the Exchange proposes to define a Period of Inactivity as any uninterrupted period of time that occurs while a user is connected to the NTF and when the NTF is neither receiving from nor sending to the user any transactions. The proposal states that each Period of Inactivity will be billable at the Active Connection rate after the first 10 minutes thereof and up to a cumulative amount of 60 minutes per user, per day. This means that: (i) The first 10 minutes of each Period of Inactivity will be free; (ii) each Period of Inactivity in excess of 10 minutes will be billable at the rate of $285 per hour; (iii) a user that experiences either a single Period of Inactivity of less than 60 billable minutes in a day or multiple Periods of Inactivity of less than 60 billable minutes in a day, cumulatively, will incur a fee for such Inactivity on a pro rata basis; and (iv) a user that experiences either a single Period of Inactivity in excess of 60 billable minutes in a day or multiple Periods of Inactivity in excess of 60 billable minutes in a day, cumulatively, will only incur a fee for the first 60 billable minutes of Inactivity.

Third, the Exchange proposes to eliminate the term ''Idle Connection'' insofar as no clear distinction exists between that term and a ''Period of Inactivity.'' That is, the Exchange believes it would be difficult for users to discern when an Idle Connection exists, which is free under the existing Rule, and when a Period of Activity commences, which would be billable. The Exchange proposes to simplify the fee schedule by collapsing these concepts into the single term ''Period of Inactivity'' and billing for Periods of Activity as described above.

Finally, the Exchange proposes to modify Rule 7030 to clarify that the connectivity provided under the Rule also applies, not only to NASDAQ OMX BX, Inc. (now, Nasdaq BX, Inc.) and NASDAQ OMX PHLX LLC (now, Nasdaq PHLX, LLC), but also to Nasdaq ISE LLC, Nasdaq MRX LLC, and Nasdaq GEMX LLC. This purpose of this proposal is to clarify that a client can use the connectivity to the NTF it

[3] *See https://www.nasdaqtrader.com/Trader.aspx?id=TestingFacility* for a description of the NTF.

[4] *See* Rule 7030(d)(1)(A).

[5] *See id.*

[6] Rule 7030(d)(2)(A).

[7] Rule 7030(d)(2)(B).

[8] Rule 7030(d)(2)(C). The length of the Period of Inactivity is such period of time between 10 minutes and 60 minutes in length as Nasdaq may specify from time to time by giving notice to users of the NTF. *See id.*

[9] The existing Rule refers alternatively to those that utilize the NTF as ''subscribers'' or ''users.'' For purposes of clarity, the Exchange proposes to modify the Rule to use the term ''user'' exclusively.

establishes under the Rule to perform tests with respect to all of the Nasdaq, Inc. exchanges, and in doing so, it will be billed only once.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to eliminate its $330 hourly ''after-hours'' Active Connection rate is equitable and is not unfairly discriminatory in that it will apply to all NTF users equally. This proposal is also reasonable because the Exchange no longer incurs additional costs or requires additional resources, as it once did, to permit its users to utilize the NTF outside of normal operating hours. Moreover, the act of simplifying the NTF fee schedule so that it involves only a single hourly rate will render the schedule easier for the Exchange to administer and easier for users to understand.

The Exchange's proposal to assess a new fee for inactive use of the NTF is equitable and is not unfairly discriminatory in that it will apply to all NTF users and will vary only depending upon the nature and extent of their activity while connected to the NTF. The proposal is reasonable, moreover, as a means of reducing the extent to which inactive users consume the limited bandwidth of the NTF at any given time. The Exchange intends for the fee to provide a disincentive for users to remain connected while inactive. That said, the Exchange proposes to refrain from charging users a fee for their first 10 minutes of inactivity because it believes that it would be an unnecessary and excessive act to penalize users that become momentarily inactive between periods of activity on the NTF or that fail to disconnect from the NTF the instant that they cease any activity. Likewise, the Exchange proposes to cap the fees it charges for Periods of Inactivity because it does not wish to penalize excessively those users that wish or need to maintain their connections to the NTF, even when they are inactive, so that they can resume active testing quickly. The Exchange believes that its proposal to cap this fee at 60 minutes of billable inactive time represents a reasonable balance between its desire to promote active use of the NTF and the practical needs of its users to maintain inactive connections to the NTF in certain circumstances.

Lastly, the proposals to eliminate references to the term ''Idle Connection'' and to amend the term ''Period of Inactivity'' are reasonable and not unfairly discriminatory in that these changes will clarify and simplify the fee schedule that applies to all NTF users.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Testing is a matter of regulatory hygiene, not of competition.

In this instance, the Exchange does not believe that its proposal to eliminate the $330 hourly ''after hours'' fee for use of the NTF will impose any burden insofar as it is merely reducing the rates it charges its users for use of the NTF outside of normal operating hours.

Likewise, the Exchange does not believe that its proposal to establish a fee for Periods of Inactive Use will impose any unnecessary or inappropriate burden on competition because it designed the proposal, not to raise revenue for the Exchange, but rather to act as a modest and targeted disincentive for users to remain inactive while they are connected to the NTF. The design of the fee permits users to avoid the fee by disconnecting from or resuming activity on the NTF within 10 minutes of the commencement of a Period of Inactivity. It also caps the fee at 60 minutes of cumulative daily billable inactivity so that users that choose to or inadvertently do remain inactive for long periods of time will not incur unreasonable or excessive fees as a result of doing so.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–NASDAQ–2017–105 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–105. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

available publicly. All submissions should refer to File Number SR–NASDAQ–2017–105, and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2017–22541 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81860; File No. SR–Phlx–2017–78]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Decrease the Qualification Criteria of a Credit Tier and Make Related Changes

October 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to decrease the level of Consolidated Volume required to qualify for a $0.0031 per share executed credit and make related changes.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Section VIII (NASDAQ PSX Fees) of the NASDAQ PHLX LLC Pricing Schedule to decrease the level of Consolidated Volume required to qualify for a $0.0031 per share executed credit and make related changes. Currently, the Exchange provides credits ranging from $0.0023 to $0.0031 per share executed to member organizations for displayed quotes and orders that provide liquidity through the PSX System. The top two credit tiers are the following: (1) A credit of $0.0031 per share executed for Quotes/Orders entered by a member organization that provides and accesses 0.3% or more of Consolidated Volume during the month; and (2) a credit of $0.0029 per share executed for Quotes/Orders entered by a member organization that provides and accesses 0.25% or more of Consolidated Volume during the month. The Exchange is proposing to decrease the level of monthly Consolidated Volume required of a member organization to qualify for the $0.0031 per share executed credit from 0.3% to 0.25%, which is the level required to currently qualify for the $0.0029 per share executed credit tier. As a consequence, the Exchange is also proposing to eliminate the $0.0029 per share executed credit tier.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the $0.0031 per share executed credit provided to a member organization for displayed quotes and orders is reasonable because it will remain unchanged, and it is competitive with the fees of other exchanges. For example, The Nasdaq Stock Market provides its members with credits up to $0.00305 per share executed for displayed quotes and orders.[5] Elimination of the $0.0029 per share executed credit provided to a member organization for displayed quotes and orders is reasonable because the criteria currently required to receive the $0.0029 per share executed credit will be the same as the criteria required to receive the $0.0031 per share executed credit. Thus, member organizations that currently qualify for $0.0029 per share executed credit will qualify for the higher credit under the proposed change.

The Exchange believes that decreasing the level of Consolidated Volume during the month required to qualify for the $0.0031 per share executed credit is an equitable allocation and is not unfairly discriminatory because the Exchange is using the reduced Consolidated Volume requirement to provide incentive to member organizations to participate on the Exchange. The Exchange has observed that the current qualification criteria for the $0.0031 per share executed credit and the qualification requirement of the $0.0029 per share executed credit have not provided adequate incentive. The Exchange believes that creating a single credit tier that combines the higher credit with the lower Consolidated Volume requirement will be more effective at increasing participation on the Exchange. The proposed change will apply to all member organizations, any of which may provide the level of Consolidated Volume required to qualify for the credit.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4) and (5).

[5] *See* Nasdaq Rule 7018(a).

have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the credits available to member organizations for displayed quotes and orders do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The Exchange has determined that the two credit tiers have not been as successful at attracting participation on the Exchange. Consequently, the Exchange is decreasing the qualification criteria required to receive the $0.0031 per share executed credit to the level of the $0.0029 per share executed credit. This will effectively increase the credit provided to member organizations that currently qualify for the $0.0029 per share executed credit, while possibly providing additional incentive to member organizations that do not provide and access 0.25% or more of Consolidated Volume during the month to do so. In sum, the Exchange is making it easier for member organizations to receive a credit in an effort to increase participation on the Exchange. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. The Exchange notes that competing order execution venues are free to increase their credits, or decrease qualification criteria required to receive credits, in reaction to the proposed changes. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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–Phlx–2017–78 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–Phlx–2017–78. 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–2017–78, and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

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[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32860; 812–14725]

Steadfast Alcentra Global Credit Fund and Steadfast Investment Adviser, LLC

October 12, 2017

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the 1940 Act, under sections 6(c) and 23(c) of the 1940 Act for an exemption from rule 23c–3 under the 1940 Act, and for an order pursuant to section 17(d) of the 1940 Act and rule 17d–1 under the 1940 Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares of beneficial interest (''Shares'') with varying sales loads, asset-based service and/or distribution fees and early withdrawal charges.

APPLICANTS: Steadfast Alcentra Global Credit Fund (the ''Initial Fund'') and Steadfast Investment Adviser, LLC (the ''Adviser'').

FILING DATES: The application was filed on December 8, 2016 and amended on April 13, 2017, August 18, 2017 and September 28, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders

a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on November 6, 2017, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the 1940 Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 18100 Van Karman Avenue, Suite 500, Irvine, CA 92612.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Counsel, at (202) 551–6883, or Holly Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the 1940 Act as a non-diversified, closed-end management investment company. The Initial Fund's investment objective is to provide current income and capital preservation with the potential for capital appreciation. The Initial Fund seeks to achieve its investment objective primarily by providing customized financing solutions to lower middle market and middle market companies (as defined in the Initial Fund's prospectus) in the form of floating and fixed rate senior secured loans, second lien loans and subordinated debt, which, under normal circumstances will collectively represent at least 80% of the Initial Fund's net assets (plus the amount of any borrowings for investment purpose).

2. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Initial Fund.

3. The applicants seek an order to permit the Initial Fund to issue multiple classes of Shares, that may (but would not necessarily) be subject to a front-end sales load, an annual asset-based service and/or distribution fee and an early withdrawal charge.

4. Applicants request that the order also apply to any other registered closed-end management investment company that conducts a continuous offering of its shares, existing now or in the future, for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the 1940 Act or provides periodic liquidity with respect to its Shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''1934 Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund is currently making a continuous public offering of its Shares. Shares of the Funds will not be listed on any securities exchange nor traded on an over the counter system such as NASDAQ. The Funds do not expect there to be a secondary trading market for their Shares.

6. The Initial Fund currently issues a single class of Shares, Class T Shares (the ''Initial Class Shares'') and proposes to offer Class A, Class D and Class I Shares (the ''New Classes of Shares''). Each of the Initial Class Shares and New Class Shares will have its own fee and expense structure. Each New Class Shares would be offered at net asset value per Share and may be subject to a front-end sales load, an annual asset-based service and/or distribution fee and an early withdrawal charge. The Funds may in the future offer additional classes of Shares and/or another sales charges structure. Because of the different distribution and/or service fees, services and any other class expenses that may be attributable to the Initial Class Shares or the New Class Shares, the net income attributable to, and the dividends payable on, each class of Shares may differ from each other.

7. Applicants state that, from time to time, the Board of a Fund may create and offer additional classes of Shares, or may vary the characteristics described above of Initial Class Shares and New Class Shares in the following respects: (i) The amount of fees permitted by a distribution and/or service plan as to such class; (ii) voting rights with respect to a distribution and/or service plan of such class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of Shares allocated on a class basis as described in the application; (v) differences in any dividends and net asset value per Share resulting from differences in fees under a distribution and/or service plan or in class expenses; (vi) any sales load structure; and (vii) any conversion features of the classes as permitted under the 1940 Act.

8. Applicants state that Shares of a Fund will be subject to an ''early withdrawal charge'' or a ''repurchase fee'' of up to 2.0% of the shareholder's repurchase proceeds in the event that the shareholder tenders his or her Shares for repurchase by such Fund at any time prior to the one-year anniversary of the purchase of such Shares. Early withdrawal charges will apply equally to all shareholders of the Fund, regardless of class, consistent with section 18 of the 1940 Act and rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate the early withdrawal charge, it will do so consistently with the requirements of rule 22d–1 under the 1940 Act as if the early withdrawal charge were a CDSC (defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, the early withdrawal charge will apply uniformly to all shareholders of the Fund regardless of class.

9. Applicants state that the Initial Fund currently intends to limit the number of Shares to be repurchased in any calendar year to the number of Shares the Initial Fund can repurchase with the proceeds it receives from the issuance of Shares under its distribution reinvestment plan. In addition, the Initial Fund will limit the number of Shares to be repurchased in any calendar year to 10% of the weighted average number of Shares outstanding in a prior calendar year or 2.5% in each quarter, though the actual number of Shares that the Initial Fund offers to purchase may be less. If a Future Fund is structured to operate as an interval fund, it will adopt an investment policy and make periodic repurchase offers to

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that any person presently intending to rely on the requested relief is listed as an Applicant.

its shareholders in compliance with rule 23c–3 or will provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by a Fund will be made to all holders of shares of each such Fund.

10. Applicants represent that any asset-based distribution and service fees will comply with the provisions of the Financial Industry Regulatory Authority (''FINRA'') Rule 2341 (''FINRA Rule 2341'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds. As if it were an open-end management investment company, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's Shares comply with such requirements in connection with the distribution of such Fund's shares.

12. Each Fund will allocate all expenses incurred by it among the various classes of Shares based on the net assets of that Fund attributable to each class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution and/or service plan of that class, shareholder service fees, and any other incremental expenses of that class. Expenses of a Fund allocated to a particular class of the Fund's Shares will be borne on a pro rata basis by each outstanding Share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the 1940 Act as if it were an open-end investment company.

13. Applicants state that each Future Fund may impose an early withdrawal charge on Shares submitted for repurchase that have been held less than a specified period and may waive the early withdrawal charge on repurchases in connection with certain categories of shareholders or transactions to be established from time to time. Applicants state that each Future Fund will apply the early withdrawal charge (and any waivers or scheduled variations of the early withdrawal charge) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the 1940 Act as if the Future Funds were open-end investment companies.

14. If a Future Fund is structured to operate as an interval fund, it will adopt a fundamental investment policy in compliance with Rule 23c–3 and make periodic repurchase offers to its shareholders, or provide periodic liquidity with respect to its Shares. To the extent the Fund determines to waive, impose scheduled variations of, or eliminate, the early withdrawal charge, the Fund will do so consistently with the requirements of Rule 22d–1 under the 1940 Act as if the early withdrawal charge were a CDSC (as defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, the early withdrawal charge will apply uniformly to all shareholders. Contingent deferred sales charges (''CDSC'') are distribution-related charges payable to a distributor and assessed by an open-end investment company pursuant to Rule 6c–10 under the 1940 Act.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the 1940 Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the 1940 Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the 1940 Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of Shares of the Funds may violate section 18(i) of the 1940 Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the 1940 Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the 1940 Act, or from any rule or regulation under the 1940 Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of Shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its Shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the 1940 Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the 1940 Act. Applicants state that each Fund will comply with

[3] Applicants submit that rule 23c–3 and Regulation M under the 1934 Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933.

[4] Any reference to the FINRA Rule 2341 includes FINRA Rule 2342 as such rule may be amended or any successor thereto.

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, *et seq.* of the 1940 Act.

the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the 1940 Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the 1940 Act permits an ''interval fund'' to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the 1940 Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Future Funds to impose early withdrawal charges, which are distribution-related fees payable to the distributor, on Shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the early withdrawal charges they intend to impose are functionally similar to CDSCs imposed by open-end investment companies under rule 6c–10 under the 1940 Act. Rule 6c–10 permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSCs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of early withdrawal charges in the interval fund context. In addition, applicants state that early withdrawal charges may be necessary for the distributor to recover distribution costs. Applicants represent that any early withdrawal charge imposed by the Funds will comply with rule 6c–10 under the 1940 Act as if the rule were applicable to closed-end investment companies. Each Future Fund will disclose early withdrawal charges in accordance with the requirements of Form N–1A concerning CDSCs.

Asset-Based Distribution and/or Service Fees

1. Section 17(d) of the 1940 Act and rule 17d–1 under the 1940 Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the 1940 Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the 1940 Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the 1940 Act. Applicants request an order under section 17(d) and rule 17d–1 under the 1940 Act to the extent necessary to permit the Fund to impose asset-based distribution and service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its Shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the 1940 Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the 1940 Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Rule 2341, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22517 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81864; File No. SR-BatsBZX–2017–61]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide Interpretation With Respect to the Meaning, Administration, or Enforcement of Rule 14.11, Other Securities, and Rule 14.12, Failure To Meet Listing Standards

October 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2017, Bats BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to provide interpretation with respect to the meaning, administration, or enforcement of Rule 14.11 and 14.12.

The text of the proposed rule change is also available on the Exchange's Web site (*www.bats.com*), 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

Background

On November 18, 2016 the Exchange filed a proposed rule change, as subsequently amended by Amendments No. 1 and 2 thereto (as amended, the ''Continued Listing Standards''), to adopt certain changes to Exchange Rules 14.11 and 14.12 to add additional continued listing standards for exchange-traded products (''ETP'') as well as clarify the procedures that the Exchange will undertake when an ETP is noncompliant with applicable rules, which was approved by the Commission on March 7, 2017. The Exchange submits this proposal in order to provide interpretive guidance as it relates to ETP issuers complying with the changes upon implementation.

Testing and Exchange Notification

The Continued Listing Standards include language in numerous places that would require certain criteria related to index composition, portfolio holdings, or reference assets to be met ''upon initial listing and on a continual basis'' and that delisting proceedings will be initiated where ''any of the requirements set forth in this rule are not continuously met.'' As such, any instance of noncompliance reported to or discovered by the Exchange will be subject to delisting proceedings pursuant to Rule 14.12. If at any point during delisting proceedings the ETP regains compliance, such delisting proceedings will be terminated.

The Exchange notes that, unless otherwise specified within the rule text, issuers of index-based ETPs listed on the Exchange should test for compliance with such criteria upon any index rebalance, reconstitution, or other material change to the index components (collectively, a ''Material Index Change''), as applicable, and no less frequently than on a quarterly basis. Similarly, unless otherwise specified within the rule text, issuers of Managed Fund Shares, as defined in Rule 14.11(i), listed on the Exchange should test for compliance with such criteria upon any material change to the portfolio's holdings (collectively with Material Index Change, a ''Material Change''), as applicable, and no less frequently than on a quarterly basis. Any test conducted as part of a Material Change would satisfy the testing requirement for the applicable quarter. For purposes of this interpretation, the issuer may set the quarterly schedule, whether based on the fiscal year end of a fund, the calendar quarters, or otherwise. At no point should there be a period of greater than four months during which such a test for compliance has not been conducted. Nothing in this proposal should be construed as restricting the frequency with which an issuer may test for compliance. The Continued Listing Standards also include language in numerous places that would require the Exchange to initiate delisting proceedings for an ETP listed pursuant to a proposal submitted by the Exchange pursuant to Section 19(b) that has become effective or has been approved by the Commission where ''any of the applicable Continued Listing Representations [3] are not continuously met.'' Similarly, to the extent that any Continued Listing Representations for index-based ETPs or Managed Fund Shares relate to index composition, portfolio holdings, or reference assets, issuers of ETPs listed on the Exchange should test for compliance with such criteria upon any Material Change, as applicable, and no less frequently than on a quarterly basis. The Exchange notes that it will also be independently reviewing ETPs listed on the Exchange for compliance with the Continued Listing Standards.

Issuers shall provide annual attestations affirming that such tests are being conducted and that the issuer is not aware of any undisclosed instances of noncompliance. To the extent that an issuer believes that it will not be able to comply with the Continued Listing Standards, the Exchange encourages issuers to proactively reach out to the Listing Qualifications Department to work on a proposal to submit pursuant to 19(b) of the Act. If managed proactively, the Exchange believes that such issues can be managed without interruption to the listing of the ETP on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[5] in that it is designed to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing interpretations for issuers of ETPs to comply with the Continued Listing Standards. The Exchange believes that such interpretive guidance will provide issuers with the clarity needed to dedicate the resources necessary to build adequate compliance systems in furtherance of the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate ETP issuers' ability to monitor and evidence compliance with the Continued Listing Standards by providing interpretation that will provide additional clarity and certainty around the Continued Listing Standards on which issuers will be able to rely.

[3] Pursuant to Rule 14.11(a) of the Continued Listing Standards, the term ''Continued Listing Representations'' shall mean any of the statements or representations regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange rules specified in any filing to list a series of Other Securities.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(1) thereunder.[7] 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–BatsBZX–2017–61 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–BatsBZX–2017–61. 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–BatsBZX–2017–61 and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22539 Filed 10–17–17; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(1).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15350 and #15351; Wisconsin Disaster Number WI–00063]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Wisconsin

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Wisconsin (FEMA–4343–DR), dated 10/07/2017.

Incident: Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

Incident Period: 07/19/2017 through 07/23/2017.

DATES: Issued on 10/07/2017.

Physical Loan Application Deadline Date: 12/06/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 07/09/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/07/2017, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Buffalo, Crawford, Grant, Iowa, Jackson, La Crosse, Lafayette, Monroe, Richland, Trempealeau, Vernon

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15350B and for economic injury is 153510.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–22521 Filed 10–17–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15348 and #15349; Idaho Disaster Number ID–00071]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Idaho

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Idaho (FEMA–4342–DR), dated 10/07/2017.

Incident: Flooding.

Incident Period: 03/29/2017 through 06/15/2017.

DATES: Issued on 10/07/2017.

Physical Loan Application Deadline Date: 12/06/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 07/09/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/07/2017, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Ada, Canyon

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 153488 and for economic injury is 153490.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–22520 Filed 10–17–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10174]

Bureau of Consular Affairs; Registration for the Diversity Immigrant (DV–2019) Visa Program

AGENCY: Department of State.

ACTION: Notice.

This public notice provides information on changes to the application process for the DV–2019 Program due to unforeseen technical issues.

Changes to the Entry Period

The registration period for the DV–2019 DV program began at noon, Eastern Daylight Time (EDT) (GMT–4), Tuesday, October 3, 2017. Due to unforeseen technical issues with the application systems, the Department did not receive all required information from entries submitted between Tuesday, October 3, 2017 and Tuesday, October 10, 2017, when the problem was identified and the Department ceased accepting entries. The technical issue has since been resolved, but the missing information was not recovered.

In order to ensure that applications are not unfairly affected by this technical issue, a new registration period will begin at noon, Eastern Daylight Time (EDT) (GMT–4), Wednesday, October 18, 2017 and run until noon, Eastern Standard Time (EDT) (GMT–5), Wednesday, November 22, 2017. Entries previously submitted between Tuesday, October 3, 2017, and Tuesday, October 10, 2017, will not be considered for the DV program. Individuals who submitted entries during that period are encouraged to submit a new entry during the new registration period. Do not wait until the last week of the registration period to enter, as heavy demand may result in Web site delays. No late entries or paper entries will be accepted. The law allows only one entry by or for each person during each registration period. The Department of State uses sophisticated technology to detect multiple entries. *Individuals with more than one entry during this registration period will be disqualified. However, applicants who registered during the initial registration period of October 3, 2017 to October 10, 2017, are encouraged to register in the new registration period, and will not be disqualified based on registering in both periods.*

In order to participate in DV–2019, individuals must submit an entry during this period; entries submitted between Tuesday, October 3 and Tuesday, October 9 will *not* be counted. Individuals who submitted entries between Tuesday, October 3 and Tuesday, October 10 *must* reapply during the new registration period in order to participate in DV–2019.

All other requirements for entry into DV–2019, and all of the following information in this notice, remain the same with the exception of Frequently Asked Questions #9, 10, and 16 below, which have been updated to reflect the new registration period.

Program Overview

The Department of State administers the Congressionally-mandated Diversity Immigrant Visa Program annually. Section 203(c) of the Immigration and Nationality Act (INA) provides for a class of immigrants known as ''diversity immigrants,'' from countries with historically low rates of immigration to the United States. For fiscal year 2019, 50,000 diversity visas (DVs) will be available. There is no cost to register for the DV Program.

Applicants who are selected in the lottery (''selectees'') must meet simple, but strict, eligibility requirements to qualify for a diversity visa. The Department of State determines selectees through a randomized computer drawing. Diversity visa numbers are distributed among six geographic regions, and no single country may receive more than seven percent of the available DVs in any one year.

For DV–2019, natives of the following countries are not eligible to apply, because more than 50,000 natives of these countries immigrated to the United States in the previous five years:

Bangladesh, Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.

Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible.

There are no changes in eligibility this year.

Eligibility

Requirement #1: Individuals born in countries whose natives qualify may be eligible to enter.

If you were not born in an eligible country, there are two other ways you might be able to qualify.

- Was your spouse born in a country whose natives are eligible? If yes, you can claim your spouse's country of birth—provided that both you and your spouse are named on the selected entry, are found eligible for and issued diversity visas, and enter the United States simultaneously.
- Were you born in a country whose natives are ineligible, but in which neither of your parents were born or legally resident at the time of your birth? If yes, you may claim the country of birth of one of your parents if it is a country whose natives are eligible for the DV–2019 program. For more details on what this means, see the Frequently Asked Questions.

Requirement #2: Each applicant must meet the education/work experience

requirement of the DV program by having either:

- At least a high school education or its equivalent, defined as successful completion of a 12-year course of formal elementary and secondary education; OR
- two years of work experience within the past five years in an occupation that requires at least two years of training or experience to perform. The Department of State will use the U.S. Department of Labor's O*Net Online database to determine qualifying work experience. For more information about qualifying work experience for the principal DV applicant, see the Frequently Asked Questions.

Do not submit an entry to the DV program unless you meet both of these requirements.

Completing Your Electronic Entry for the DV–2019 Program

Submit your Electronic Diversity Visa Entry Form (E–DV Entry Form or DS–5501), online at *dvlottery.state.gov*. We will not accept incomplete entries. There is no cost to register for the DV Program.

We strongly encourage you to complete the entry form yourself, without a ''visa consultant,'' ''visa agent,'' or other facilitator who offers to help. If someone else helps you, you should be present when your entry is prepared so that you can provide the correct answers to the questions and retain the confirmation page and your unique confirmation number.

After you submit a complete entry, you will see a confirmation screen that contains your name and a unique confirmation number. Print this confirmation screen for your records. It is extremely important that you retain your confirmation page and unique confirmation number. Without this information, you will not be able to access the online system that will inform you of the status of your entry. You also should retain access to the email account listed in the E–DV. See the Frequently Asked Questions for more information about Diversity Visa scams.

Starting May 15, 2018, you will be able to check the status of your entry by returning to *dvlottery.state.gov,* clicking on *Entrant Status Check,* and entering your unique confirmation number and personal information. *Entrant Status Check* will be the sole means of informing you of your selection for DV–2019, providing instructions on how to proceed with your application, and notifying you of your appointment for your immigrant visa interview. Please review the Frequently Asked Questions for more information about the selection process.

You must provide the following information to complete your E–DV entry:

1. Name—last/family name, first name, middle name—exactly as on your passport.
2. Gender—male or female.
3. Birth date—day, month, year.
4. City where you were born.
5. Country where you were born—Use the name of the country currently used for the place where you were born.
6. Country of eligibility for the DV Program—Your country of eligibility will normally be the same as your country of birth. Your country of eligibility is not related to where you live.

If you were born in a country that is not eligible, please review the Frequently Asked Questions to see if there is another way you may be eligible.

7. Entrant photograph(s)—Recent photographs (taken within 6 months) of yourself, your spouse, and all your children listed on your entry. See Submitting a Digital Photograph for compositional and technical specifications. You do not need to include a photograph for a spouse or child who is already a U.S. citizen or a Lawful Permanent Resident, but you will not be penalized if you do. We cannot accept group photographs; you must submit a photograph for each individual. Your entry may be disqualified or your visa refused if the photographs are more than six months old, have been manipulated in any way, or do not meet the specifications explained below. Submitting the same photograph that you submitted with a prior year's entry) will result in disqualification. See Submitting a Digital Photograph for more information.
8. Mailing Address—In Care Of
Address Line 1
Address Line 2
City/Town
District/Country/Province/State
Postal Code/Zip Code
Country
9. Country where you live today.
10. Phone number (optional).
11. Email address—An email address to which you have direct access, and will continue to have direct access after we notify selectees in May of next year. If your entry is selected and you respond to the notification of your selection through the *Entrant Status Check,* you will receive follow-up email communication from the Department of State notifying you that details of your immigrant visa interview are available on *Entrant Status Check.* The Department of State will never send you an email telling you that you have been selected for the DV program. See the Frequently Asked Questions for more information about the selection process.
12. Highest level of education you have achieved, as of today: (1) Primary school only, (2) Some high school, no diploma, (3) High school diploma, (4) Vocational school, (5) Some university courses, (6) University degree, (7) Some graduate-level courses, (8) Master's degree, (9) Some doctoral-level courses, and (10) Doctorate. See the Frequently Asked Questions for more information about educational requirements.
13. Current marital status—(1) Unmarried, (2) married and my spouse is NOT a U.S. citizen or U.S. LPR, (3) married and my spouse IS a U.S. citizen or U.S. LPR, (4) divorced, (5) widowed, or (6) legally separated. Enter the name, date of birth, gender, city/town of birth, country of birth of your spouse, and a photograph of your spouse meeting the same technical specifications as your photo.

Failure to list your eligible spouse will result in disqualification of the principal applicant and refusal of all visas in the case at the time of the visa interview. You must list your spouse even if you currently are separated from him/her, unless you are legally separated. Legal separation is an arrangement when a couple remain married but live apart, following a court order. If you and your spouse are legally separated, your spouse will not be able to immigrate with you through the Diversity Visa program. You will not be penalized if you choose to enter the name of a spouse from whom you are legally separated. If you are not legally separated by a court order, you must include your spouse even if you plan to be divorced before you apply for the Diversity Visa. Failure to list your eligible spouse is grounds for disqualification.

If your spouse is a U.S. citizen or Lawful Permanent Resident, do not list him/her in your entry. A spouse who is already a U.S. citizen or a Lawful Permanent Resident will not require or be issued a DV visa. Therefore, if you select ''married and my spouse IS a U.S. citizen or U.S. LPR'' on your entry, you will not be prompted to include further information on your spouse. See the Frequently Asked Questions for more information about family members.

14. Number of children—List the name, date of birth, gender, city/town of birth, and country of birth for all living unmarried children under 21 years of age, regardless of whether or not they

are living with you or intend to accompany or follow to join you should you immigrate to the United States. Submit individual photographs of each of your children using the same technical specifications as your own photograph.

Be sure to include:

- All living natural children;
- all living children legally adopted by you; and,
- all living step-children who are unmarried and under the age of 21 on the date of your electronic entry, even if you are no longer legally married to the child's parent, and even if the child does not currently reside with you and/or will not immigrate with you.

Married children and children over the age of 21 are not eligible for the DV. However, the Child Status Protection Act protects children from ''aging out'' in certain circumstances. If you submit your DV entry before your unmarried child turns 21, and the child turns 21 before visa issuance, it is possible that he or she may be treated as though he or she were under 21 for visa-processing purposes.

A child who is already a U.S. citizen or a Lawful Permanent Resident will not require or be issued a diversity visa, and you will not be penalized for either including or omitting such family members from your entry.

Failure to list all children who are eligible will result in disqualification of the principal applicant and refusal of all visas in the case at the time of the visa interview. See the Frequently Asked Questions for more information about family members.

See the Frequently Asked Questions for more information about completing your Electronic Entry for the DV–2019 Program.

Selection of Applicants

Based on the allocations of available visas in each region and country, the Department of State will randomly select individuals by computer from among qualified entries. All DV–2019 entrants must go to the *Entrant Status Check* using the unique confirmation number saved from their DV–2019 online entry registration to find out whether their entry has been selected in the DV program. *Entrant Status Check* will be available on the E–DV Web site at *dvlottery.state.gov* starting May 15, 2018, through at least September 30, 2019.

If your entry is selected, you will be directed to a confirmation page that will provide further instructions, including information on fees connected with immigration to the United States. *Entrant Status Check* will be the ONLY means by which the Department of State notifies selectees of their selection for DV–2019. The Department of State will not mail out notification letters or notify selectees by email. U.S. embassies and consulates will not provide a list of selectees. Individuals who have not been selected also will be notified ONLY through *Entrant Status Check.* You are strongly encouraged to access *Entrant Status Check* yourself and not to rely on someone else to check and inform you.

In order to immigrate, DV selectees must be admissible to the United States. The DS–260, Online Immigrant Visa and Alien Registration Application, electronically, and the consular officer, in person will ask you questions about your eligibility to immigrate, and these questions include criminal and security related grounds.

All eligible selectees, including family members, must be issued by September 30, 2019. Under no circumstances can the Department of State issue DVs or approve adjustments after this date, nor can family members obtain DVs to follow-to-join the principal applicant in the United States after this date. See the Frequently Asked Questions for more information about the selection process.

Submitting a Digital Photograph (Image)

You can take a new digital photograph or scan a recent photographic print, taken within the last 6 months, with a digital scanner, as long as it meets the compositional and technical specifications listed below. Test your photos through the photo validation link on the E–DV Web site, which provides additional technical advice on photo composition and examples of acceptable and unacceptable photos. Do not submit an old photograph. Submitting the same photograph that was submitted with a prior year's entry, a photograph that has been manipulated, or a photograph that does not meet the specifications below will result in disqualification.

Photographs must be in 24-bit color depth. If you are using a scanner, the settings must be for True Color or 24-bit color mode. See the additional scanning requirements below.

Compositional Specifications

- *Head Position:* You must directly face the camera. The subject's head should not be tilted up, down, or to the side. The head height or facial region size (measured from the top of the head, including the hair, to the bottom of the chin) must be between 50 percent and 69 percent of the image's total height. The eye height (measured from the bottom of the image to the level of the eyes) should be between 56 percent and 69 percent of the image's height.
- *Light-colored Background:* The subject should be in front of a neutral, light-colored background.
- *Focus:* The photograph must be in focus.
- *No Eyewear:* The subject must not wear glasses or other items that detract from the face.
- *No Head Coverings or Hats:* Head coverings or hats worn for religious beliefs are acceptable, but the head covering may not obscure any portion of the face. Tribal or other headgear not religious in nature may not be worn. Photographs of military, airline, or other personnel wearing hats will not be accepted.

Technical Specifications

- Taking a New Digital Image. If you submit a new digital image, it must meet the following specifications:
  - *Image File Format:* The image must be in the Joint Photographic Experts Group (JPEG) format.
  - *Image File Size:* The maximum image file size is 240 kilobytes (240KB).
  - *Image Resolution and Dimensions:* Minimum acceptable dimensions are 600 pixels (width) x 600 pixels (height) up to 1200 pixels x 1200 pixels. Image pixel dimensions must be in a square aspect ratio (meaning the height must be equal to the width).
  - *Image Color Depth:* Image must be in color (24 bits per pixel). 24-bit black and white or 8-bit images will not be accepted.
- Scanning a Submitted Photograph. Before you scan a photographic print, make sure it meets the color and compositional specifications listed above. Scan the print using the following scanner specifications:
  - *Scanner Resolution:* Scanned at a resolution of at least 300 dots per inch (dpi).
  - *Image File Format:* The image must be in the Joint Photographic Experts Group (JPEG) format.
  - *Image File Size:* The maximum image file size is 240 kilobytes (240 KB).
  - *Image Color Depth:* 24-bit color. [Note that black and white, monochrome, or grayscale images will not be accepted.]

Frequently Asked Questions (FAQ's)

Eligibility

1. What do the terms ''Native'' and ''Chargeability'' mean?

''Native'' ordinarily means someone born in a particular country, regardless of the individual's current country of residence or nationality. ''Native'' can

also mean someone who is entitled to be ''charged'' to a country other than the one in which he/she was born under the provisions of Section 202(b) of the Immigration and Nationality Act.

Because there is a numerical limitation on immigrants who enter from a country or geographic region, each individual is ''charged'' to a country. Your chargeability'' refers to the country towards which limitation you count. Your country of eligibility will normally be the same as your country of birth. However, you may choose your country of eligibility as the country of birth of your spouse, or the country of birth of either of your parents if you were born in a country in which neither parent was born and in which the parents were not resident at the time of your birth. These are the only three ways to select your country of chargeability.

If you claim alternate chargeability through either of the above, you must provide an explanation on the E–DV Entry Form, in question #6. Listing an incorrect country of eligibility or chargeability (*i.e.,* one to which you cannot establish a valid claim) will disqualify your entry.

2. Can I still apply if I was not born in a qualifying country?

There are two circumstances in which you still might be eligible to apply. First, if your derivative spouse was born in an eligible country, you may claim chargeability to that country. As your eligibility is based on your spouse, you will only be issued a DV–1 immigrant visa if your spouse is also eligible for and issued a DV–2 visa. Both of you must enter the United States together using your DVs. Similarly, your minor dependent child can be ''charged'' to a parent's country of birth.

Second, you can be ''charged'' to the country of birth of either of your parents as long as neither of your parents was born in or a resident of your country of birth at the time of your birth. People are not generally considered residents of a country in which they were not born or legally naturalized, if they were only visiting, studying in the country temporarily, or stationed temporarily for business or professional reasons on behalf of a company or government from a different country other than the one in which you were born.

If you claim alternate chargeability through either of the above, you must provide an explanation on the E–DV Entry Form, in question #6. Listing an incorrect country of eligibility or chargeability (*i.e.,* one to which you cannot establish a valid claim) will disqualify your entry.

3. Why do natives of certain countries not qualify for the DV program?

DVs are intended to provide an immigration opportunity for persons who are not from ''high admission'' countries. The law defines ''high admission countries'' as those from which a total of 50,000 persons in the Family-Sponsored and Employment-Based visa categories immigrated to the United States during the previous five years. Each year, U.S. Citizenship and Immigration Services (USCIS) counts the family and employment immigrant admission and adjustment of status numbers for the previous five years to identify the countries that are considered ''high admission'' and whose natives will therefore be ineligible for the annual diversity visa program. Because USCIS makes this calculation annually, the list of countries whose natives are eligible or not eligible may change from one year to the next.

4. How many DV–2019 visas will go to natives of each region and eligible country?

United States Citizenship and Immigration Services (USCIS) determines the regional DV limits for each year according to a formula specified in Section 203(c) of the Immigration and Nationality Act (INA). The number of visas the Department of State eventually will issue to natives of each country will depend on the regional limits established, how many entrants come from each country, and how many of the selected entrants are found eligible for the visa. No more than seven percent of the total visas available can go to natives of any one country.

5. What are the requirements for education or work experience?

U.S. immigration law and regulations require that every DV entrant must have at least a high school education or its equivalent or have two years of work experience within the past five years in an occupation that requires at least two years of training or experience. A ''high school education or equivalent'' is defined as successful completion of a 12-year course of elementary and secondary education in the United States OR the successful completion in another country of a formal course of elementary and secondary education comparable to a high school education in the United States. Only formal courses of study meet this requirement; correspondence programs or equivalency certificates (such as the General Equivalency Diploma G.E.D.) are not acceptable. You must present documentary proof of education or work experience to the consular officer at the time of the visa interview.

If you do not meet the requirements for education or work experience, your entry will be disqualified at the time of your visa interview, and no visas will be issued to you or any of your family members.

6. What occupations qualify for the DV program?

The U.S. Department of Labor's (DOL) O*Net OnLine database will be used to determine qualifying work experience. The O*Net Online Database groups job experience into five ''job zones.'' While the DOL Web site lists many occupations, not all occupations qualify for the DV Program. To qualify for a DV on the basis of your work experience, you must have, within the past five years, two years of experience in an occupation that is classified in a Specific Vocational Preparation (SVP) range of 7.0 or higher.

If you do not meet the requirements for education or work experience, your entry will be disqualified at the time of your visa interview, and no visas will be issued to you or any of your family members.

7. How can I find the qualifying DV occupations in the Department of Labor's O*Net online database?

When you are in O*Net OnLine, follow these steps to find out if your occupation qualifies:

1. Under ''Find Occupations'' select ''Job Family'' from the pull down;

2. Browse by ''Job Family,'' make your selection, and click ''GO;''

3. Click on the link for your specific occupation.

4. Select the tab ''Job Zone'' to find the designated Job Zone number and Specific Vocational Preparation (SVP) rating range.

As an example, select Aerospace Engineers. At the bottom of the Summary Report for Aerospace Engineers, under the Job Zone section, you will find the designated Job Zone 4, SVP Range, 7.0 to < 8.0. Using this example, Aerospace Engineering is a qualifying occupation.

For additional information, see the Diversity Visa—List of Occupations Web page *(travel.state.gov/visa/immigrants/types/types_1319.html).*

8. Is there a minimum age to apply for the DV program?

There is no minimum age to apply, but the requirement of a high school education or work experience for each principal applicant at the time of

application will effectively disqualify most persons who are under age 18.

Completing Your Electronic Entry for the DV Program

9. When can I submit my entry?

The DV–2019 entry period will run from 12:00 p.m. (noon), Eastern Daylight Time (EDT) (GMT–4), Wednesday, October 18, 2017, until 12:00 p.m. (noon), Eastern Standard Time (EST) (GMT–5), Wednesday, November 22, 2017. In order to participate in DV–2019, individuals must submit an entry during this period; entries submitted between Tuesday, October 3 and Tuesday, October 10 will *not* be counted. Individuals who submitted entries between Tuesday, October 3 and Tuesday, October 10 *must* reapply during the new registration period in order to participate in DV–2019.

Each year, millions of people submit entries. Holding the entry period on these dates ensures selectees receive notification in a timely manner and gives both the visa applicants and our embassies and consulates time to prepare and complete cases for visa issuance. We strongly encourage you to enter early during the registration period. Excessive demand at the end of the registration period may slow the system down. We cannot accept entries after noon EST Wednesday, November 22, 2017.

10. I am in the United States. Can I enter the DV program?

Yes, an entrant may apply while in the United States or another country. An entrant may submit an entry from any location.

11. Can I only enter once during the registration period?

Yes, the law allows only one entry by or for each person during each registration period. The Department of State uses sophisticated technology to detect multiple entries. *Individuals with more than one entry during this registration period will be disqualified.*

In order to participate in DV–2019, individuals must submit an entry during this period; entries submitted between Tuesday, October 3 and Tuesday, October 10, will *not* be counted. Individuals who submitted entries between Tuesday, October 3 and Tuesday, October 10 *must* reapply during the new registration period in order to participate in DV–2019.

12. May my spouse and I each submit a separate entry?

Yes, a husband and a wife may each submit one entry if each meets the eligibility requirements. If either spouse is selected, the other is entitled to apply as a derivative dependent.

13. What family members must I include in my DV entry?

Spouse: If you are legally married, you must list your spouse (husband or wife) regardless of whether or not he or she lives with you or intends to immigrate to the United States. You must list your spouse even if you are currently separated from him/her, unless you are legally separated. Legal separation is an arrangement when a couple remain married but live apart, following a court order. If you and your spouse are legally separated, your spouse will not be able to immigrate with you through the Diversity Visa program. You will not be penalized if you choose to enter the name of a spouse from whom you are legally separated. If you are not legally separated by a court order, you must include your spouse even if you plan to be divorced before you apply for the Diversity Visa. Failure to list your eligible spouse is grounds for disqualification.

If you are divorced or your spouse is deceased, you do not have to list your former spouse.

The only exception to this requirement is if your spouse is already a U.S. citizen or U.S. Lawful Permanent Resident. A spouse who is already a U.S. citizen or a Lawful Permanent Resident will not require or be issued a DV. Therefore, if you select ''married and my spouse IS a U.S. citizen or U.S. LPR'' on your entry, you will not be able to include further information on your spouse.

Children: You must list ALL your living children who are unmarried and under 21 years of age at the time of your initial E–DV entry, whether they are your natural children, your stepchildren (even if you are now divorced from that child's parent), your spouse's children, or children you have formally adopted in accordance with the applicable laws. List all children under 21 years of age at the time of your electronic entry, even if they no longer reside with you or you do not intend for them to immigrate under the DV program. You are not required to list children who are already U.S. citizens or Lawful Permanent Residents, though you will not be penalized if you do include them.

Parents and siblings of the entrant are ineligible to receive DV visas as dependents, and you should not include them in your entry.

If you list family members on your entry, they are not required to apply for a visa or to immigrate or travel with you. However, if you fail to include an eligible dependent on your original entry, your case will be disqualified at the time of your visa interview and no visas will be issued to you or any of your family members. This only applies to those who were family members at the time the original application was submitted, not those acquired at a later date. Your spouse, if eligible to enter, may still submit a separate entry even though he or she is listed on your entry, as long as both entries include details on all dependents in your family (see FAQ #12 above).

14. Must I submit my own entry, or can someone else do it for me?

We encourage you to prepare and submit your own entry, but you may have someone submit the entry for you. Regardless of whether you submit your own entry, or an attorney, friend, relative, or someone else submits it on your behalf, only one entry may be submitted in your name. You, as the entrant, are responsible for ensuring that information in the entry is correct and complete; entries that are not correct or complete may be disqualified. Entrants should keep their own confirmation number so that they are able to independently check the status of their entry using Entrant Status Check at *dvlottery.state.gov.* Entrants should keep retain access to the email account used in the E–DV submission.

15. I'm already registered for an immigrant visa in another category. Can I still apply for the DV program?

Yes. Your DV registration will not make you ineligible for another immigrant visa classification.

16. When will E–DV be available online?

You can enter online during the registration period beginning at 12:00 p.m. (noon) Eastern Daylight Time (EDT) (GMT–4) on Wednesday, October 18, 2017, and ending at 12:00 p.m. (noon) Eastern Standard Time (EST) (GMT–5) on Wednesday, November 22, 2017. While E–DV was available between Tuesday, October 3 and Tuesday, October 10, entries submitted during that period will not be counted due to unforeseen technical issues. Individuals *must* reapply during the new registration period in order to participate in DV–2019.

17. Can I download and save the E–DV entry form into a word processing program and finish it later?

No, you will not be able to save the form into another program for completion and submission later. The E–DV Entry Form is a Web form only.

You must fill in the information and submit it while online.

18. Can I save the form online and finish it later?

No. The E–DV Entry Form is designed to be completed and submitted at one time. You will have 60 minutes starting from when you download the form to complete and submit your entry through the E–DV Web site. If you exceed the 60-minute limit and have not submitted your complete entry electronically, the system discards any information already entered. The system deletes any partial entries so that they are not accidentally identified as duplicates of a later, complete entry. Read the DV instructions completely before you start to complete the form online, so that you know exactly what information you will need.

19. I don't have a scanner. Can I send photographs to someone in the united states to scan them, save them, and mail them back to me so I can use them in my entry?

Yes, as long as the photograph meets the requirements in the instructions and is electronically submitted with, and at the same time as, the E–DV online entry. You must already have the scanned photograph file when you submit the entry online; it cannot be submitted separately from the online application. The entire entry (photograph and application together) can be submitted electronically from the United States or from overseas.

20. According to the procedures, the system will reject my E–DV entry form if my photos don't meet the specifications. Can I resubmit my entry?

Yes, as long as you complete your submission by 12:00 p.m. (noon) Eastern Standard Time (EST) (GMT–5) on Wednesday, November 22, 2017. If your photo(s) did not meet the specifications, the E–DV Web site will not accept your entry, so you will not receive a confirmation notice. However, given the unpredictable nature of the Internet, you may not receive the rejection notice immediately. If you can correct the photo(s) and re-send the Form Part One or Two within 60 minutes, you may be able to successfully submit the entry. Otherwise, you will have to restart the entire entry process. You can try to submit an application as many times as is necessary until a complete application is submitted and you receive the confirmation notice. Once you receive a confirmation notice, your entry is complete and you should NOT submit any additional entries.

21. How soon after I submit my entry will I receive the electronic confirmation notice?

You should receive the confirmation notice immediately, including a confirmation number that you must record and keep. However, the unpredictable nature of the Internet can result in delays. You can hit the ''Submit'' button as many times as is necessary until a complete application is submitted and you receive the confirmation notice. However, once you receive a confirmation notice, do not resubmit your information.

22. I hit the ''submit'' button, but did not receive a confirmation number. If I submit another entry, will I be disqualified?

If you did not receive a confirmation number, your entry was not recorded. You must submit another entry. It will not be counted as a duplicate. Once you receive a confirmation number, do not resubmit your information.

Selection

23. How do I know if I am selected?

You must use your confirmation number to access the Entrant Status Check available on the E–DV Web site at *dvlottery.state.gov* starting May 15, 2018 through September 30, 2019. Entrant Status Check is the sole means by which the Department of State will notify you if you are selected, provided further instructions on your visa application, and notify you of your immigrant visa interview appointment date and time. The only authorized Department of State Web site for official online entry in the Diversity Visa Program and Entrant Status Check is *dvlottery.state.gov.*

The Department of State will NOT contact you to tell you that you have been selected (see FAQ #24).

24. How will I know if I am not selected? will I be notified?

You may check the status of your DV–2019 entry through the Entrant Status Check on the E–DV Web site at *dvlottery.state.gov* starting May 15, 2018, until September 30, 2019. Keep your confirmation number until at least September 30, 2019. (Status information for the previous year's DV program, DV–2018, is available online from May 2, 2017, through September 30, 2018.) If your entry is not selected, you will not receive any additional instructions.

25. What if I lose my confirmation number?

You must have your confirmation number to access Entrant Status Check. A tool is now available in Entrant Status Check (ESC) on the eDV Web site that will allow you to retrieve your confirmation number via the email address with which you registered by entering certain personal information to confirm your identity.

U.S. embassies and consulates and the Kentucky Consular Center are unable to check your selection status for you or provide your confirmation number to you directly (other than through the ESC retrieval tool). The Department of State is NOT able to provide a list of those selected to continue the visa process.

26. Will I receive information from the Department of State by email or by postal mail?

The Department of State will not send you a notification letter. The U.S. government has never sent emails to notify individuals that they have been selected, and there are no plans to use email for this purpose for the DV–2019 program. If you are a selectee, you will only receive email communications regarding your visa appointment *after* you have responded to the notification instructions on Entrant Status Check. These emails will not contain information on the actual appointment date and time; they will simply tell you that appointment details are available, and you must then access Entrant Status Check for details. The Department of State may send emails reminding DV lottery applicants to check the ESC for their status. However, such emails will never indicate whether the lottery applicant was or was not selected.

Only Internet sites that end with the ''.gov'' domain suffix are official U.S. government Web sites. Many other Web sites (*e.g.,* with the suffixes ''.com,'' ''.org,'' or ''.net'') provide immigration and visa-related information and services. The Department of State does not endorse, recommend, or sponsor any information or material on these other Web sites.

You may receive emails from websites that try to trick you into sending money or providing your personal information. You may be asked to pay for forms and information about immigration procedures, all which are available for free on the Department of State Web site or through U.S. embassy or consulate Web sites. Additionally, organizations or Web sites may try to steal your money by charging fees for DV-related services. If you send money to one of these organizations, you will likely never see it again. Also, do not send personal information to these Web sites, as it may be used for identity fraud/theft.

These deceptive emails may come from people pretending to be affiliated with the Kentucky Consular Center or the Department of State. Remember, the U.S. government has never sent emails to notify individuals that they have been selected, and will not use email to notify selectees for the DV–2019 program. The Department of State will never ask you to send money by mail or by services such as Western Union.

27. How many individuals will be selected for DV–2019?

For DV–2019, 50,000 DV visas are available. Because it is likely that some of the first 50,000 persons who are selected will not qualify for visas or not pursue their cases to visa issuance, more than 50,000 entries will be selected to ensure that all of the available DV visas are issued. However, this also means that there will not be a sufficient number of visas for all those who are initially selected. To maximize use of all available visas, the Department of State may update Entrant Status Check to include additional selectees at any time before the program ends on September 30, 2019.

You can check the E–DV Web site's Entrant Status Check to see if you have been selected for further processing and your place on the list. Interviews for the DV–2019 program will begin in October 2018 for selectees who have submitted all pre-interview paperwork and other information as requested in the notification instructions. Selectees who provide all required information will be informed of their visa interview appointment through the E–DV Web site's Entrant Status Check four to six weeks before the scheduled interviews with U.S. consular officers at overseas posts.

Each month, visas will be issued to those applicants who are eligible for issuance during that month, visa-number availability permitting. Once all of the 50,000 DV visas have been issued, the program will end. Visa numbers could be finished before September 2019. Selected applicants who wish to apply for visas must be prepared to act promptly on their cases. *Being randomly chosen as a selectee does not guarantee that you will receive a visa. Selection merely means that you are eligible to apply for a Diversity Visa, and if your rank number becomes eligible for final processing, you potentially may be issued a Diversity Visa. Only 50,000 visas will be issued to such applicants.*

28. How will successful entrants be selected?

Official notifications of selection will be made through Entrant Status Check, available starting May 15, 2018, through at least September 30, 2019, on the E–DV Web site *dvlottery.state.gov.* The Department of State does not send selectee notifications or letters by regular postal mail or by email. Any email notification or mailed letter stating that you have been selected to receive a DV does not come from the Department of State and is not legitimate. Any email communication you receive from the Department of State will direct you to review Entrant Status Check for new information about your application. The Department of State will never ask you to send money by mail or by services such as Western Union.

All entries received from each region are individually numbered, and at the end of the entry period, a computer will randomly select entries from among all the entries received for each geographic region. Within each region, the first entry randomly selected will be the first case registered; the second entry selected will be the second case registered, etc. All entries received within each region during the entry period will have an equal chance of being selected. When an entry has been selected, the entrant will receive notification of his or her selection through the Entrant Status Check available starting May 15, 2018, on the E–DV Web site *dvlottery.state.gov.* If you are selected and you respond to the instructions provided online via Entrant Status Check, the Department of State's Kentucky Consular Center (KCC) will process your case until you are instructed to appear for a visa interview at a U.S. embassy or consulate or, if you are in the United States, until you apply to adjust status with USCIS in the United States.

29. I am already in the united states. If selected, may I adjust my status with USCIS?

Yes, provided you are otherwise eligible to adjust status under the terms of Section 245 of the Immigration and Nationality Act (INA), you may apply to USCIS for adjustment of status to permanent resident. You must ensure that USCIS can complete action on your case, including processing of any overseas spouse or children under 21 years of age, before September 30, 2019, since on that date your eligibility for the DV–2019 program expires. The Department of State will not approve any visa numbers or adjustments of status for the DV–2019 program after midnight EDT on September 30, 2019, under any circumstances.

30. If I am selected, for how long am I entitled to apply for a diversity visa?

If you are selected in the DV–2019 program, you are entitled to apply for visa issuance only during U.S. government fiscal year 2019, which is from October 1, 2018, through September 30, 2019. We encourage selectees to apply for visas as early as possible, once their lottery rank numbers become eligible for further processing.

Without exception, all selected and eligible applicants must obtain their visa or adjust status by the end of the fiscal year. There is no carry-over of DV benefits into the next year for persons who are selected but who do not obtain visas by September 30, 2019 (the end of the fiscal year). Also, spouses and children who derive status from a DV–2019 registration can only obtain visas in the DV category between October 1, 2018 and September 30, 2019. Applicants who apply overseas will receive an appointment notification from the Department through Entrant Status Check on the E–DV Web site four to six weeks before the scheduled appointment.

31. If a DV selectee dies, what happens to the case?

If a DV selectee dies at any point before he or she has traveled to the United States or adjusted status, the DV case is automatically terminated. Any derivative spouse and/or children of the deceased selectee will no longer be entitled to a DV visa. Any visas that were issued to them will be revoked.

Fees

32. How much does it cost to enter the E–DV program?

There is no fee charged for submitting an electronic entry. However, if you are selected and apply for a Diversity Visa, you must pay all required visa application fees at the time of visa application and interview directly to the consular cashier at the U.S. embassy or consulate. If you are a selectee already in the United States and you apply to USCIS to adjust status, you will pay all required application fees directly to USCIS. If you are selected, you will receive details of required DV and immigrant visa application fees with the instructions provided through the E–DV Web site at *dvlottery.state.gov.*

33. How and where do I pay DV and immigrant visa fees if I am selected?

If you are a randomly selected entrant, you will receive instructions for the DV visa application process through Entrant Status Check at *dvlottery.state.gov.* You

will pay all DV and immigrant visa application fees in person only at the U.S. embassy or consulate at the time of the visa application. The consular cashier will immediately give you a U.S. government receipt for payment. Do not send money for DV fees to anyone through the mail, Western Union, or any other delivery service if you are applying for an immigrant visa at a U.S. embassy or consulate.

If you are selected and you are already present in the United States and plan to file for adjustment of status with USCIS, the instructions page accessible through Entrant Status Check at *dvlottery.state.gov* contains separate instructions on how to mail adjustment of status application fees to a U.S. bank.

34. If I apply for a DV, but don't qualify to receive one, can I get a refund of the visa fees I paid?

No. Visa application fees cannot be refunded. You must meet all qualifications for the visa as detailed in these instructions. If a consular officer determines you do not meet requirements for the visa, or you are otherwise ineligible for the DV under U.S. law, the officer cannot issue a visa and you will forfeit all fees paid.

Ineligibilities

35. As a DV applicant, can I receive a waiver of any grounds of visa ineligibility? Does my waiver application receive any special processing?

DV applicants are subject to all grounds of ineligibility for immigrant visas specified in the Immigration and Nationality Act (INA). There are no special provisions for the waiver of any ground of visa ineligibility aside from those ordinarily provided in the INA, nor is there special processing for waiver requests. Some general waiver provisions for people with close relatives who are U.S. citizens or Lawful Permanent Resident aliens may be available to DV applicants in some cases, but the time constraints in the DV program may make it difficult for applicants to benefit from such provisions.

DV Fraud Warning and Scams

36. How can I report internet fraud or unsolicited email?

Please visit the *econsumer.gov* Web site, hosted by the Federal Trade Commission in cooperation with consumer-protection agencies from 17 nations. You may also report fraud to the Federal Bureau of Investigation (FBI) Internet Crime Complaint Center. To file a complaint about unsolicited email, visit the Department of Justice ''Contact Us'' page.

DV Statistics

37. How many visas will be issued in DV–2019?

By law, a maximum of 55,000 visas are available each year to eligible persons. However, in November 1997, the U.S. Congress passed the Nicaraguan Adjustment and Central American Relief Act (NACARA), which stipulates that beginning as early as DV–1999, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated DVs will be made available for use under the NACARA program. The actual reduction of the limit began with DV–2000 and will remain in effect through the DV–2019 program, so 50,000 visas remain for the DV program described in these instructions.

38. If I receive a visa through the DV program, will the U.S. government pay for my airfare to the united states, help me find housing and employment, and/or provide healthcare or any subsidies until I am fully settled?

No. The U.S. government will not provide any of these services to you if you receive a visa through the DV program. If you are selected to apply for a DV, you will need to demonstrate that you will not become a public charge in the United States before being issued a visa. This evidence may be in the form of a combination of your personal assets, an Affidavit of Support (Form I–134) submitted by a relative or friend residing in the United States, an offer of employment from an employer in the United States, or other evidence.

List of Countries/Areas by Region Whose Natives Are Eligible for DV–2019

The list below shows the countries whose natives are eligible for DV–2019, grouped by geographic region. Dependent areas overseas are included within the region of the governing country. USCIS identified the countries whose natives are not eligible for the DV–2019 program according to the formula in Section 203(c) of the INA. The countries whose natives are not eligible for the DV program (because they are the principal source countries of Family-Sponsored and Employment-Based immigration or ''high-admission'' countries) are noted after the respective regional lists.

Africa

Algeria
Angola
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Cabo Verde
Central African Republic
Chad
Comoros
Congo
Congo, Democratic Republic of the
Cote D'Ivoire (Ivory Coast)
Djibouti
Egypt *
Equatorial Guinea
Eritrea
Ethiopia
Gabon
Gambia, The
Ghana
Guinea
Guinea-Bissau
Kenya
Lesotho
Liberia
Libya
Madagascar
Malawi
Mali
Mauritania
Mauritius
Morocco
Mozambique
Namibia
Niger
Rwanda
Sao Tome and Principe
Senegal
Seychelles
Sierra Leone
Somalia
South Africa
South Sudan
Sudan
Swaziland
Tanzania
Togo
Tunisia
Uganda
Zambia
Zimbabwe

* Persons born in the areas administered prior to June 1967 by Israel, Jordan, Syria, and Egypt are chargeable, respectively, to Israel, Jordan, Syria, and Egypt. Persons born in the Gaza Strip are chargeable to Egypt; persons born in the West Bank are chargeable to Jordan; persons born in the Golan Heights are chargeable to Syria.

In Africa, natives of Nigeria are not eligible for this year's diversity program.

Asia

Afghanistan
Bahrain
Bhutan
Brunei
Burma
Cambodia

Hong Kong Special Administrative Region **
Indonesia
Iran
Iraq
Israel *
Japan
Jordan *
Kuwait
Laos
Lebanon
Malaysia
Maldives
Mongolia
Nepal
North Korea
Oman
Qatar
Saudi Arabia
Singapore
Sri Lanka
Syria *
Taiwan **
Thailand
Timor-Leste
United Arab Emirates
Yemen

* Persons born in the areas administered prior to June 1967 by Israel, Jordan, Syria, and Egypt are chargeable, respectively, to Israel, Jordan, Syria, and Egypt. Persons born in the Gaza Strip are chargeable to Egypt; persons born in the West Bank are chargeable to Jordan; persons born in the Golan Heights are chargeable to Syria.

** For the purposes of the diversity program only, persons born in Macau S.A.R. derive eligibility from Portugal.

Natives of the following Asia Region countries are *not* eligible for this year's diversity program: Bangladesh, China (mainland-born), India, Pakistan, South Korea, Philippines, and Vietnam.

Hong Kong S.A.R. (Asia region), Macau S.A.R. (Europe region, chargeable to Portugal), and Taiwan (Asia region) do qualify and are listed here.

Europe

Albania
Andorra
Armenia
Austria
Azerbaijan
Belarus
Belgium
Bosnia and Herzegovina
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark (including components and dependent areas overseas)
Estonia
Finland
France (including components and areas overseas)
Georgia
Germany
Greece
Hungary
Iceland
Ireland
Italy
Kazakhstan
Kosovo
Kyrgyzstan
Latvia
Liechtenstein
Lithuania
Luxembourg
Macau Special Administrative Region **
Macedonia
Malta
Moldova
Monaco
Montenegro
Netherlands (including components and dependent areas overseas)
Northern Ireland **
Norway (including components and dependent areas overseas)
Poland
Portugal (including components and dependent areas overseas)
Romania
Russia
San Marino
Serbia
Slovakia
Slovenia
Spain
Sweden
Switzerland
Tajikistan
Turkey
Turkmenistan
Ukraine
Uzbekistan
Vatican City

** Macau S.A.R. does qualify and is listed above. For the purposes of the diversity program only, persons born in Macau S.A.R. derive eligibility from Portugal.

Natives of the following European countries are not eligible for this year's DV program: Great Britain (United Kingdom). Great Britain (United Kingdom) includes the following dependent areas: Anguilla, Bermuda, British Virgin Islands, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, South Georgia and the South Sandwich Islands, St. Helena, and Turks and Caicos Islands. Note that for purposes of the diversity program only, Northern Ireland is treated separately; Northern Ireland does qualify and is listed among the qualifying areas.

North America

The Bahamas

In North America, natives of Canada and Mexico are not eligible for this year's diversity program.

Oceania

Australia (including components and dependent areas overseas)
Fiji
Kiribati
Marshall Islands
Micronesia, Federated States of
Nauru
New Zealand (including components and dependent areas overseas)
Palau
Papua New Guinea
Samoa
Solomon Islands
Tonga
Tuvalu
Vanuatu

South America, Central America, and the Caribbean

Antigua and Barbuda
Argentina
Barbados
Belize
Bolivia
Chile
Costa Rica
Cuba
Dominica
Ecuador
Grenada
Guatemala
Guyana
Honduras
Nicaragua
Panama
Paraguay
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Uruguay
Venezuela

Countries in this region whose natives are not eligible for this year's diversity program: Brazil, Colombia, Dominican Republic, El Salvador, Haiti, Jamaica, Mexico, and Peru.

Carl C. Risch,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee; Charter Renewal

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

ACTION: Announcement of Charter Renewal of the Motor Carrier Safety Advisory Committee (MCSAC).

SUMMARY: FMCSA announces the charter renewal of the MCSAC, a Federal Advisory Committee that provides the Agency with advice and recommendations on motor carrier safety programs and motor carrier safety regulations through a consensus process. This charter renewal took effect on September 29, 2017, and will expire after 2 years.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, *mcsac@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FMCSA is giving notice of the charter renewal for the MCSAC. The MCSAC was established to provide FMCSA with advice and recommendations on motor carrier safety programs and motor carrier safety regulations.

The MCSAC is composed of up to 20 voting representatives from safety advocacy, safety enforcement, labor, and industry stakeholders of motor carrier safety. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the MCSAC Web site for details on pending tasks at *http://www.fmcsa.dot.gov/mcsac.*

Issued on: October 12, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–22581 Filed 10–17–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0015; Notice 2]

Volvo Trucks North America, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Volvo Trucks North America (VTNA), has determined that certain model year (MY) 2017 Volvo VNL and 2017 Volvo VNM heavy duty trucks do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* VTNA filed a noncompliance information report dated February 9, 2017. VTNA also petitioned NHTSA on February 28, 2017, and revised its petition on April 29, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on this decision contact Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1110, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Volvo Trucks North America (VTNA), has determined that certain model year (MY) 2017 Volvo VNL and 2017 Volvo VNM heavy duty trucks do not fully comply with paragraph S5.2(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* VTNA filed a noncompliance report dated February 9, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* VTNA also petitioned NHTSA on February 28, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, and revised its petition on April 29, 2017, to obtain an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published with a 30-day public comment period, on July 20, 2017, in the **Federal Register** (82 FR 33549). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2017–0015.''

II. Vehicles Involved: Approximately 862 MY 2017 Volvo VNL and 2017 Volvo VNM heavy duty trucks, manufactured between August 15, 2016, and November 10, 2016, are potentially involved.

III. Noncompliance: VTNA explains that the noncompliance is that the wheels on the subject vehicles incorrectly identify the rim size as 24.5″ x 8.25″ instead of 22.5″ x 8.25″, and therefore do not meet the requirements of paragraph S5.2(b) of FMVSS No. 120. Specifically, the marking error overstates the wheel diameter by 2″.

IV. Rule Text: paragraph S5.2 of FMVSS No. 120 states:

> S5.2 *Rim marking.* Each rim or, at the option of the manufacturer in the case of a single-piece wheel, wheel disc shall be marked with the information listed in paragraphs (a) through (e) of this paragraph, in lettering not less than 3 millimeters high, impressed to a depth or, at the option of the manufacturer, embossed to a height of not less than 0.125 millimeters . . .
>
> (b) The rim size designation, and in case of multipiece rims, the rim type designation. For example: 20 x 5.50, or 20 x 5.5.

V. Summary of VTNA's Petition: VTNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, VTNA referenced a letter to NHTSA, dated December 5, 2016, from Arconic Wheel and Transportation Products (Arconic), which is the rim manufacturer, and provided the following reasoning:

1. A 24.5″ inch tire will not seat on the rim; therefore, if someone tries to mount a 24.5″ tire to the rim, it will not hold air and therefore cannot be inflated.

2. When tires are replaced, the technician will select the tire based on the size and rating of the tire being replaced. When Volvo manufactured the vehicle, the tire used was a 22.5″ (*i.e.* the correct size for the rim). Therefore, the tires installed by Volvo have the correct size on the sidewall of the tire.

3. Volvo is required to list the tires size and inflation pressures on the certification label as required by 49 CFR 567. The information printed on the label is the correct size, a 22.5″ inch tire and reflects the tires that were installed when manufactured. The certification label is located inside the driver's door and can be easily accessed by the tire installer.

Volvo concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

To view VTNA's petition analyses in its entirety you can visit *https://www.regulations.gov* by following the online instructions for accessing the dockets and by using the docket ID

number for this petition shown in the heading of this notice.

NHTSA Decision

NHTSA Analysis: VTNA explains that the noncompliance is that the wheels on the subject vehicles incorrectly identify the rim size as 24.5″ x 8.25″ instead of 22.5″ x 8.25″, and therefore do not meet the requirements of paragraph S5.2(b) of FMVSS No. 120. Specifically, the marking error overstates the wheel diameter by 2″.

NHTSA has reviewed VTNA's analyses that the subject noncompliance is inconsequential to motor vehicle safety and provides the following analysis:

When it comes to mating a tire and rim combination, it becomes very apparent very quickly that either an oversized tire on a rim or an undersized tire on the same sized rim will not properly seat to that rim. In this particular case (the former) as VTNA has mentioned in its petition, if someone tries to mount a 24.5″ inch tire on an undersized rim (22.5″), it will not hold air and therefore cannot be inflated. The inability to mount the incorrect tire on the rim precludes one's ability to actually drive with an incorrect tire-rim combination on public roadways. Furthermore, FMVSS No. 120 paragraph S5.3 requires vehicles be labeled with proper tire/rim size combinations. This additional information is available to provide the vehicle operator or technician with the correct tire/rim size information.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that VTNA has met its burden of persuasion that the FMVSS No. 120 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, VTNA's petition is hereby granted and VTNA is consequently exempted from the obligation to provide notification of, and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that VTNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after VTNA notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–22516 Filed 10–17–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0013; Notice 2]

Hyundai Motor America, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Hyundai Motor America (Hyundai), on behalf of Hyundai Motor Company, has determined that certain model year (MY) 2015 Hyundai Sonata motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Hyundai filed a noncompliance information report dated February 5, 2017. Hyundai also petitioned NHTSA on February 3, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on the decision contact Leroy Angeles, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5304, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION:

I. Overview: Hyundai Motor America (Hyundai), has determined that certain model year (MY) 2015 Hyundai Sonata motor vehicles do not fully comply with paragraph S6.5.3.4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Hyundai filed a noncompliance information report dated February 5, 2017, *Defect and Noncompliance Responsibility and Reports.* Hyundai also petitioned NHTSA on February 3, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the Hyundai petition was published, with a 30-day public comment period, on April 17, 2017, in the **Federal Register** (82 FR 18208). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2017–0013.''

II. Vehicles Involved: Approximately 3,054 MY 2015 Hyundai Sonata motor vehicles, manufactured between April 25, 2014, and May 16, 2014, are potentially involved.

III. Noncompliance: Hyundai explains that the noncompliance is that the lens on the replaceable headlamp assembly in the subject vehicles is missing the HB bulb designation, as required by paragraph S6.5.3.4.1 of FMVSS No. 108.

IV. Rule Text: Paragraph S6.5.3.4.1 of FMVSS No. 108 states in pertinent part:

S6.5.3.4 Replacable bulb headlamp markings.

S6.5.3.4.1 The lens of each replaceable bulb headlamp must bear permanent marking in front of each replacable light source with which it is equipped that states either: The HB Type, if the light source conforms to S11 of this standard for filament light sources, or the bulb marking/designation provided in compliance with Section VIII of appendix A of 49 CFR part 564 (if the light source conforms to S11 of this standard for discharge light sources) . . .

V. Summary of Hyundai's Petition: Hyundai described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Hyundai submitted the following reasoning:

(a) *The noncompliance has no impact on headlamp performance:* The mismarked headlamps are the correct headlamps for the affected vehicles and conform to all applicable FMVSS photometric and other requirements. In a recent decision involving similar facts, NHTSA granted an inconsequentiality petition involving a noncompliant bulb marking because the use of the mismarked bulb would ''not create a noncompliance with any of the headlamp performance requirements of FMVSS No. 108 or otherwise present an increased risk to motor vehicle safety.'' Osram Sylvania Products, Inc., grant of petition for decision of Inconsequential Noncompliance, 78 FR 22943, 22944 (Dep't of Trans. Apr. 17, 2013).

(b) *The lens is marked with an industry standard bulb type:* The headlamp lenses in question are clearly marked ''9005'' (the ANSI designation), which are well-known alternative designations for the HB3 bulb. This designation is recognized throughout the automotive industry, and is used by lighting manufacturers interchangeably with a lamp's HB type.

(c) *The risk of consumer confusion is remote:* A consumer can use the 9005 ANSI alternative to properly identify and purchase the correct replacement headlamp bulb for the affected vehicles. Hyundai searched a number of national automotive parts stores (Autozone, O'Reilly, Advanced Auto Parts, and Pep Boys), and found that all HB3 replacement bulbs in these stores were marked with the 9005 ANSI designation. In fact, the packaging on the replacement bulbs was more commonly marked with the ANSI designation than the HB type.

(d) *NHTSA precedent supports granting this petition:* NHTSA has previously ruled that the noncompliance at issue here (lamps marked with the ANSI designation rather than the HB type) is inconsequential to motor vehicle safety. On January 18, 2017, the Agency granted GM's petition for inconsequential noncompliance regarding their high-beam headlamp lenses on model year 2012–2015 Chevrolet Sonic passenger cars that were not marked with ''HB3'' (the HB bulb type), as required by paragraph S6.5.3.4.1 of FMVSS No. 108. NHTSA granted the petition stating:

> We agree with GM that the ANSI '9005' designation is a well-known alternative designation for the HB3 light source and that the replacement light source packaging is commonly marked with both the HB type and ANSI designation. As such, we believe that consumers can properly identify and purchase the correct replacement upper beam light source for the affected vehicles.

See General Motors, LLC, Grant of petition for Decision of Inconsequential Noncompliance, (NHTSA–2015–0035).

Hyundai concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA'S Decision

NHTSA's Analysis: We agree with Hyundai that the ANSI ''9005'' designation is a well-known alternative designation for the HB3 light source and that replacement light source packaging is commonly marked with both the HB type and ANSI designation. As such, we believe that consumers can properly identify and purchase the correct replacement upper beam light source for the affected vehicles. Further, the unique bulb holder design incorporated into the headlamps would prevent consumers from installing a light source other than an HB3/9005 so there would be no effect on headlamp performance.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Hyundai has met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, Hyundai's petition is hereby granted and Hyundai is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that Hyundai no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Hyundai notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–22515 Filed 10–17–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0110]

Pipeline Safety: Information Collection Activities, Revision to Gas Distribution Annual Report

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: PHMSA is preparing to request Office of Management and Budget (OMB) approval for the revision of the gas distribution annual report currently approved under OMB control number 2137–0629. PHMSA proposes revising Part A and certain parts of the instructions. In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on the proposed revisions to the form and instructions.

DATES: Interested persons are invited to submit comments on or before December 18, 2017.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2017–0110, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19476) or visit

http://www.regulations.gov before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: Comments on: PHMSA–2017–0110.'' The docket clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

A. Background

Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request for the gas distribution annual report that PHMSA will be submitting to OMB for approval.

B. Gas Distribution Annual Report

PHMSA intends to revise the gas distribution annual report (PHMSA F 7100.1–1) and its instructions. PHMSA specifically proposes removing ''Other'' as a selection for Operator Type in Part A7 and adding guidance for the proper selection to the instructions. By eliminating ''Other'' as a selection, PHMSA would obtain more accurate data about the types of gas distribution operators.

PHMSA proposes changing the instructions for PHMSA Form 7100.1–1, Gas Distribution System Annual Report, related to calculating the percent of lost and unaccounted for (LAUF) gas and negative percent values. PHMSA proposes calculating percent LAUF gas by dividing the LAUF volume by the gas consumption volume. PHMSA also proposes allowing a negative value to be reported for percent LAUF gas. These changes would harmonize the PHMSA and Energy Information Administration methodologies for calculating percent LAUF gas.

C. Summary of Impacted Collections

The following information is provided below for the impacted information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection.

PHMSA requests comments on the following information collection:

1. Title: Annual Report for Gas Distribution Pipeline Operators.

OMB Control Number: 2137–0629.

Current Expiration Date: 1/31/2018.

Type of Request: Revision.

Abstract: PHMSA intends to revise the form and instructions for the gas distribution annual report (PHMSA F 7100.1–1).

Affected Public: Gas distribution pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 1,446.

Total Annual Burden Hours: 24,582.

Frequency of Collection: Annually.

Comments are invited on:

(a) The need for the proposed collection of information, including whether the information will have practical utility in helping the agency to achieve its pipeline safety goals;

(b) The accuracy of the agency's estimate of the burden 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on October 11, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–22552 Filed 10–17–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2017–0155]

Notice of Order Soliciting Community Proposals

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of Order Soliciting Community Proposals (Order 2017–10–7).

SUMMARY: The Department of Transportation is soliciting proposals from communities or consortia of communities interested in receiving grants under the Small Community Air Service Development Program. The full text of the Department's order, including Appendices, is included in this Notice. As noted in the order, an application for a grant under this program must include a Grant Proposal of no more than 20 pages (one-sided only), a completed Application for Federal Domestic Assistance (SF424), a Summary Information Schedule, and any letters from the applicant community showing support.

DATES: Applications must be submitted no later than December 15, 2017.

ADDRESSES: Communities must submit applications electronically through *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Brooke Chapman, Associate Director, Small Community Air Service Development Program, Office of Aviation Analysis, 1200 New Jersey Avenue SE., W86–307, Washington, DC 20590, (202) 366–0577.

SUPPLEMENTARY INFORMATION: By this order, the U.S. Department of Transportation (the Department or DOT) invites proposals from communities and/or consortia of communities interested in obtaining a federal grant under the Small Community Air Service Development Program (''Small Community Program'' or ''SCASDP'') to address air service and airfare issues in their communities. As discussed below, the Department has $10 million available for FY 2017 grant awards to carry out this program.

Applications of no more than 20 one-sided pages each (excluding the completed Application for Federal Domestic Assistance (SF424), Summary Information schedule, and any letters from the community or an air carrier showing support for the application), including all required information, must be submitted to *www.grants.gov* no later than *4:00 PM EST on December 15, 2017.* Applicants are strongly encouraged to submit applications in advance of the deadline. Please be

aware that applicants must complete the grants.gov registration process before submitting an application, and that this process usually takes two to four weeks to complete.[1] The Department will not accept late-filed applications except under limited circumstances related to technical difficulties. Additional information on applying through grants.gov is in Appendix A, including a notice regarding late-filed applications.

In accordance with the requirements of 2 CFR part 200, this order is organized into the following sections:

I. Program Description
II. Federal Award Information
III. Eligibility Information
a. Eligible Applicants
b. Cost Sharing or Matching
c. Other
IV. Application and Submission Information
a. Address To Request Application Package
b. Content and Form of Application Submission
c. Dun and Bradstreet Universal Numbering System (DUNS) Number and System for Award Management (SAM)
d. Submission Dates and Times
e. Funding Restrictions
f. Other Submission Requirements
V. Application Review Information
a. Criteria
i. Priority Selection Criteria
ii. Secondary Selection Criteria
iii. Additional Guidance
b. Review and Selection Process
c. Anticipated Announcement and Federal Award Dates
VI. Federal Award Administration Information
a. Federal Award Notices
b. Administrative and National Policy Requirements
c. Reporting
VII. Federal Awarding Agency Contact
VIII. Other Information
a. Air Service Development Zone Designation
b. Submission of Confidential Commercial Information
Appendix A—Additional Information on Applying Through *www.grants.gov.*
Appendix B—Summary Information
Appendix C—Application Checklist
Appendix D—Confidential Commercial Information

A. Program Description

The Small Community Program was established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Pub. L. No. 106–181), reauthorized by the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176), and subsequently reauthorized by the FAA Modernization and Reform Act of 2012 (Pub. L. No. 112–95) (FAA 2012), as amended. The program is designed to provide financial assistance to small communities in order to help them enhance their air service. The Department provides this assistance in the form of monetary grants that are disbursed on a reimbursable basis. Authorization for this program is codified at 49 U.S.C. § 41743.

The Small Community Program is authorized to receive appropriations under 49 U.S.C. 41743(e)(2), as amended. Appropriations are provided for this program for award selection in FY 2016 pursuant to FAA 2012, the Consolidated Appropriations Act, 2016 (Pub. L. No. 114–113), as extended through FY 2017 by the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Pub. L. No. 114–223).[2] In addition, the FAA Extension, Safety, and Security Act of 2016 (Pub. L. No. 114–190) amended 49 U.S.C. 41743(e)(2) to authorize the program to receive an additional $6 million in appropriations through FY 2017.[3] The FY17 Continuing Appropriations Act (Pub. L. No. 115–31 (May 5, 2017)) then provided additional appropriations for the program.

B. Federal Award Information

The final selections will be limited to no more than 40 communities or consortia of communities, or a combination thereof. Applications for renewal or supplementation of existing projects are not eligible to compete with applications for new Federal awards.

Pursuant to the authorities described above, the Department has $10 million available for FY 2017 grant awards to carry out this program. There is no other limitation on the amount of individual awards, and the amounts awarded will vary depending upon the features and merits of the selected proposals. In past years, the Department's individual grant sizes have ranged from $20,000 to nearly $1.6 million. Funding amounts made available for reimbursement may be impacted by future limitations placed on the spending authority and appropriations enacted for the Department. OST may, at its discretion, issue partial funding awards up to the level authorized and provided that the above conditions are met. Additional information on the budget process may be found in OMB A–11: *http://www.whitehouse.gov/omb/circulars_default/*.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants are small communities that meet the following statutory criteria under 49 U.S.C. 41743, as amended by Public Law No. 114–113:

1. (a) The airport serving the community or consortium is not larger than a small hub airport, according to FAA hub classifications effective on the date of service of this Order,[4] or

(b) As of calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport,[5] and

2. It has insufficient air carrier service or unreasonably high air fares; and

3. The airport serving the community presents characteristics, such as geographic diversity or unique circumstances that demonstrate the need for, and feasibility of, grant assistance from the Small Community Program.[6]

No more than four communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year. No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which the funds are appropriated.

Consortium Applications: Both individual communities and consortia of communities are eligible for SCASDP funds. An application from a consortium of communities must be one that seeks to facilitate the efforts of the communities working together toward one joint grant project, with one joint objective, including the establishment of one entity to ensure that the joint objective is accomplished.

Communities Without Existing Air Service: Communities that do not currently have commercial air service are eligible for SCASDP funds.

Eligible Projects: The Department is authorized to award grants under 49

[1] If an applicant experiences difficulties at any point during the registration or application process, it should contact the grants.gov support center by email (*support@grants.gov*) or by telephone (1–800–518–4726, available 24/7 except Federal holidays). See *www.grants.gov/web/grants/support.html*.

[2] *See* Public Law No. 114–223, September 29, 2016, section 101(a)(11).

[3] *See* Public Law No. 114–190, July 15, 2016, section 1102(e).

[4] ''Small hub airport'' is defined in 49 U.S.C. 47102 (23) as ''a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.'' See also *http://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/categories/*. For FAA passenger enplanement information to use to determine an airport's eligibility as a small hub airport, see *http://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/*.

[5] *See, http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP, for the FAA's 1997 list of Primary and Nonprimary Commercial Service Airports.*

[6] 49 U.S.C. 41743(c)(1), (2).

U.S.C. 41743 to communities that seek to provide assistance to:

- A U.S. air carrier [7] to subsidize service to and from an underserved airport for a period not to exceed 3 years;
- An underserved airport to obtain service to and from the underserved airport; and/or
- An underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

2. Cost Sharing or Matching

Cost sharing or matching is not required for applications. However, applications that provide multiple levels of contributions (state, local, cash and in-kind contributions) will be viewed more favorably. *See Additional Guidance—Cost Sharing and Local Contributions,* in Section E.1.c. below.

3. Other

Multiple Applications Prohibited: A community may file only one application for a grant, either individually or as part of a consortium.

Essential Air Service Communities: Small communities that currently receive subsidized air service under the Essential Air Service (''EAS'') or Alternate Essential Air Service (''AEAS'') program will not be considered for SCASDP funds. The EAS statute (49 U.S.C. § 41733(c)(E)) now includes a provision requiring that the Department consider whether an air carrier has included a marketing proposal in its proposal to provide subsidized EAS as part of the carrier selection criteria. In light of this and the scarcity of SCASDP funds, the Department will not consider awarding additional Federal support under SCASDP for the marketing of subsidized EAS air service.

Applicants should also keep in mind the following statutory restrictions on eligible projects:

- An applicant may not receive an additional grant to support the same project from a previous grant (see *Same Project Limitation* below); and
- An applicant may not receive an additional grant, prior to the completion of its previous grant (see *Concurrent Grant Limitation* below).

[7] Only U.S. air carriers are eligible to receive assistance from communities under SCASDP. See 49 U.S.C. 41743(d)(1) and § 40102(a)(2).

Same Project Limitation: Under 49 U.S.C. § 41743(c), a community or consortium may not receive a new grant to support the same project for which it received a previous grant (Same Project Limitation).[8] In assessing whether a previous grantee's current application represents a new project, the Department will compare the goals and objectives of the previous grant, including the key components of the means by which those goals and objectives were to be achieved, to the current application. For example, if a community received an earlier grant to support a revenue guarantee for service to a particular destination or direction, a new application by that community for another revenue guarantee for service to the same destination or in the same direction is ineligible, even if the revenue guarantee were structured differently or the type of carrier were different. However, a new application by such a previous grantee for service to a new destination or direction using a revenue guarantee, or for general marketing and promotion (including advertising and public relations) of the airport and the various services it offers, is eligible.[9] The Department recognizes that not all revenue guarantees, marketing agreements, studies, or other activities are of the same nature, and that if a subsequent application incorporates different goals or significantly different components, it may be sufficiently different to constitute a new project under 49 U.S.C. § 41743(c).

Concurrent Grant Limitation: A community or consortium may have only one SCASDP grant at any time. If a community or consortium applies for a subsequent SCASDP grant when its current grant has not yet expired, that community/consortium must notify the Department of its intent to terminate the current SCASDP grant, and if the community/consortium is selected for a new grant, such termination must take place prior to entering into the new grant agreement. In addition, for consortium member applicants, permission must be granted from both the grant sponsor and the Department to withdraw from the current SCASDP grant before that consortium member will be deemed eligible to receive a subsequent SCASDP grant.

Airport Capital Improvements Ineligible: Airport capital improvement projects, including, but not limited to, runway expansions and enhancements, the construction of additional aircraft gates, and other airport terminal expansions and reconfigurations are ineligible for funding under the Small Community Program. Airports seeking funding for airport capital improvement projects may want to consult with their local FAA Regional Office to discuss potential eligibility for grants under the Airport Improvement Program.

[8] This limitation applies for all projects contained in a previous grant agreement's scope; thus, even if the community did not actively implement a project listed in the scope of an earlier grant agreement, it may not receive funding for that project in a subsequent round of SCASDP funding.

[9] As noted in the ''Market Analysis'' subsection of section C below, target markets proposed by communities may be destination specific (e.g., service to LAX), a geographic region (e.g., northwest mountain region) or directional (e.g., hub in the southeastern United States or a point north, south, east, or west of the applicant community).

D. Application and Submission Information

1. Address To Request Application Package

Applications must be submitted electronically via *www.grants.gov*. This announcement lays out all application steps and includes all application forms or Internet addresses where such forms may be found.

2. Content and Form of Application Submission

Required Steps to Apply:

- Determine eligibility;
- Register with *www.grants.gov* (*see* Registration with *www.grants.gov,* below);
- Submit an Application for Federal Domestic Assistance (SF424);
- Submit a completed ''Summary Information'' schedule. This is your application cover sheet (*see* Appendix B);
- Submit a detailed application of up to one-sided 20 pages (excluding the completed SF424, Summary Information schedule, and any letters from the community or an air carrier showing support for the application) that meets all required criteria (*see* Appendix C);
- Attach any letters from the community or an air carrier showing support for the application to the proposal, which should be addressed to: Brooke Chapman, Associate Director, Small Community Air Service Development Program; and
- Provide separate submission of confidential material, if requested. (*see* Appendix D)

An application consisting of more than 20 pages will be accepted by the Department, but the content in the additional pages past page 20 will not be evaluated or considered by the Department. The Department would prefer that applicants use one-inch margins and a font size not less than 12 point type.

Registration with www.grants.gov: Communities must be registered with *www.grants.gov* in order to submit an application for funds available under this program. For consortium applications, only the Legal Sponsor must be registered with *www.grants.gov* in order to submit its application for funds available under this program. *See* Appendix A for additional information on applying through *www.grants.gov.*

Contents of Application: There is no set format that must be used for applications. Each application should, to the maximum extent possible, address the selection criteria set forth in Section E.1. below, including a clear description of the air service needs/deficiencies and present plans/strategies that directly address those needs/deficiencies. At a minimum, however, each application must include the following information:

- *A description of the community's air service needs or deficiencies,* including information about: (1) Major origin/destination markets that are not now served or are not served adequately; (2) fare levels that the community deems relevant to consideration of its application, including market analyses or studies demonstrating an understanding of local air service needs; (3) any recent air service developments that have adversely affected the community;[10] and (4) any air service development efforts over the past three years and the results of those efforts (such as marketing and promotion (including advertising and public relations)).
- *A strategic plan for meeting those needs under the Small Community Program,* including the community's specific project goal(s) and detailed plan for attaining such goal(s). If the application is selected, DOT will work with the grantee to incorporate the relevant elements of the application's strategic plan into the grant agreement's project scope.[11] Applicants should note that, once a grant agreement is signed, the agreement generally cannot be amended in a way that would alter the project scope. Applicants also are advised to obtain firm assurances from air carriers proposing to offer new air services if a grant is awarded. Strategic plans should:
  - for applications involving new or improved service, explain how the service will become self-sufficient;
  - fully and clearly outline the goals and objectives of the project; and
  - fully and clearly summarize the actual, specific steps (in bullet form, with a proposed timeline) that the community intends to take to bring about these goals and objectives.
- *If relevant, a detailed description of the funding necessary for implementation of the proposed project* (including federal and non-federal contributions).
- *An explanation of how the proposed project differs from any previous projects for which the community received SCASDP funds* (*see* Same Project Limitation, above).
- *Designation of a legal sponsor responsible for administering the proposed project.* The legal sponsor of the proposed project *must* be a government entity, such as a State, county, or municipality. The legal sponsor must be legally, financially, and otherwise able to execute the grant agreement and administer the grant, including having the authority to sign the grant agreement and to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required under the grant agreement with the Department and to ensure compliance by the grant recipient with the grant agreement and grant assurances. If the applicant is a public-private partnership, a public government member of the organization must be identified as the community's sponsor to receive project cost reimbursements. A community may designate only one government entity as the legal sponsor, even if it is applying as a consortium that consists of two or more local government entities. Private organizations may not be designated as the legal sponsor of a grant under the Small Community Program. The community has the responsibility to ensure that the legal sponsor and grant recipient of any funding has the legal authority under state and local laws to carry out all aspects of the grant, and the Department may require an opinion of the legal sponsor's attorney as to its legal authority to act as a sponsor and to carry out its responsibilities under the grant agreement. The applicant should also provide the name of the signatory party for the legal sponsor.

3. Dun and Bradstreet Universal Numbering System (DUNS) Number and System for Award Management (SAM)

Each applicant is required to (i) be registered in SAM before submitting its application; (ii) provide a valid DUNS number in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by DOT. DOT will not make any award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time DOT is ready to make an award, DOT may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. For more information on DUNS and SAM requirements for this award, *see* Appendix A.

4. Submission Dates and Times

An application will not be complete and will be deemed ineligible for a grant award until and unless all required materials, including SF424, have been submitted through *www.grants.gov* and time-stamped by 4:00 p.m. EST on December 15, 2017 (the ''Application Deadline''). *See* Timely Receipt Requirements and Proof of Timely Submission as well as Experiencing Unforeseen *www.grants.gov* Technical Issues in Appendix A for more details.

Late Application Notice: Applicants who are unable to successfully submit their application package through grants.gov prior to the Application Deadline due to technical difficulties outside their control must submit an email to *SCASDPgrants@dot.gov* with the information described in Appendix A.

5. Funding Restrictions

Expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed. For more information, see Section F.1. below.

6. Other Submission Requirements

Applicants must follow the steps outlined above and in Appendix A to submit applications electronically via *www.grants.gov.* Additional information about submission requirements and *www.grants.gov* requirements is detailed in Appendix A.

[10] For example, if a community has lost service or been otherwise adversely affected as a result of an airline merger, the applicant should describe the situation in detail and quantify, to the extent possible, its effects on the community.

[11] If new service is proposed to or from a specific city or market served by multiple airports (such as New York, Chicago, Los Angeles, or Washington, DC, for example), the applicant is encouraged to identify the airport(s) in that city or market the community would be targeting under its proposal in order to facilitate the drafting of the grant agreement's project scope. Communities should carefully select, within a specific city or market, those airports for which it proposes service, as proposing multiple airports in a city or market could impact the ability of a community to seek future grants involving those airports (see Same Project Limitation, above).

E. Application Review Information

1. Criteria

SCASDP grants will be awarded based on the selection criteria outlined below. There are two categories of selection criteria: Priority Selection Criteria and Secondary Selection Criteria. Applications that meet one or more of the Priority Selection Criteria will be viewed more favorably than those that do not meet any Priority Selection Criteria.

a. Priority Selection Criteria

The statute directs the Department to give priority consideration to those communities or consortia where the following criteria are met:

1. *Air fares are higher than the national average air fares for all communities.*—The Department will compare the local community's air fares to the national average air fares for all similar markets. Communities with market air fares significantly higher than the national average air fares in similar markets will receive priority consideration. The Department calculates these fares using data from the Bureau of Transportation Statistics (BTS) Airline Origin and Destination Survey data. The Department evaluates all fares in all relevant markets that serve a SCASDP community and compares the SCASDP community fares to all fares in similar markets across the country. Each SCASDP applicant's air fares are computed as a percentage above or below the national averages. The report compares a community's air fares to the average for all other similar markets in the country that have similar density (passenger volume) and similar distance characteristics (market groupings). All calculations are based on 12-month ended periods to control for seasonal variation of fares.

2. *The community or consortium will provide a portion of the cost of the activity from local sources other than airport revenue sources.*—The Department will consider whether a community or consortium proposes local funding for the proposed project. Applications providing proportionately higher levels of cash contributions from sources other than airport revenues will be viewed more favorably. Applications that provide multiple levels of contributions (state, local, cash and in-kind contributions) will also be viewed more favorably. *See* Additional Guidance—Cost Sharing and Local Contributions, in Subsection c. below, for more information on the application of this selection criterion.

3. *The community or consortium has established or will establish a public-private partnership to facilitate air carrier service to the public.*—The Department will consider a community's or consortium's commitment to facilitate air carrier service in the form of a public-private partnership. Applications that describe in detail how the partnership will *actively* participate in the implementation of the proposed project will be viewed more favorably.

4. *The assistance will provide material benefits to a broad segment of the traveling public, including businesses, educational institutions, and other enterprises, whose access to the national air transportation system is limited.*—The Department will consider whether the proposed project would provide, to a broad segment of the community's traveling public, important benefits relevant to the community. Examples include service that would offer new or additional access to a connecting hub airport, service that would provide convenient travel times for both business and leisure travelers that would help obviate the need to drive long distances, and service that would offer lower fares.

5. *The assistance will be used in a timely manner.*—The Department will consider whether a proposed project provides a well-defined strategic plan and reasonable timetable for use of the grant funds. In the Department's experience, reasonable timetables for use of grant funds generally include two years to complete studies, three years for marketing and promotion (including advertising and public relations) of the airport, community, carrier, or destination, and four years for projects that target a revenue guarantee, subsidy, or other financial incentives. Applicants should describe how their projects can be accomplished within this timetable, including whether the airport and proposed air service provider have the requisite authorities and certifications necessary to carry out the proposed projects. In addition, because of this emphasis placed on timely use of funds, applicants proposing new service should describe the airport and whether it can support the proposed service, including whether the airport holds, or intends to apply for, an airport operating certificate issued under 14 CFR Part 139. Air service providers proposed for the new service must have met or be able to meet, in a reasonably short period of time, all Department requirements for air service certification, including safety and economic authorities.

6. *Multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.*—The Department will consider whether a proposed project involves a consortium effort to consolidate air service into one regional airport. This statutory priority criterion was added pursuant to Section 429 of the FAA Modernization and Reform Act of 2012 (Pub. L. No. 112–95).

b. Secondary Selection Criteria

1. *Innovation*—The Department will consider whether an application proposes new and creative solutions to air transportation issues facing the community, including:

- the extent to which the applicant's proposed solution(s) to solving the problem(s) is new or innovative, including whether the proposed project utilizes or encourages intermodal or regional solutions to connect passengers to the community's air service (or, if the community cannot implement or sustain its own air services, to connect to a neighboring community's air service) *e.g.,* cost-effective inter/intra city passenger bus service, or marketing of intermodal surface transportation options also available to air travelers; and
- whether the proposed project, if successfully implemented, could serve as a working model for other communities.

2. *Community Participation*—The Department will consider whether an application has broad community participation, including:

- whether the proposed project has broad community support; and
- the community's demonstrated commitment to and participation in the proposed project.

3. *Location*—The Department will consider the location and characteristics of a community:

- the geographic location of each applicant, including the community's proximity to larger centers of air service and low-fare service alternatives;
- the population and business activity, as well as the relative size of each community; and
- whether the community's proximity to an existing or prior grant recipient could adversely affect either its proposal or the project undertaken by the other recipient.

4. *Other Factors*—The Department will also consider:

- whether the proposed project clearly addresses the applicant's stated problems;
- the community's existing level of air service and whether that service has been increasing or decreasing;
- whether the applicant has a plan to provide any necessary continued

financial support for the proposed project after the requested grant award expires;

- the grant amount requested compared with the total funds available for all communities;
- the proposed federal grant amount requested compared with the local share offered;
- any letters of intent from airline planning departments or intermodal surface transportation providers on behalf of applications that specifically indicate intent to enlist new or expanded air service or surface transportation service in support of the air service in the community;
- whether the applicant has plans to continue with the proposed project if it is not self-sustaining after the grant award expires; and
- equitable and geographic distribution of available funds.

c. Additional Guidance

Market Analysis: Applicants requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to conduct and reference in their applications an in-depth analysis of their target markets. Target markets can be destination specific (e.g., service to LAX), a geographic region (e.g., northwest mountain region) or directional (e.g., hub in the southeastern United States or a point north, south, east, or west of the applicant community).

Complementary Marketing Commitment: Applicants requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to designate in their applications a portion of the project funds (federal, local or in-kind) for the development and implementation of a marketing plan in support of the service sought.

Subsidies for a Carrier to Compete Against an Incumbent: The Department is reluctant to subsidize one carrier, but not others in a competitive market. For this reason, a community that proposes to use the grant funds for service in a city-pair market that is already served by another air carrier must explain in detail why the existing service is insufficient or unsatisfactory, or provide other compelling information to support such a proposal.

Cost Sharing and Local Contributions: Applications must clearly identify the level of federal funding sought for the proposed project. Applications must also identify the community's cash contributions to the proposed project, in-kind contributions from the airport, and in-kind contributions from the community. Non-federal funds will be applied proportionately to the entire scope of the project. Communities cannot use non-federal funds selectively to fund certain components of a project (see Section F.2. below on Payments for more information). Cash contributions from airport revenues must be identified separately from cash contributions from other community sources. Cash contributions from the state and/or local government should be separately identified and described as well.

Types of contributions. Contributions should represent a *new* financial commitment or *new* financial resources devoted to attracting new or improved service, or addressing specific high-fare or other service issues, such as improving patronage of existing service at the airport. For communities that propose to contribute to the grant project, that contribution can be in the following forms:

Cash from non-airport revenues. A cash contribution can include funds from the state, the county or local government, and/or from local businesses, or other private organizations in the community. Because private cash contributions are to be from local community sources, the Department will not consider as a part of these non-airport revenues any funds that a community might receive from an air carrier interested in providing service under that community's proposal. Moreover, contributions that are comprised of intangible non-cash items, such as the value of donated advertising, are considered in-kind contributions (see further discussion below).

Cash from airport revenues. This includes contributions from funds generated by airport operations. Airport revenues may not be used for subsidies (including revenue guarantees) to airlines, per 49 U.S.C. §§ 47107 and 47133. Applications that include local contributions based on airport revenues do not receive priority consideration for selection.

In-kind contributions from the airport. This can include such items as waivers of landing fees, ground handling fees, terminal rents, fuel fees, and/or vehicle parking fees.

In-kind contributions from the community. This can include such items as donated advertising from media outlets, catering services for inaugural events, or in-kind trading, such as advertising in exchange for free air travel. Travel banks and travel commitments/pledges are considered to be in-kind contributions.

Cash vs. in-kind contributions. Communities that include local contributions made in cash will be viewed more favorably.

Eligible Air Carriers: As noted in footnote 7 above, only U.S. air carriers are eligible to receive assistance from communities under SCASDP grants. A particular U.S. carrier may hold authority to conduct operations as a certificated air carrier, a commuter air carrier, or an air taxi operator.[12] Communities are encouraged to verify, at an early stage of any air carrier discussions, that the air carrier holds appropriate Department authority to conduct the proposed services. Communities may verify this authority by contacting the Department's Air Carrier Fitness Division at (202) 366–9721.

Aviation Security: Communities proposing new or expanded air service under a SCASDP grant proposal are encouraged to contact the Transportation Security Administration (TSA) early in the process to ascertain what the security implications of such service would be with respect to the airport involved, and what measures that airport would need to take with the TSA to assure that the service would meet all applicable TSA requirements.

2. Evaluation and Selection Process

The Department will first review each application to determine whether it has satisfied the following eligibility requirements:

1. The applicant is an eligible applicant;
2. The application is for an eligible project (including compliance with the Same Project Limitation); and
3. The application is complete (including submission of a completed SF424 and all of the information listed in Contents of Application, in Section D.2. above).

To the extent that the Department determines that an application does not satisfy these eligibility requirements, the Department will deem that application ineligible and not consider it further.

The Department will then review all eligible applications based on the selection criteria outlined above in Section E.1. The Department will not assign specific numerical scores to projects based on the selection criteria. Rather, ratings of ''highly recommended,'' ''recommended,'' ''acceptable,'' or ''not recommended'' will be assigned to applications. Applications that align well with one or more of the Priority Selection Criteria will be viewed more favorably than

[12] For example, an air carrier holding only air taxi authority under 14 CFR parts 298 and 135 is limited to the use of small aircraft (60 or fewer seats and a maximum payload capacity of 18,000 pounds or less), and to conducting fewer than five round-trip flights per week in a particular city-pair market.

those that do not align with any Priority Selection Criteria. The Department will consider the Secondary Selection Criteria when comparing and selecting among similarly-rated projects.

The Department reserves the right to award funds for a part of the project included in an application, if a part of the project is eligible and aligns well with the selection criteria specified in this Order. In addition, as part of its review of the Secondary Selection Criterion ''Other Factors,'' the Department will consider the geographical distribution of the applications to ensure consistency with the statutory requirement limiting awards to no more than four communities or consortia of communities, or a combination thereof, from the same state. The final selections will be limited to no more than 40 communities or consortia of communities, or a combination thereof.

F. Federal Award Administration Information

1. Federal Award Notices

Grant awards will be made as promptly as possible so that selected communities can complete the grant agreement process and implement their plans. Given the competitive nature of the grant process, the Department will not meet with applicants regarding their applications. All non-confidential portions of each application, all correspondence and ex-parte communications, and all orders will be posted in the above-captioned docket on *www.regulations.gov*.

The Department will announce its grant selections in a Selection Order that will be posted in the above-captioned docket, served on all applicants and all parties served with this Solicitation Order, and posted on the Department's SCASDP website *https://www.transportation.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP*.

Grant Agreements: Communities awarded grants are required to execute a grant agreement with the Department *before* they begin to expend funds under the grant award. Applicants should not assume they have received a grant, nor should they obligate or expend local funds prior to receiving and fully executing a grant agreement with the Department. As noted above, expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed.

2. Administrative and National Policy Requirements

Assurances: There are numerous assurances that grant recipients must sign and honor when federal funds are awarded. All communities receiving a grant will be required to accept and meet the obligations created by these assurances when they execute their grant agreements. Copies of assurances are available online at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP*, (click on ''SCASDP Grant Assurances'').

Payments: The Small Community Program is a reimbursable program; therefore, communities are required to make expenditures for project implementation under the program prior to seeking reimbursement from the Department. Eligible project implementation costs are reimbursable from grant funds only for services or property delivered during the grant term. Reimbursement rates are calculated as a percentage of the total federal funds requested divided by the federal funds plus the local cash contribution (which is not refundable). The percentage is determined by: (SCASDP Grant Amount) ÷ (SCASDP Grant Amount + Local Cash Contribution + State Cash Contribution, if applicable). For example, if a community requests $500,000 in federal funding and provides $100,000 in local contributions, the reimbursement rate would be 83.33 percent: ((500,000)/(500,000 + 100,000)) = 83.33. Payments/expenditures in forms other than cash (e.g., in-kind) are not reimbursable.

3. Reporting

Each grantee must submit semi-annual reports on the progress made during the previous period in implementing its grant project. In addition, each community will be required to submit a final report on its project to the Department, and 10 percent of the grant funds will not be reimbursed to the community until such a final report is received. Additional information on award administration for selected communities will be provided in the grant agreement.

G. Federal Awarding Agency Contact

For further information concerning the technical requirements set out in this Order, please contact Brooke Chapman at *Brooke.Chapman@dot.gov* or (202) 366–0577. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993. The Department may post answers to questions and other important clarifications in the above-captioned docket on *www.regulations.gov* and on the program website at *https://www.transportation.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP*.

H. Other Information

1. Air Service Development Zone Designation

As part of the Small Community Program, the Department may also designate one grant recipient as an ''Air Service Development Zone'' (ASDZ).[13] The purpose of the designation is to provide communities interested in attracting business to the area surrounding the airport and/or developing land-use options for the area to work with the Department on means to achieve those goals. The Department will assist the designated community in establishing contacts with and obtaining advice and assistance from appropriate government agencies, including the Department of Commerce and other offices within the Department of Transportation, and in identifying other pertinent resources that may aid the community in its efforts to attract businesses and to formulate land-use options. However, the community receiving this designation will be responsible for developing, implementing, and managing activities related to the air service development zone initiative. Only communities that are interested in these objectives and have a plan to accomplish them should apply for this designation. There are no additional funds associated with this designation, and applying for this designation will provide no special benefits or priority to the community applying for a SCASDP grant.

Grant applicants interested in selection for the Air Service Development Zone designation must include in their applications a separate section, titled, *Support for Air Service Development Zone Designation.* The community should provide as detailed a plan as possible, including what goals it expects to achieve from the air service development zone designation and the types of activities on which it would like to work with the Department in achieving those goals. The community should also indicate whether further local government approvals are required in order to implement the proposed activities.

[13] *See* 49 U.S.C. § 41743(h).

2. Submission of Confidential Commercial Information

Applicants may provide certain proprietary business information relevant to their applicants on a confidential basis. For additional information, *see* Appendix D.

This Order is issued under authority delegated in 49 CFR § 1.25a(b).

Accordingly,

1. Applications for funding under the Small Community Air Service Development Program should be submitted via *www.grants.gov* as an attachment to the SF424 by *4:00 PM EST, December 15, 2017;* and

2. This Order will be published in the **Federal Register**, posted on *www.grants.gov* and on *www.regulations.gov*, and served on the United States Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of State Aviation Officials, County Executives of America, the American Association of Airport Executives, and the Airports Council International—North America.

Issued in Washington, D.C. on October 12, 2017.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs.

An electronic version of this document is available online at www.regulations.gov.

ADDITIONAL INFORMATION ON APPLYING THROUGH WWW.GRANTS.GOV

Applications must be submitted electronically through *http://www.grants.gov/web/grants/applicants/apply-for-grants.html. To apply for funding through www.grants.gov, applicants must be properly registered.* The *Grants.gov/Apply* feature includes a simple, unified application process that makes it possible for applicants to apply for grants online. There are five ''Get Registered'' steps for an organization to complete at Grants.gov. Complete instructions on how to register and apply can be found at *http://www.grants.gov/web/grants/applicants/organization-registration.html.* If applicants experience difficulties at any point during registration or application process, please call the *www.grants.gov* Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7:00 AM to 9:00 PM EDT.

Registering with *www.grants.gov* is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. It is highly recommended that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications must be submitted and time-stamped not later than 4:00 PM EST on December 15, 2017 (the Application Deadline), and, as set forth below, failure to complete the registration process before the Application Deadline is not a valid reason to permit late submissions.

In order to apply for SCASDP funding through *http://www.grants.gov/web/grants/applicants/apply-for-grants.html*, all applicants are required to complete the following:

1. DUNS Requirement. The Office of Management and Budget requires that all businesses and nonprofit applicants for federal funds include a Dun and Bradstreet Data Universal Numbering System (DUNS) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. The DUNS number must be included in the data entry field labeled ''Organizational DUNS'' on the SF-424 form. Instructions for obtaining DUNS number can be found at the following website: *http://www.grants.gov/web/grants/applicants/organization-registration/step-1-obtain-duns-number.html.*

2. System for Award Management. In addition to having a DUNS number, applicants applying electronically through Grants.gov must register with the federal System for Award Management (SAM). Step-by-step instructions for registering with SAM can be found here: *http://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html.* All applicants must register with SAM in order to apply online. Failure to register with the SAM will result in your application being rejected by Grants.gov during the submissions process.

3. Username and Password. Acquire an Authorized Organization Representative (AOR) and a *www.grants.gov* username and password. Complete your AOR profile on *www.grants.gov* and create your username and password. You will need to use your organization's DUNS Number to complete this step. For more information about creating a profile on Grants.gov visit: *http://www.grants.gov/web/grants/applicants/organization-registration/step-3-username-password.html.*

4. After creating a profile on Grants.gov, the E-Biz Point of Contact (E-Biz POC)—a representative from your organization who is the contact listed for SAM—will receive an email to grant the AOR permission to submit applications on behalf of their organization. The E-Biz POC will then log in to Grants.gov and approve an applicant as the AOR, thereby giving him or her permission to submit applications. To learn more about AOR Authorization visit: *http://www.grants.gov/web/grants/applicants/organization-registration/step-4-aor-authorization.html.* To track an AOR status visit: *http://www.grants.gov/web/grants/applicants/organization-registration/step-5-track-aor-status.html.*

Applicants are, therefore, encouraged to register early. The registration process can take up to four weeks to be completed. Thus, registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines. You will be able to submit your application online any time after you have approved as an AOR.

5. Electronic Signature. Applications submitted through Grants.gov constitute a submission as electronically signed applications. The registration and account creation with Grants.gov with E-Biz POC approval establishes an Authorized Organization Representative (AOR). When you submit the application through Grants.gov, the name of your AOR on file will be inserted into the signature line of the application. Applicants must register the individual who is able to make legally binding commitments for the applicant organization as the Authorized Organization Representative (AOR);

6. Search for the Funding Opportunity on *www.grants.gov*. Please use the following identifying information when searching for the SCASDP funding opportunity on *www.grants.gov*. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 20.930, titled Payments for Small Community Air Service Development.

7. Submit an application addressing all of the requirements outlined in this funding availability announcement. Within 24–48 hours after submitting your electronic application, you should receive an email validation message from *www.grants.gov*. The validation message will tell you whether the application has been received and validated or rejected, with an explanation. *You are urged to submit your application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.*

8. Timely Receipt Requirements and Proof of Timely Submission. Proof of timely submission is automatically recorded by Grants.gov. An electronic timestamp is generated within the system when the application is successfully received by Grants.gov. The applicant will receive an acknowledgement of receipt and a tracking number from Grants.gov with successful transmission of the application. Applicants should print this receipt and save it, as a proof of timely submission.

9. Grants.gov allows applicants to download the application package, instructions and forms that are incorporated in the instructions, and work offline. In addition to forms that are part of the application instructions, there will be a series of electronic forms that are provided utilizing Adobe Reader.

a. Adobe Reader. Adobe Reader is available for free to download from the Adobe Software Compatibility page: *http://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html.* Adobe Reader allows applicants to read the electronic files in a form format so that they will look like any other Standard form. The Adobe Reader forms have content sensitive help. This engages the content sensitive help

for each field you will need to complete on the form. The Adobe Reader forms can be downloaded and saved on your hard drive, network drive(s), or CDs.

b. NOTE: For the Adobe Reader, Grants.gov is compatible with versions 9.0.0 and later versions, and with certain versions of Adobe Reader DC. Always refer to the Adobe Software Compatibility page for compatible versions for the operating system you are using. Please do not use lower versions of the Adobe Reader.

c. Mandatory Fields in Adobe Forms. In the Adobe Reader forms, you will note fields that will appear with a background color on the data fields to be completed. These fields are mandatory fields and they must be completed to successfully submit your application.

NOTE: When uploading attachments please use generally accepted formats such as .pdf, .doc, and .xls. While you may imbed picture files such as .jpg, .gif, .bmp, in your files, please do not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

Experiencing Unforeseen www.grants.gov Technical Issues

Late Application Notice: Applicants who are unable to successfully submit their application package through grants.gov prior to the Application Deadline due to technical difficulties outside their control must submit an email to *SCASDPgrants@dot.gov* with the following information:

- The nature of the technical difficulties experienced in attempting to submit an application;
- A screenshot of the error;
- The Legal Sponsor's name; and
- The Grants.Gov tracking number (e.g. GRANT12345678).

DOT will consider late applications on a case-by-case basis and reserves the right to reject late applications that do not meet the conditions outlined in the Order Soliciting Small Community Grant Proposals. Late applications from applicants that do not provide DOT an email with the items specified above will not be considered.

If you experience unforeseen *www.grants.gov* technical issues beyond your control that prevent you from submitting your application by the Application Deadline, you must contact us at *SCASDPgrants@dot.gov* or *Vince.Corsaro@dot.gov* or (202) 366–1842 by *4:00 PM EST December 18, 2017* (the first business day following the deadline) and request approval to submit your application after the deadline has passed. At that time, DOT staff will require you to provide your DUNS number and your *www.grants.gov* Help Desk tracking number(s). After DOT staff review all of the information submitted and contact the *www.grants.gov* Help Desk to validate the technical issues you reported, DOT staff will contact you to either approve or deny your request to submit a late application through *www.grants.gov*. If the technical issues you reported cannot be validated, your application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow *www.grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment.

BILLING CODE 4910–9X–P

APPLICATION UNDER

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

DOCKET DOT-OST-2017-0155

SUMMARY INFORMATION[1]

All applicants must submit this Summary Information schedule, as the application coversheet, a completed standard form SF424 and the full application proposal on www.grants.gov.

For your preparation convenience, this Summary Information schedule is located at https://www.transportation.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP

A. PROVIDE THE LEGAL SPONSOR AND ITS DUN AND BRADSTREET (D&B) DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER, INCLUDING +4, EMPLOYEE IDENTIFICATION NUMBER (EIN) OR TAX ID.

Legal Sponsor Name:

Name of Signatory Party for Legal Sponsor:

DUNS Number:

EIN/Tax ID:

B. LIST THE NAME OF THE COMMUNITY OR CONSORTIUM OF COMMUNITIES APPLYING:

1._____

2._____

3._____

4._____

C. PROVIDE THE FULL AIRPORT NAME AND 3-LETTER IATA AIRPORT CODE FOR THE APPLICANT(S) AIRPORT(S) (ONLY PROVIDE CODES FOR THE AIRPORT(S) THAT ARE ACTUALLY SEEKING SERVICE).

1. **2.**

[1] Note that the Summary Information does not count against the 20-page limit of the SCASDP application.

3.	4.

THE AIRPORT SEEKING SERVICE IS NOT LARGER THAN A SMALL HUB AIRPORT:

☐ UNDER FAA HUB CLASSIFICATIONS EFFECTIVE ON THE DATE OF SERVICE OF THE ATTACHED ORDER

☐ AS OF CALENDAR YEAR 1997

DOES THE AIRPORT SEEKING SERVICE HOLD AN AIRPORT OPERATING CERTIFICATE ISSUED BY THE FEDERAL AVIATION ADMINISTRATION UNDER 14 CFR PART 139? (IF "NO", PLEASE EXPLAIN WHETHER THE AIRPORT INTENDS TO APPLY FOR A CERTIFICATE OR WHETHER AN APPLICATION UNDER PART 139 IS PENDING.)

☐ Yes ☐ No (explain)

D. SHOW THE DRIVING DISTANCE FROM THE APPLICANT COMMUNITY TO THE NEAREST:

1. Large hub airport: _____
2. Medium hub airport: _____
3. Small hub airport: _____
4. Airport with jet service: _____

Note: Provide the airport name and distance, in miles, for each category.

E. LIST THE 2-DIGIT CONGRESSIONAL DISTRICT CODE APPLICABLE TO THE SPONSORING ORGANIZATION, AND IF A CONSORTIUM, TO EACH PARTICIPATING COMMUNITY.

1.	2.
3.	4.

F. APPLICANT INFORMATION: (CHECK ALL THAT APPLY)

☐ **Not a Consortium** ☐ **Interstate Consortium** ☐ **Intrastate Consortium**

☐ **Community currently receives subsidized Essential Air Service, or receives assistance under the Alternate Essential Air Service Pilot Program**

☐ **Community (or Consortium member) previously received a Small Community Air Service Development Program Grant**

If previous recipient: Provide year of grant(s):_____; and, the text of the grant agreement section(s) setting forth the scope of the grant project:

G. PUBLIC/PRIVATE PARTNERSHIPS: (LIST ORGANIZATION NAMES)

PUBLIC	PRIVATE
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

H. PROJECT PROPOSAL:

1a. **GRANT GOALS: (CHECK ALL THAT APPLY)**

☐ **Launch New Carrier** ☐ **Secure Additional Service** ☐ **Upgrade Aircraft**

☐ **First Service** ☐ **New Route** ☐ **Service Restoration**

☐ **Regional Service** ☐ **Surface Transportation** ☐ **Professional Services**[2]

☐ **Other** (explain below)

[2] "Professional Services" involve a community contracting with a firm to produce a product such as a marketing plan, study, air carrier proposal, etc.

1b. GRANT GOALS: (SYNOPSIS)

Concisely describe the scope of the proposed grant project. (For example, "Revenue guarantee to recruit, initiate, and support new daily service between _____ and _____;" or "Marketing program to support existing service between _____ and _____ by _____ Airlines.")

_____

_____

_____

2. FINANCIAL TOOLS TO BE USED: (CHECK ALL THAT APPLY)

☐ **Marketing (including Advertising):** promotion of the air service to the public

☐ **Start-up Cost Offset:** offsetting expenses to assist an air service provider in setting up a new station and starting new service (for example, ticket counter reconfiguration)

☐ **Revenue Guarantee:** an agreement with an air service provider setting forth a minimum guaranteed profit margin, a portion of which is eligible for reimbursement by the community

☐ **Recruitment of U.S. Air Carrier:** air service development activities to recruit new air service, including expenses for airport marketers to meet with air service providers to make the case for new air service

☐ **Fee Waivers:** waiver of airport fees, such as landing fees, to encourage new air service; counted as in-kind contributions only

☐ **Ground Handling Fee:** reimbursement of expenses for passenger, cabin, and ramp (below wing) services provided by third party ground handlers

☐ **Travel Bank:** travel pledges, or deposited monetary funds, from participating parties for the purchase of air travel on a U.S. air carrier, with defined procedures for the subsequent use of the pledges or the deposited funds; counted as in-kind contributions only

☐ **Other** (explain below)

_____

_____

I. EXISTING LANDING AIDS AT LOCAL AIRPORT:

☐ Full ILS ☐ Outer/Middle Marker ☐ Published Instrument Approach

☐ Localizer ☐ Other (specify)

J. PROJECT COST: DO NOT ENTER TEXT IN SHADED AREA

REMINDER: LOCAL CASH CONTRIBUTIONS MAY NOT BE PROVIDED BY AN AIR CARRIER (SEE "TYPES OF CONTRIBUTIONS FOR REFERENCE).

LINE	DESCRIPTION		SUB TOTAL	TOTAL AMOUNT
1	Federal amount requested			
2	State cash financial contribution			
	Local cash financial contribution			
	3a	Airport cash funds		
	3b	Non-airport cash funds		
3	Total local cash funds (***3a*** + ***3b***)			
4	TOTAL CASH FUNDING (***1***+***2***+***3***)			
	In-Kind contribution			
	5a	Airport In-Kind contribution**		
	5b	Other In-Kind contribution**		
5	TOTAL IN-KIND CONTRIBUTION (***5a*** + ***5b***)			
6	TOTAL PROJECT COST (***4***+***5***)			

K. IN-KIND CONTRIBUTIONS**

For funds in lines 5a (Airport In-Kind contribution) and 5b (Other In-Kind contribution), please describe the source(s) of fund(s) and the value ($) of each.

L. IS THIS APPLICATION SUBJECT TO REVIEW BY AN AFFECTED STATE UNDER EXECUTIVE ORDER 12372 PROCESS?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on (date) _____.

☐ b. Program is subject to E.O. 12372, but has not been selected by the State for review.

☐ c. Program is not covered by E.O. 12372.

M. IS THE LEAD APPLICANT OR ANY CO-APPLICANTS DELINQUENT ON ANY FEDERAL DEBT? (IF "YES", PROVIDE EXPLANATION)

☐ No ☐ Yes (explain)

_____

_____

APPLICATION CHECKLIST

INCLUDED?	ITEM
	For Immediate Action
	Determine Eligibility
	New Grants.gov users must register with www.grants.gov. Existing Grants.gov users *must verify existing www.grants.gov account has not expired and the Authorized Organization Representative (AOR) is current.*
	*For Submission by **4:00 PM EST on December 15, 2017***
	Communities with active SCASDP grants: notify DOT/X50 of intent to terminate existing grant in order to be eligible for selection in FY2016
	Complete Application for Federal Domestic Assistance (SF424) via www.grants.gov
	Summary Information schedule complete and used as cover sheet (see **Appendix B)**
	Application of up to 20 one-sided pages (excluding any letters from the community or an air carrier showing support for the application), to include:
	• A description of the community's air service needs or deficiencies.
	• The driving distance, in miles, to the nearest large, medium, and small hub airports, and airport with jet service.
	• A strategic plan for meeting those needs under the Small Community Program, including a concise synopsis of the scope of the proposed grant project.
	• For service to or from a specific city or market, such as New York, Chicago, Los Angeles, or Washington, D.C., for example), a list of the airports that the applicant considers part of the market.
	• A detailed description of the funding necessary for implementation of the community's project.
	• An explanation of how the proposed project differs from any previous projects for which the community received SCASDP funds (if applicable).
	• Designation of a legal sponsor responsible for administering the program.
	• A motion for confidential treatment (if applicable) – see Appendix D below.

Confidential Commercial Information

Applicants will be able to provide certain confidential business information relevant to their proposals on a confidential basis. Under the Department's Freedom of Information Act regulations (49 C.F.R. 7.17), such information is limited to commercial or financial information that, if disclosed, would either likely cause substantial harm to the competitive position of a business or enterprise or make it more difficult for the Federal Government to obtain similar information in the future.

Applicants seeking confidential treatment of a portion of their applications must segregate the confidential material in a sealed envelope marked ''Confidential Submission of X (the applicant) in Docket DOT–OST–2017–0155'' and include with that material a request in the form of a motion seeking confidential treatment of the material under 14 C.F.R. 302.12 (''Rule 12'') of the Department's regulations. The applicant should submit an original and two copies of its motion and an original and two copies of the confidential material in the sealed envelope.

The confidential material should *not* be included with the original of the applicant's proposal that is submitted via *www.grants.gov*. The applicant's original submission, however, should indicate clearly where the confidential material would have been inserted. If an applicant invokes Rule 12, the confidential portion of its filing will be treated as confidential pending a final determination. All confidential material must be received by **4:00 PM EST, December 15, 2017**, and delivered to the U.S. Department of Transportation, Office of Aviation Analysis, 8th Floor, Room W86–307, 1200 New Jersey Ave. SE., Washington, DC 20590.

[FR Doc. 2017–22513 Filed 10–17–17; 8:45 am]

BILLING CODE 4910–9X–C

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Special Form of Assignment for U.S. Registered Securities

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Special Form of Assignment for U.S. Registered Securities.

DATES: Written comments should be received on or before December 18, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Special Form of Assignment for U.S. Registered Securities.

OMB Number: 1530–0058.

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Number: FS Form 1832.

Abstract: The information is requested to complete transaction involving the assignment of U.S. Registered and Bearer Securities.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1600.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 400.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 13, 2017.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2017–22604 Filed 10–17–17; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Disclaimer and Consent With Respect to United States Savings Bonds/Notes

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Disclaimer and Consent With Respect to United States Savings Bonds/Notes.

DATES: Written comments should be received on or before December 18, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disclaimer and Consent With Respect to United States Savings Bonds/Notes.

OMB Number: 1530–0059.

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Number: FS Form 1849.

Abstract: A disclaimer and consent may be necessary when, as the result of an error in registration or otherwise, the payment, refund of purchase price, or reissue of savings bonds/notes as requested by one person would appear to affect the right, title or interest of some other person.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 300.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 13, 2017.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2017–22605 Filed 10–17–17; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

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 one or more persons that have been placed on OFAC's Specially Designated National and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On October 13, 2017, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Entities

1. FANAMOJ (a.k.a. FANA MOJ; a.k.a. FANA MOWJ; a.k.a. FANAMOJ COMPANY; a.k.a. FANAVARI MODJ KHAVAR; a.k.a. FANAVARI MOJ KHAVAR CO.; a.k.a. FANAVARI MOUDJ KHAVAR GROUP; a.k.a. FANAVARI MOWJ KHAVAR), No. 90, 15th St., North Kargar Avenue, Tehran 1439763111, Iran; No 1, Sartipi Ave, Semiari Ave, Shariati St, Tehran 19316–63381, Iran; No. 7, 15th St., North Amir Abad St., North Karegar St., Tehran, Iran; Web site *www.fanamoj.com;* Email Address *info@fanamoj.com;* Additional Sanctions Information—Subject to Secondary Sanctions; Registration ID 171433 (Iran) [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' (''E.O. 13382'') for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. ISLAMIC REVOLUTIONARY GUARD CORPS (a.k.a. AGIR; a.k.a. IRANIAN REVOLUTIONARY GUARD CORPS; a.k.a. IRG; a.k.a. IRGC; a.k.a. ISLAMIC REVOLUTIONARY CORPS; a.k.a. PASDARAN; a.k.a. PASDARAN–E ENGHELAB–E ISLAMI; a.k.a. PASDARAN–E INQILAB; a.k.a. REVOLUTIONARY GUARD; a.k.a. REVOLUTIONARY GUARDS; a.k.a. SEPAH; a.k.a. SEPAH PASDARAN; a.k.a. SEPAH–E PASDARAN–E ENQELAB–E ESLAMI; a.k.a. THE ARMY OF THE GUARDIANS OF THE ISLAMIC REVOLUTION; a.k.a. THE IRANIAN REVOLUTIONARY GUARDS), Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [SDGT] [NPWMD] [IRGC] [IFSR] [IRAN–HR] [HRIT–IR].

Designated pursuant to section 1(d)(i) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' (''E.O. 13224'') for assisting in, sponsoring, or providing financial, material, techological support for, or financial or other services to or in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

3. RASTAFANN ERTEBAT ENGINEERING COMPANY (a.k.a. RASSTAFANN CO; a.k.a. RASTAFAN; a.k.a. RASTAFANN), No. 1, Sartipi Street, Shahid Mirzapoor Avenue, North of Sadr Bridge, Shariati Avenue, Tehran 19316–63384, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Iran's NAVAL DEFENCE MISSILE INDUSTRY GROUP and the ISLAMIC REVOLUTIONARY GUARD CORPS, two persons whose property and interests in property are blocked pursuant to E.O. 13382.

4. SHAHID ALAMOLHODA INDUSTRIES (a.k.a. SHAHID ALAMOLHODA; a.k.a. SHAHID ALAMOLHODA INDUSTRY; a.k.a. ''SAI''), 142, Shahid Reza Farshadi and Shahid Hasan-e streets, Lavizan, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iv) of Executive Order 13382 for being owned or controlled by Iran's NAVAL DEFENCE MISSILE INDUSTRY GROUP, a person whose property and interests in property are blocked pursuant to E.O. 13382.

5. WUHAN SANJIANG IMPORT AND EXPORT CO. LTD (a.k.a. WUHAN LONGHUA WEIYE INDUSTRY AND TRADE CO., LTD; a.k.a. WUHAN SANJIANG IMP. & EXP. CO. LTD.; a.k.a. ''WSIEC''), Room 519, complex building Hubei Modern Five Metals and electromechanical Market, Wuhan, China; No. 5647, Dongxihu Ave, Dongxihu District, Wuhan, Hubei, China; Qiao mouth district space, building no. 101, Wuhan, Hubei 430040, China; Additional Sanctions Information—Subject to Secondary Sanctions; United Social Credit Code Certificate (USCCC) 91420112711981060J (China) [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Iran's SHIRAZ ELECTRONICS INDUSTRIES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Dated: October 13, 2017.

John. E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–22631 Filed 10–17–17; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 82 Wednesday,
No. 200 October 18, 2017

Part II

Department of Agriculture

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

Scope of Sections 202(a) and (b) of the Packers and Stockyards Act; Rule; Unfair Practices and Undue Preferences in Violation of the Packers and Stockyards Act; Proposed Rule

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

RIN 0580–AB28

Scope of Sections 202(a) and (b) of the Packers and Stockyards Act

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA

ACTION: Final rule; withdrawal.

SUMMARY: The United States Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA), Packers and Stockyards Program is withdrawing the interim final rule (IFR) published in the **Federal Register** on December 20, 2016. Had the IFR become effective, it would have added a paragraph to the regulations issued under the Packers and Stockyards Act (P&S Act) addressing the scope of sections 202(a) and (b) of the P&S Act, which enumerate unlawful practices under the Act. Specifically, the IFR would have added a paragraph to the regulations further explaining the scope of sections 202(a) and (b) of the P&S Act such that certain conduct or actions, depending on their nature and the circumstances, could be found to violate the P&S Act without a finding of harm or likely harm to competition.

GIPSA accepted and analyzed comments on the IFR received on or before March 24, 2017. In addition, in the April 12, 2017 **Federal Register**, GIPSA solicited and analyzed comments received on or before June 12, 2017, on four alternative actions regarding the disposition of the IFR. After careful review and consideration of all comments received, GIPSA is withdrawing the IFR.

DATES: The interim final rule published on December 20, 2016 (81 FR 92566), is withdrawn as of October 18, 2017.

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SUPPLEMENTARY INFORMATION: GIPSA is issuing this final rule to withdraw the interim final rule that would have revised the current regulations implementing the P&S Act to state that a finding of harm or likely harm to competition was not needed to find a violation of section 202(a) or (b) of that Act (7 U.S.C. 181–229c). *See* 7 U.S.C. 192(a) and (b). Below is the basis for this decision. The first section provides background on the interim final rule and on the proposed rule disposing of the interim final rule. The second and third sections discuss the public comments GIPSA received on the interim final rule and the proposed rule, respectively. The fourth section discusses GIPSA's action, the justification for that action, and responds to the comments received. The last section provides the required impact analyses, including the Regulatory Flexibility Act, the Paperwork Reduction Act, and the relevant Executive Orders.

I. Background

The P&S Act at 7 U.S.C. 192(a) states that it is unlawful for any packer, swine contractor, or live poultry dealer to ''[e]ngage in or use any unfair, unjustly discriminatory, or deceptive practice or device.'' Further, section 192(b) provides that it is unlawful for those same types of business entities to ''[m]ake or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.'' In the June 22, 2010 **Federal Register** (75 FR 35338–35354), GIPSA published a notice of proposed rulemaking (NPRM) that would make several revisions to the regulations implementing the P&S Act, including one revision that would add a paragraph (c) to 9 CFR 201.3 to codify the agency's longstanding interpretation that, in some cases, a violation of 7 U.S.C. 192(a) or (b) can be established without proof of likelihood of competitive injury. 75 FR at 35340; *see also id.* at 35351 (proposed rule text for § 201.3(c)). GIPSA originally set the comment period for the NPRM to close on August 23, 2010, and later extended it until November 22, 2010 (75 FR 44163).

The appropriations acts for fiscal years 2012 through 2015 precluded USDA from finalizing the NPRM, including the proposed § 201.3(c). The appropriations acts for fiscal years 2016 and 2017, however, did not include this preclusion. Accordingly, on December 20, 2016, GIPSA published in the **Federal Register** (81 FR 92566–92594) an interim final rule (IFR) adopting essentially the same language in proposed § 201.3(c) as § 201.3(a). GIPSA invited interested persons to submit comments on the IFR on or before its effective date of February 21, 2017.

On February 7, 2017, GIPSA published in the **Federal Register** (82 FR 9489) a notice delaying the effective date of the IFR to April 22, 2017. The notice also extended the deadline for submitting comments to March 24, 2017. The delay and extension were consistent with the memorandum of January 20, 2017, to the heads of executive departments and agencies from the Assistant to the President and Chief of Staff entitled ''*Regulatory Freeze Pending Review.*''

On April 12, 2017, GIPSA published a notice in the **Federal Register** (82 FR 17531) delaying the effective date for the IFR for an additional 180 days, from March 24, 2017, to October 19, 2017. This extension allowed additional time for USDA to consider adequately all comments received and to make an informed policy decision.

Concurrent with this notice, GIPSA published in the **Federal Register** (82 FR 17594) a proposed rule presenting four alternatives for disposing the IFR: (1) Allow the interim final rule to become effective, (2) suspend the interim final rule indefinitely, (3) delay the effective date of the interim final rule further, or (4) withdraw the interim final rule. The proposed rule gave interested persons until June 12, 2017, to comment on the four alternatives.

GIPSA has analyzed the comments received on the interim final rule published on December 20, 2016. It has also evaluated the comments received in response to the proposed rule published on April 12, 2017, regarding disposition of that rule. Now, GIPSA is withdrawing the interim final rule.

II. Interim Final Rule—Discussion of Comments

GIPSA solicited comments concerning the IFR for a period of 90 days ending on March 24, 2017. GIPSA received 344 timely comments. Commenters were from all sectors of the livestock and poultry industries, including livestock producer groups; poultry grower interest groups; packers; poultry company associations; farmers and farmers' organizations; consumer organizations and consumers; and an animal rights group.

A common theme of those opposed to the IFR was that it would lead to increased litigation. Commenters said that without the requirement to show harm to competition, the IFR would embolden producers and growers to sue for any perceived slight by a packer or integrator. Fear of litigation would cause packers and integrators to vertically integrate further, increase their volume of captive supplies, and rely even more on those suppliers and growers they currently use. Therefore, these commenters suggested the IFR would

result in new suppliers being shut out of markets.

A major poultry trade association said that the IFR failed to describe what conduct or actions would constitute a violation of the P&S Act with sufficient clarity for people to understand prohibited or permitted conduct or actions and that this ambiguity would lead to arbitrary and discriminatory enforcement. It said that the IFR is not entitled to deference because, among other things, the plain language of 7 U.S.C. 192(a) and (b) requires a showing of competitive injury. Finally, it noted that, although the Department of Justice (DOJ) filed amicus briefs with several appellate courts arguing against the need to show competitive harm, DOJ's legal arguments failed to sway those courts' decisions.

A livestock packing industry association pointed out that the Administrative Procedure Act (APA) (5 U.S.C. 551–559) requires the public to have an opportunity to comment timely on proposed rules. Because the substance of the IFR was part of the June 2010 NPRM, this commenter believed the rulemaking record was ''stale'' and said that GIPSA should have re-opened the comment period to refresh the rulemaking record or have terminated the rulemaking proceeding. Further, having failed to do so, GIPSA should not be entitled to deference.

Two trade associations representing the pork and beef industries also opposed the IFR. These commenters said that GIPSA failed to identify specific systemic problems needed to justify it. Although GIPSA provided examples of conduct or actions that could be challenged under the IFR, they said that GIPSA provided no evidence that the referenced conduct or actions occur in the pork or beef industries, and, therefore, it was not clear if these problems occur in those industries. If problems existed, they felt that GIPSA should have tailored the rule to address those problems instead of issuing one that was over-inclusive and impacted the entire meat industry.

These commenters also said that GIPSA failed to address adequately the judicial decisions interpreting 7 U.S.C. 192 that ran counter to the IFR. They said that court decisions held that the words used in 7 U.S.C. 192, such as ''unfair'' and ''unjust,'' came from other antitrust statutes and reasoned their anti-competitive meaning transferred over to the P&S Act. They said that GIPSA also failed to argue against the conclusion drawn by multiple courts that the legislative history of the P&S Act shows that Congress intended § 192 to require competitive injury. Finally, they noted that GIPSA failed to show that its interpretation was in fact a longstanding one. They argued that this failure undermined the argument that the courts should defer to GIPSA's interpretation.

Commenters opposed to the IFR also said that it would discourage incentives, premiums, and payment plans offering price differentials to producers or growers for supplying higher quality product or greater production efficiency. They claimed that the ambiguity of the terms used in the IFR would encourage limiting or abandoning alternative marketing arrangements that provide compensation that is both certain and necessary for producers to use in making financial investments.

Self-identified contract growers for a major poultry company provided similar comments, saying that the IFR was not in the best interests of contract poultry growers, poultry companies, or consumers. They said that the pay system used in the poultry industry encouraged innovation and investment in the best practices and equipment. They predicted that the IFR might lead to changes to the pay system by removing incentives for innovation and investment, resulting in the U.S. poultry industry becoming less competitive in global markets and threatening jobs here in the U.S.

A large poultry processing and livestock slaughtering corporation, along with many of its individual employees submitting form letters, said that GIPSA failed to prove the IFR was economically justified. The corporation argued that protection of competition must be the ''underpinning'' of a regulation issued under the P&S Act and that GIPSA's competition-related justifications for the IFR were insufficient because the agency: (1) Failed to sufficiently cite economic studies to demonstrate that there is an imbalance of market power between livestock producers and poultry growers and (2) failed to show that regulated entities have an incentive to treat livestock producers and poultry growers in a manner that results in a lower supply of growers willing to contract. Moreover, this corporation claimed that the cost to the industry of the IFR would be $1 billion over the next decade, without specific quantifiable benefit.

Supporters of the IFR included individual livestock producers, poultry growers, and farmers' organizations. They pointed to the hundreds of thousands or millions of dollars farmers invest to grow or produce for a company. Many expressed their belief that farmers need the IFR's protection to avoid losing their operations and their investments because of unfair, deceptive, and/or retaliatory practices. Support for the IFR was also rooted in the belief that requiring harm to competition was an impossibly high standard for individual farmers to meet.

These commenters said increased concentration and imbalances of power in the marketplace facilitate abuse. They argued that small family farmers should not have to compete with one another because of the strong hold corporate and commercial farms and packers have on the agricultural sector. One commenter emphasized that it was unfair, unjustly discriminatory, or unduly preferential to require poultry growers to participate in a compensation system in which growers do not have full control over their production inputs. They said production inputs can be manipulated to the detriment of disfavored growers; and because there are limited contracting options, growers may not have the means to challenge abuses. Thus, family farmers face unfair practices because corporate concentration leads to power imbalances and this growing corporate concentration leaves consumers with fewer choices in the grocery stores.

Supporters of the IFR also said it provided common-sense protections for farmers. They argued that the purpose of the P&S Act was to protect farmers from unfair treatment by companies and not just from anticompetitive practices. They said that the IFR simply ensured that farmers could challenge unfair treatment without having to bring a federal antitrust case. One commenter stated that as long as competitive injury is the law there is no deterrent preventing companies from treating an individual farmer as it wishes.

III. Disposition of the Interim Final Rule—Discussion of Comments

In the April 12, 2017 proposed rule, GIPSA stated that there were significant policy and legal issues addressed within the IFR that warranted further review by USDA. For these reasons, the proposed rule requested public comments on four alternative actions that USDA could take with regard to the disposition of the IFR. The four alternatives listed in the proposed rule were as follows: (1) Allow the IFR to become effective; (2) suspend the IFR indefinitely; (3) further delay the effective date of the IFR; or (4) withdraw the IFR. The proposed rule gave interested persons until June 12, 2017, to comment on the four alternative actions.

USDA received 1,951 timely comments. Of those comments, 1,466 preferred alternative 4 (*i.e.,* to withdraw the IFR). Another 469 preferred

alternative 1 (*i.e.,* to allow the IFR to become effective as planned). One commenter preferred alternative 2 (*i.e.,* to suspend the IFR indefinitely). This commenter, however, also said that GIPSA should ''allow the rule to die,'' possibly indicating a real preference for alternative 4, withdrawal, as opposed to an indefinite suspension. No one voiced a preference for alternative 3 (*i.e.,* to further delay the IFR's effective date). Fifteen individuals provided comments on the proposed rule but did not state a preference.

Many commenters who provided comments on the IFR also provided comments on this proposed rule, making largely the same arguments. Supporters of withdrawal were again concerned about increased litigation and vertical integration, reduction or elimination of alternative marketing agreements, and decreased market access for producers and growers. Those favoring the IFR reiterated their concern that increased concentration led to unfair practices and undue preferences against farmers. They believed that the IFR provided farmers the tools to address unfair practices and undue preferences.

IV. Justification for Withdrawal of the Interim Final Rule and Response to Comments

After reviewing the IFR and carefully considering the public comments, GIPSA is withdrawing the IFR because of serious legal and policy concerns related to its promulgation and implementation. First, the interpretation of 7 U.S.C. 192(a)–(b) embodied in the IFR is inconsistent with court decisions in several U.S. Courts of Appeals, and those circuits are unlikely to give GIPSA's proposed interpretation deference. Additionally, the IFR's justification for dispensing with notice and comment for ''good cause'' was inadequate to satisfy the APA's requirements.

A. Courts Are Unlikely To Give Deference to the Interim Final Rule

The purpose of the IFR was to clarify that conduct or actions may violate 7 U.S.C. 192(a) and (b) without adversely affecting, or having a likelihood of adversely affecting, competition. This reiterated USDA's longstanding interpretation that not all violations of the P&S Act require a showing of harm or likely harm to competition.

Contrary to comments that GIPSA failed to show that USDA's interpretation was longstanding, USDA has adhered to this interpretation of the P&S Act for decades.[1] DOJ has filed amicus briefs with several federal appellate courts arguing against the need to show the likelihood of competitive harm for all violations of 7 U.S.C. 192(a) and (b).[2]

However, as commenters have noted and GIPSA acknowledges, several federal appellate courts have declined to defer to USDA's interpretation (see discussion of cases below). There is good reason to believe that several of those courts would continue to do so even if USDA's interpretation were codified in a final rule.

When determining whether an agency's interpretation of a statute that it administers is entitled to deference, the Supreme Court explained in *Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,*[3] that courts look at whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines that Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.[4]

The courts have granted *Chevron* deference ''when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law, and that the agency interpretation claiming deference was promulgated in the exercise of that authority.'' [5] Moreover, even if a court has spoken as to the interpretation of a statute, ''[a] court's prior judicial construction of a statute trumps an agency construction otherwise entitled to *Chevron* deference *only if* the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion.'' [6]

In the IFR, GIPSA acknowledged that multiple federal circuit courts had held that harm to competition is required to prove violations of 7 U.S.C. 192(a) and (b). For example, in the Eleventh Circuit case of *London* v. *Fieldale Farms Corp.,*[7] the plaintiffs alleged that defendant impermissibly terminated plaintiffs' contract.[8] The court held that plaintiffs' failure to allege harm to competition was fatal to their 7 U.S.C. 192(a) claim.[9] The court stated that ''in order to prevail under the [P&S Act], a plaintiff must show that the defendant's deceptive or unfair practice adversely affects competition or is likely to adversely affect competition.'' [10]

In the Tenth Circuit case of *Been* v. *O.K. Industries, Inc.,*[11] the plaintiffs, who were growers, alleged that a variety of defendants' actions with respect to the growers' contracts were unfair.[12] The court concluded that plaintiffs must show that defendants' conduct harmed or was likely to harm competition under 7 U.S.C. 192(a) stating:

> We are concerned here only with whether unfairness requires a showing of a likely injury to competition, not whether deceptive practices require such a showing. We therefore join the [sic] those circuits requiring a plaintiff who challenges a practice under § [192(a)] to show that the practice injures or is likely to injure competition.[13]

In the Fifth Circuit case of *Wheeler* v. *Pilgrim's Pride Corp.,*[14] the plaintiffs alleged that one grower wrongfully received superior contract terms and that the disparity was unfair and deceptive under 7 U.S.C. 192(a) and (b).[15] The *en banc* court rejected this argument, finding ''[t]o support a claim

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[1] *E.g., In re Ozark County Cattle Co.,* 49 Agric. Dec. 336, 365 (1990); *In re Rodman,* 47 Agric. Dec. 885, 912–13 (1988); *In re Itt Cont'l Baking Co.,* 44 Agric. Dec. 748, 781 (1985) (citing Packers and Stockyards cases from 1957 through 1983); *c.f. Sioux City Stock Yards Co.* v. *United States,* 49 F. Supp. 801, 806 (N.D. Iowa 1943) (''[T]he statute, neither expressly nor impliedly, makes any [finding that a market injury was being threatened] a jurisdictional prerequisite to the Secretary's power to act.''); *In re:Macy Live Poultry Co,* 1 Agric. Dec. 479 (1942) (finding proof of weight fraud alone sufficient to sanction a live poultry dealer).

[2] *E.g.,* Brief for Amicus Curiae the United States of America in Support of Plaintiff-Appellant, *Terry* v. *Tyson Farms, Inc.,* 604 F.3d 272 (6th Cir. 2010) (No. 08–5577), 2008 WL 5665508 at 11–26; En Banc Brief for Amicus Curiae the United States of America in Support of Plaintiffs-Appellees, *Wheeler* v. *Pilgrim's Pride Corp.,* 591 F.3d 355 (5th Cir. 2009) (No. 07–40651), 2009 WL 7349991 at 9–29.

[3] 467 U.S. 837 (1984).

[4] *Id.* at 842–43 (endnotes omitted).

[5] *Mayo Found. for Medical Educ. and Res.* v. *United States,* 562 U.S. 44, 45 (2011) (quoting *United States* v. *Mead Corp.,* 533 U.S. 218, 226–27 (2001)).

[6] *Nat'l Cable & Telecomm. Ass'n* v. *Brand X Internet Serv.,* 545 U.S. 967, 982 (2005) (emphasis added).

[7] 410 F.3d 1295 (11th Cir. 2005).

[8] *Id.*

[9] *Id.* at 304.

[10] *Id.*

[11] 495 F.3d 1217 (10th Cir. 2007).

[12] *Id.* at 1223.

[13] *Id.* at 1230.

[14] 591 F.3d 355 (5th Cir. 2009).

[15] *Id.* at 357.

that a practice violates subsection (a) or (b) of § 192 there must be proof of injury, or likelihood of injury, to competition.'' [16]

In the Sixth Circuit case of *Terry* v. *Tyson Farms, Inc.,*[17] the plaintiff alleged, among other things, that the defendant poultry company cancelled his contract because plaintiff asserted his regulatory right to observe the weighing of his birds.[18] He claimed this violated 7 U.S.C. 192(a) and (b).[19] The court disagreed and held that ''in order to succeed on a claim under § 192(a) and (b) of the [P&S Act], a plaintiff must show an adverse effect on competition.'' [20] The *Terry* court cited cases from sister circuits, and claimed that seven of the circuits agreed with its legal conclusion.[21] The *Terry* court also claimed that this ''tide'' of opinions from other circuits has ''now become a tidal wave.'' [22]

Many commenters argued that the plain language of the P&S Act requires competitive injury and that GIPSA therefore is not entitled to deference for a conflicting regulation. GIPSA recognizes that at least two federal circuits are unlikely to defer to USDA's interpretation. In the Fifth Circuit, the *Wheeler* court said that ''deference . . . is unwarranted where Congress has delegated no authority to change the meaning the courts have given to the statutory terms . . . .'' [23] The court held USDA was not entitled to deference ''because the PSA is unambiguous.'' [24] Likewise, the Eleventh Circuit refused to defer to USDA stating, ''[t]his court gives *Chevron* deference to agency interpretations of regulations promulgated pursuant to congressional authority. The [P&S Act] does not delegate authority to the Secretary to adjudicate alleged violations of [7 U.S.C. 192] by live poultry dealers. Congress left that task exclusively to the federal courts.'' [25] It went on to say that ''[b]ecause Congress plainly intended to prohibit only those unfair, discriminatory or deceptive practices adversely affecting competition a contrary interpretation of [7 U.S.C. 192(a)] deserves no deference.'' [26]

Commenters supporting the IFR cited the current court precedent as justification for its promulgation. They said showing harm to competition was a difficult standard to meet; and as long as it remains a requirement, growers and producers would continue to be subjected to unfair business practices, and their businesses would be at risk. GIPSA agreed with this view when it promulgated the IFR; however, current precedent poses a significant legal issue. As discussed above, the courts only grant *Chevron* deference to an agency's interpretation of a statute under its purview when the statute is ambiguous and the agency's interpretation is reasonable.[27]

If the IFR becomes effective, it will conflict with Fifth, Sixth, Tenth, and Eleventh Circuit precedent. This conflict creates serious concerns. GIPSA is cognizant of the commenters who support this IFR becoming effective and of their concerns regarding a perceived imbalance of bargaining power. Also, GIPSA recognizes that the livestock and poultry industries have a vested interest in knowing what conduct or actions violate 7 U.S.C. 192(a) and (b). However, a regulation conflicting with relevant Circuit precedent will inevitably lead to more litigation in the livestock and poultry industries. Protracted litigation to both interpret this regulation and defend it serves neither the interests of the livestock and poultry industries nor GIPSA.

To be sure, some commenters overstated the hostility in the case law to USDA's longstanding position. Contrary to some commenters' claims, GIPSA disagrees that the remaining U.S. Circuit Courts of Appeals that have had occasion to address the issue (Fourth, Seventh, Eighth, and Ninth Circuits) have gone as far as *London, Been, Wheeler,* and *Terry,* to declare that harm or likelihood of harm to competition is required in *all* cases brought under 7 U.S.C. 192(a) and (b).

Some courts affirmed the position of the USDA that certain practices are unfair *because* they are likely to harm competition. In the Eighth Circuit case of *IBP* v. *Glickman,*[28] the USDA brought an action against a packer respondent for alleged unlawful use of the packer's right of first refusal.[29] Among other things, the USDA's Judicial Officer ruled that there was potential harm to competition based on the allegation that the respondent was not participating in the bidding for cattle.[30] While the *IBP* court did not agree with the Judicial Officer's factual findings, the court agreed that the legal standard the Judicial Officer applied was the correct one: ''[w]e have said that 'a practice which is likely to reduce competition and prices paid to farmers for cattle *can be* found an unfair practice under the Act, and be a predicate for a cease and desist order.' '' [31]

Likewise, in the Ninth Circuit case of *De Jong Packing Co.* v. *USDA,*[32] the appellate court agreed that collusion to force conditional bidding on livestock auctions was anti-competitive in nature holding:

> The government contends that the purpose of the Act is to halt unfair trade practices in their incipiency, before harm has been suffered; that unfair practices under [7 U.S.C. 192] are not confined to those where competitive injury has already resulted, but includes those where there is a reasonable likelihood that the purpose will be achieved and that the result will be an undue restraint of competition. We agree.[33]

Other courts have only required a showing of harm or likelihood of harm to competition for the conduct or action at issue without generalizing their holdings to all violations of 7 U.S.C. 192(a) and (b). In the Fourth Circuit case of *Philson* v. *Goldsboro Mill Co.,*[34] the plaintiff turkey growers claimed their contract was terminated in retaliation for ''vocalization of their grievances'' and that defendant's conduct was, among other things, an unfair or deceptive practice in violation of the P&S Act.[35] The court held that, while ''it is unnecessary to prove *actual* injury to establish an unfair or deceptive practice [under 7 U.S.C. 192(a) and (b)], a plaintiff must nonetheless establish that the challenged act is *likely* to produce the type of injury that the Act was designed to prevent.'' [36] Thus, the court held that the district court did not err in instructing the jury that plaintiff must prove that ''the defendants' conduct was likely to affect competition adversely in order to prevail on their claims under the Packers and Stockyard Act.'' [37]

In the Seventh Circuit case of *Pacific Trading Co.* v. *Wilson & Co.,*[38] the plaintiffs claimed that the defendant packers had knowingly delivered ''off

[16] *Id.* at 363.

[17] 604 F.3d 272 (6th Cir. 2010).

[18] *Id.* at 274.

[19] *Id.* at 277.

[20] *Id.* at 279.

[21] *Id.* at 277–79 (citing cases from the Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits and electing to join those circuits).

[22] *Id.* at 277.

[23] *Wheeler* v. *Pilgrim's Pride Corp.,* 591 F.3d 355, 362 (5th Cir. 2009).

[24] *Id.* at 373 n.3.

[25] *Id.* at 1304 (internal citations omitted).

[26] *Id.* (internal quotations and citations omitted).

[27] *Chevron, U.S.A., Inc.* v. *Nat. Resources Def. Council, Inc.,* 467 U.S. 837, 842–43 (1984).

[28] 187 F.3d 974 (8th Cir. 1999).

[29] *Id.* at 975–76.

[30] *Id.* at 976.

[31] *Id.* at 977 (quoting *Farrow* v. *USDA,* 760 F.2d 211, 214 (8th Cir. 1985)) (emphasis added in *IBP*).

[32] 618 F.2d 1329 (9th Cir. 1980).

[33] *Id.* at 1336–37.

[34] 164 F.3d 625, Nos. 96–2542, 96–2631, 1998 WL 709324 (4th Cir. Oct. 5, 1998).

[35] *Id.* at *2.

[36] *Id.* at *4 (emphasis in original).

[37] *Id.*

[38] 547 F.2d 367 (7th Cir. 1976).

condition'' hams in violation of 7 U.S.C. 192(a).[39] The court concluded that ''the plaintiffs have failed to state a claim upon which relief can be granted under the Packers and Stockyards Act. For the purpose of that statute is to halt unfair business practices which adversely affect competition, not shown here . . . .'' [40]

One of the cases from the Eighth Circuit commonly cited by commenters as requiring a showing of harm to competition for all violations of 7 U.S.C. 192(a) and (b), does not convincingly support the commenters' position. In *Jackson* v. *Swift Eckrich, Inc.,*[41] the plaintiffs claimed that 7 U.S.C. 192 entitled them the opportunity to obtain the same type of contract that defendant offered other independent growers.[42] The court disagreed stating that ''[w]e are convinced that the purpose behind § 202 of the [P&S Act], 7 U.S.C. 192, was not to so upset the traditional principles of freedom of contract. The [P&S Act] was designed to promote efficiency, not frustrate it.'' [43] But, the court also appeared to acknowledge that other alleged violations of the P&S Act did not require a showing of harm to competition. Specifically, the court explained that:

> With regard to the claims of 'other' [P&S Act] violations, the breach of contract claim, and the fraud claim, the district court found that a jury question existed. We agree. The Jacksons presented evidence that Swift Eckrich had violated a number of PSA regulations, that it did not use the condemned carcass calculation formula provided in the floor contracts, and that it recorded bird weights without actually performing any measurements.[44]

On the other hand, other Eighth Circuit cases have required a showing of a likelihood of competitive injury when a plaintiff alleges that a practice is unfair *because* of its relationship to prices, bidding, or competition.[45]

Nevertheless, because at least two courts of appeals have held that the text of the P&S Act unambiguously forecloses USDA's longstanding interpretation, allowing the IFR to go into effect would create an unworkable legal patchwork. Based on the comments received and the above legal analysis, GIPSA is withdrawing the IFR.

B. The Interim Final Rule Was Insufficiently Supported by a ''Good Cause'' Exception to the Administrative Procedure Act's Notice and Comment Procedure

GIPSA is also withdrawing the IFR because we believe it did not satisfy the APA's notice and comment requirements at 5 U.S.C. 553(b) and (c). GIPSA justified promulgating the IFR without notice and pre-promulgation opportunity for comment because we reasoned that its solicitation of comments over a five month period on the June 2010 NPRM satisfied those requirements. 81 FR at 92570. GIPSA reached this conclusion because proposed 9 CFR 201.3(c) in the June 2010 NPRM was largely the same as 9 CFR 201.3(a) in the IFR. Upon further examination, we recognize that this justification is not sufficient to meet the APA's bar for establishing ''good cause'' sufficient to dispense with normal notice and comment procedures.

To promulgate a rule as an interim final rule and forego the normal notice and comment procedure, an agency must invoke a ''good cause'' exception under the APA and explain its rationale within the rule itself.[46] To establish ''good cause,'' the agency must demonstrate that the normal procedure would be ''impracticable, unnecessary, or contrary to the public interest.'' [47] ''[T]he inquiry into whether good cause has been properly invoked must proceed on a case-by-case basis, with a sensitivity to the totality of the factors at play.'' [48] When agencies invoke ''good cause,'' ''the good cause exception is to be 'narrowly construed and only reluctantly countenanced.' '' [49]

Within the good cause inquiry, courts have identified situations that are ''impracticable, unnecessary, or contrary to the public interest,'' based on a consideration of multiple factors. Those factors include:

> the scale and complexity of the regulatory program the agency was required to implement; any deadlines for rulemaking imposed by the enabling statute; the diligence with which the agency approached the rulemaking process; obstacles outside the agency's control that impeded efficient completion of the rulemaking process; and the harm that could befall members of the public as a result of delays in promulgating the rule in question.[50]

A situation is ''impracticable'' if ''the agency cannot 'both follow section 553 and execute its statutory duties.' '' [51] ''Unnecessary'' refers to situations where the rule at issue is ''technical or minor'' [52] or where it ''is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'' [53] Finally, ''contrary to the public interest'' arises when there is ''real harm to the public, not mere inconvenience to the Agency,'' [54] and it ''connotes a situation in which the interest of the public would be defeated by any requirement of advance notice,'' such as a situation when announcing a rule would enable the harm the rule was designed to prevent.[55]

The sole justification for invoking ''good cause'' in the IFR was that its June 2010 NPRM soliciting public comment satisfied the APA's notice and comment requirements. Courts have acknowledged that an agency does not always have to ''start from scratch'' and initiate new notice and comment proceedings to re-promulgate a rule.[56] On the other hand, the ''mere presence of a prior notice and comment record'' does not automatically ''render the solicitation of new comments unnecessary.'' [57] ''Although the [APA] does not establish a 'useful life' for a notice and comment record, clearly the life of such a record is not infinite.'' [58] Accordingly, ''[i]f the original record is still fresh, a new round of notice and comment might be unnecessary. Such a finding, however, must be made by the agency and supported in the record; it is not self-evident.'' [59]

We are unable to identify circumstances sufficient to dispense

[39] *Id.* at 369.

[40] *Id.* at 369–70.

[41] 53 F.3d 1452 (8th Cir. 1995).

[42] *Id.* at 1458.

[43] *Id.*

[44] *Id.* at 1458–59 (internal citations omitted).

[45] S*ee Farrow* v. *USDA,* 760 F.2d 211, 214 (8th Cir. 1985) (''We agree with the JO that a practice which is likely to reduce competition and prices paid to farmers for cattle can be found an unfair practice under the Act, and be a predicate for a cease and desist order. We conclude that this is so even in the absence of evidence that the participants made their agreement for the purpose of reducing prices to farmers or that it had that result.'').

[46] 5 U.S.C. 553(b)(B).

[47] *Id.*

[48] *Woods Psychiatric Inst.* v. *United States,* 20 Cl. Ct. 324, 332–33 (1990) (citing *Alcaraz* v. *Block,* 746 F.2d 593, 612 (9th Cir. 1984)).

[49] *Tennessee Gas Pipeline Co.* v. *FERC,* 969 F.2d 1141, 1144 (D.C. Cir.1992) (quoting *State of New Jersey* v. *EPA,* 626 F.2d 1038, 1045 (D.C. Cir. 1980)).

[50] *Northern Mariana Islands* v. *United States,* 686 F.Supp.2d 7, 14–15 (D.D.C. 2009) (internal citations omitted).

[51] *Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1484 n.2 (9th Cir. 1992) (quoting *Levesque* v. *Block,* 723 F.2d 175, 184 (1st Cir. 1983)).

[52] *Id.*

[53] *Mack Trucks, Inc.* v. *EPA,* 682 F.3d 87, 94 (D.C. Cir. 2012) (quoting *Util. Solid Waste Activities Group* v. *EPA,* 236 F.3d 749, 755, (D.C. Cir. 2001).

[54] *Action on Smoking and Health* v. *Civ. Aeronautics Board,* 713 F.2d 795, 801–02 (D.C. Cir. 1983).

[55] *Util. Solid Waste Activities Group,* 236 F.3d at 755 (quoting United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 31 (1947)).

[56] *Mobile Oil Corp.* v. *EPA,* 35 F.3d 579, 584 (D.C. Cir. 1994).

[57] *Action on Smoking and Health* v. *Civ. Aeronautics Board,* 713 F.2d 795, 801 (D.C. Cir. 1983).

[58] *Id.* at 800.

[59] *Mobile Oil Corp.,* 35 F.3d at 584.

with traditional notice and comment procedures. Although a large number of comments were received over a five-month period, USDA is unwilling to assert—and the record does not support the inference that—the June 2010 NPRM was still ''fresh.'' [60] Accordingly, the IFR's good cause explanation is unlikely to withstand judicial scrutiny. As one commenter said, the record from the June 2010 rulemaking was ''stale.'' Thus, according to the commenter, GIPSA should have re-opened the comment period to refresh the rulemaking record or terminated the rulemaking record. GIPSA's decision to seek post-promulgation comment in the IFR, noting the high stakeholder interest, the intervening six years since the NPRM, and an interest in open and transparent government, suggests that the agency recognized the need to refresh the rulemaking record.

Failing ''to incorporate an adequate statement of good cause for dispensing with prior notice and comment has not been held fatal if good cause indeed existed,'' [61] but we can offer no further justifications as to why the normal notice and comment procedure was ''impracticable, unnecessary, or contrary to the public interest.'' The ''impracticable'' prong was not applicable because GIPSA could have executed its statutory duties by issuing a new proposed rule and soliciting comments in compliance with the APA. The ''unnecessary'' prong was also not applicable because GIPSA estimated the implementation costs of the rule for the livestock and poultry industries would be millions of dollars. For this reason alone, the IFR was not ''technical or minor.'' Finally, there was no evidence that prior notice and opportunity for comment would have been ''contrary to the public interest,'' as the IFR memorialized GIPSA's well known and longstanding interpretation.

GIPSA thus recognizes that no good cause existed. Neither Congress nor a court mandated that GIPSA issue § 201.3(a), nor were there any deadlines for its issuance.[62] Because § 201.3(a) only reiterated USDA's longstanding interpretation of the P&S Act as confirmed in the 2010 NPRM, the impacted livestock and poultry industries should have been aware of the interpretation, thereby negating the necessity to issue the rule immediately.[63] Also, there was no evidence that the public would suffer harm following the normal notice and comment procedure.[64] Although appropriations acts prevented GIPSA from taking any action for three years, this congressionally mandated delay alone is insufficient to constitute good cause.

For the reasons discussed above, GIPSA concludes that its possible justifications for issuing the rule as an interim final rule fail to meet any of the prongs of the ''good cause'' exception, individually or cumulatively. Therefore, the prior decision to forgo notice and comment was flawed and compels GIPSA to withdraw the IFR.

V. Required Impact Analyses

A. Effective Date

The IFR addressing the scope of 7 U.S.C. 192(a) and (b) will become effective on October 19, 2017, unless withdrawn or suspended. Pursuant to the APA at 5 U.S.C. 553(d)(3), GIPSA finds good cause for making this final rule effective less than 30 days after publication in the **Federal Register** because it would be contrary to the public interest to delay any further.

Justifiable good cause includes situations where the interest of the public is defeated when following the normal procedure would create the harm the rule was designed to prevent.[65] This situation is present here. A significant purpose in withdrawing the IFR is to avoid conflict with federal appellate courts. If the IFR goes into effect before this final rule to withdraw it can go into effect, the conflict with the federal appellate courts will occur. Accordingly, to eliminate this potential conflict, it is necessary to have this rule become effective immediately.

Additionally, because GIPSA erred in promulgating the IFR without following the APA's normal notice and comment procedure, it is in the public's interest for GIPSA to respect the rule of law and withdraw the IFR. Immediately withdrawing the IFR prevents confusion in the livestock and poultry industries that may occur if the interim rule was only briefly effective. Thus, this final rule will be effective upon publication in the **Federal Register**.

B. Executive Orders 12866 and 13771, and Regulatory Flexibility Act

This final rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. This final rule is an Executive Order 13771 deregulatory action. Assessment of the cost of allowing the interim final rule to take effect and the cost savings attributed to not allowing the interim final rule to take effect may be found in the economic analysis below.

The first section of the analysis discusses the two regulatory alternatives considered and presents a summary cost-benefit analysis of each alternative. GIPSA then discusses the impact on small businesses.

Cost-Benefit Analysis of § 201.3(a)

Regulatory Alternatives Considered

Executive Order 12866 requires an assessment of costs and benefits of potentially effective and reasonably feasible alternatives to the planned rulemaking and an explanation of why the planned regulatory action is preferable to the potential alternatives. In the IFR, GIPSA considered three alternatives. The first alternative considered was to maintain the status quo and not finalize § 201.3(a). The second alternative considered was to issue § 201.3(a) as an IFR. The third alternative considered was to issue § 201.3(a) as an IFR but exempt small businesses, as defined by the Small Business Administration, from having to comply with the rule. GIPSA chose the second alternative, to issue § 201.3(a) as an IFR. The IFR announced GIPSA would add a paragraph to section 201.3 of the regulations addressing the scope of 7 U.S.C. 192(a) and (b). After multiple delays of the effective date, the IFR was scheduled to become effective on October 19, 2017.

In preparing this final rule, GIPSA initially considered four alternatives, as described in Section III above. After soliciting comments on the four alternatives, GIPSA is only further analyzing two of the alternatives, allowing the IFR to become effective (alternative 1) and withdrawing the IFR (alternative 4). GIPSA is only further analyzing these two alternatives because all of the commenters who selected a preferred alternative selected alternatives 1 and 4, save one commenter. That commenter, as discussed in Section III, appears to have had a real preference for alternative 4.

In analyzing these two alternatives, GIPSA used the same data and analysis as presented in the IFR. GIPSA used the

[60] *See id.*

[61] *Kollett* v. *Harris,* 619 F.2d 134, 144–45 (1st Cir. 1980).

[62] *Id.* at 15.

[63] *Id.*

[64] *See U.S. Steel Corp.* v. *EPA,* 595 F.2d 207, 214 n.15 (5th Cir. 1979) (listing as examples of harm regulations ''involving government price controls, because of the market distortions caused by the announcement of future controls'' and regulations involving ''gas stations, where temporary shortages and discriminatory practices were found to have deprived some users of any supply and led to violence'').

[65] *See Util. Solid Waste Activities Group* v. *EPA,* 236 F.3d 749, 755 (D.C. Cir. 2001).

same data and analysis because only a relatively short period of time has elapsed since the economic analysis was conducted for the IFR. Therefore, the underlying facts and reasoning used in the estimates prepared for the IFR have not changed to any material extent. Also, because of the relatively short period of time since the publication of the IFR, the livestock and poultry industries have not had time to make significant changes in their structures, practices, or methodologies—if they have made any changes. Moreover, GIPSA anticipated that many firms would take a ''wait and see'' approach and would not make significant changes to their operations or procurement practices until they were sure that the IFR would become effective.

Given the multiple delays of the effective date of the IFR and the proposed rule seeking comments on the disposition of the IFR, GIPSA believes that few, if any, livestock and poultry producers and stakeholders changed their operations or procurement practices in reliance on the assumption that the IFR would become effective. In fact, *no* commenters on this proposed rule said they changed their operations or procurement practices, nor has GIPSA otherwise been made aware of anyone or any business making changes to their operations or procurement practices in reliance on the IFR's becoming effective. Therefore, the conditions in the livestock and poultry industries likely remain as they were when the IFR was published.

Alternative One: Allow the Interim Final Rule To Become Effective

The costs and benefits described for alternative number two in the IFR, to finalize the IFR, equate to current alternative 1, allowing the IFR to become effective. In the absence of any action by GIPSA, the IFR will become effective on October 19, 2017, and the costs and benefits associated with the rule will start to be incurred once the IFR becomes effective. Although none of these costs or benefits associated with the IFR result under current practice, they will result from allowing the IFR to become effective. As such, GIPSA analyzed the post-regulatory world in preparing the regulatory analysis associated with the IFR as the best estimate of the legal status quo.

As described in the IFR, given the applicability of the regulation to the livestock and poultry industries in their entirety, it was difficult to predict how those industries would respond. Therefore, in the IFR, GIPSA assigned a range to the expected costs of the regulation. At the lower boundary of the cost spectrum, GIPSA considered the scenario where the only costs were increased litigation costs and where there were no adjustments by the livestock and poultry industries to reduce their use of Alternative Marketing Agreements (AMA) or incentive pay systems—such as poultry grower ranking systems—and there were no changes to existing marketing or production contracts. For the upper boundary of the cost spectrum, GIPSA considered the scenario in which the livestock and poultry industries adjusted their use of AMAs and incentive pay systems and made systematic changes in its marketing and production contracts to reduce the threat of litigation.[66]

GIPSA estimated the annualized costs of § 201.3(a) to range from $6.87 million to $96.01 million at the three percent discount rate and from $7.12 million to $98.60 million at the seven percent discount rate. The range of potential costs is broad. GIPSA relied on its expertise to arrive at a point estimate range of expected annualized costs. GIPSA expected that the cattle, hog, and poultry industries would primarily take a ''wait and see'' approach to how courts would interpret § 201.3(a), and the industries would only slightly adjust their use of AMA's and performance-based payment systems in the meantime. GIPSA estimated that the annualized cost of § 201.3(a) would be $51.44 million at a three percent discount rate and $52.86 million at a seven percent discount rate based on an anticipated ''wait and see'' approach and limited industry adjustments.

Although GIPSA was unable to quantify the benefits of § 201.3(a), GIPSA determined that this rule did provide a qualitative benefit. The primary qualitative benefit would be broader protection and fair treatment for livestock producers, swine production contract growers, and poultry growers, which could lead to more equitable contracts. GIPSA contended that the enactment of § 201.3(a) would allow for the increased ability to enforce the P&S Act for violations of 7 U.S.C. 192(a) and (b), which do not result in harm or likely harm to competition. GIPSA believed that increased enforcement actions would help in reducing the ability of packers, swine contractors, and live poultry dealers to monopolize or exercise market power. This, in turn, would help provide livestock producers, swine production contract growers, and poultry growers with some degree of negotiating power parity. GIPSA also believed that enforcement could serve as a deterrent to future violations of 7 U.S.C. 192(a) and (b).

Alternative Two: Withdraw the Interim Final Rule

Withdrawing the IFR negates the $51.44 million with a range of $6.87 million to $96.01 million at a three percent discount rate and $52.86 million with a range of $7.12 million to $98.60 million at a seven percent discount rate in projected annualized costs described above that would be incurred should the IFR become effective. It also means that the qualitative benefit of § 201.3(a)—broader protection and fair treatment for livestock producers, swine production contract growers, and poultry growers, which may lead to more equitable contracts are not expected to occur as a result of this rule. Instead, GIPSA expects that packers and live poultry dealers would continue with their current practices and that current rates of enforcement of the 7 U.S.C. 192(a) and (b) would remain unchanged.

Cost-Benefit Comparison of Regulatory Alternatives

Alternative 1, allowing the IFR to become effective, results in annualized costs estimated at $51.44 million with a range of $6.87 million to $96.01 million at a three percent discount rate and $52.86 million with a range of $7.12 million to $98.60 million at a seven percent discount rate. As stated above, GIPSA was unable to quantify the benefits of § 201.3(a), but it did identify qualitative benefits of allowing the IFR to become effective. The primary qualitative benefit of this alternative was broader protection and fair treatment for livestock producers, swine production contract growers, and poultry growers, which may lead to

[66] GIPSA specifically looked at the following range of expected costs if the interim final rule became effective:

A. Lower Boundary of Cost Spectrum-Litigation Costs of Preferred Alternative (81 FR 92578–92580).

B. Lower Boundary-Ten-Year Total Costs of the Preferred Alternative (81 FR 92580–92581).

C. Lower Boundary-Net Present Value of Ten-Year Total Costs of the Preferred Alternative (81 FR 92581).

D. Lower Boundary-Annualized NPV of Ten-Year Total Costs of the Preferred Alternative (81 FR 92581).

E. Upper Boundary of Cost Spectrum-Preferred Alternative (81 FR 92581–92585).

F. Upper Boundary-NPV of Ten-Year Total Costs of the Preferred Alternative (81 FR 92585).

G. Upper Boundary-Annualized Costs of the Preferred Alternative (81 FR 92585).

H. Sensitivity Analysis of the Upper Boundary (81 FR 92585).

I. Range of Annualized Costs of the Preferred Alternative (81 FR 92585–92586).

J. Point Estimate of Annualized Costs of the Preferred Alternative (81 FR 92586).

K. Sensitivity Analysis of Point Estimates of Annualized Costs (81 FR 92586–92587).

more equitable contracts. Benefits to the industries and the markets were projected to come from improvements to the parity of negotiating power and from increased enforcement serving as a deterrent to future violations. Upon further consideration of comments, the amount of increased enforcement may have been overestimated, because GIPSA was only enshrining in the rulemaking USDA's longstanding view that proof of likelihood of harm to competition is not required in all instances. Additionally, GIPSA's estimates were based on the assumption that all courts would enforce the IFR, ignoring the case law to the contrary. Notwithstanding an expected lack of deference by the Federal Circuits to the regulation, an increase in litigation is unavoidable in the livestock and poultry industries to not only interpret this regulation, but also to uphold it. This serves neither the interests of the livestock and poultry industries nor GIPSA.

Alternative 2, withdrawing the IFR, would result in the benefit of eliminating the projected annualized costs of $51.44 million with a range of $6.87 million to $96.01 million at a three percent discount rate and $52.86 million with a range of $7.12 million to $98.60 million at a seven percent discount rate that would be incurred if the IFR became effective. These figures represent the cost savings from withdrawing the IFR, however, these savings come at the arguable cost of the qualitative benefit GIPSA identified in the IFR. The projected broader protection and fair treatment for livestock producers, swine production contract growers, and poultry growers, which might possibly lead to more equitable contracts, will be lost.

Having considered both alternatives, GIPSA believes that alternative 2, withdrawing the IFR, is the best option.

Regulatory Flexibility Act Analysis of Withdrawing the Interim Final Rule

The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System Codes (NAICS).[67] SBA considers broiler and turkey producers and swine contractors, NAICS codes 112320, 112330, and 112210 respectively, to be small businesses if sales are less than $750,000 per year. Live poultry dealers, NAICS 311615, are considered small businesses if they have fewer than 1,250 employees. Beef and pork packers, NAICS 311611, are defined as small businesses if they have fewer than 1,000 employees.

The Regulatory Flexibility Analysis in the IFR published on December 20, 2016, analyzed the impact of enacting the IFR on small businesses (81 FR 92591–92594). As part of the analysis, GIPSA identified the approximate number of entities subject to the IFR that were small businesses and analyzed the costs for those small businesses to implement § 201.3(a), both in the first full year of implementation (at that time 2017), and annualized over a ten-year period. Because of the relatively short period of time since the publication of the IFR, the numbers of subject entities that are small businesses have not appreciably changed; therefore, the same number of entities that were small businesses that would have been impacted by implementing the IFR are the same entities that would be impacted by withdrawing the IFR.

The Census of Agriculture (Census) indicates there were 558 farms that sold their own hogs and pigs in 2012 and that identified themselves as contractors or integrators. GIPSA estimated that about 65 percent of swine contractors had sales of less than $750,000 in 2012 and would have been classified as small businesses. These small businesses accounted for only 2.8 percent of the hogs produced under production contracts. Additionally, there were 8,031 swine producers in 2012 with swine contracts and about half of these producers would have been classified as small businesses.

Based on U.S. Census data on county business patterns, in 2013, there were approximately 59 live poultry dealers employing fewer than 1,250 people each, which would have been classified as small businesses. GIPSA records for 2014 indicated there were 21,925 poultry production contracts in effect, of which 13,370, or 61 percent, were held by the largest six live poultry dealers, and 90 percent (19,673) were held by the largest 25 firms. These 25 firms are all in the large business SBA category, whereas the 21,925 poultry growers holding the other end of the contracts are almost all small businesses by SBA's definitions. GIPSA determined that poultry dealers classified as large businesses are responsible for about 89.7 percent of the costs on poultry contracts and therefore, by extension, small businesses would be responsible for 10.3 percent of the costs. GIPSA records, as of June 2016, included 227 firms reporting the slaughter of hogs. Of these, 219 would be classified as small businesses. GIPSA estimated that small businesses accounted for approximately 17.8 percent of the hogs slaughtered in 2015. For that same year, GIPSA records, included 293 firms reporting the slaughter of cattle. Of these, 287 would be classified as small businesses.

As discussed earlier, because of the relatively short period of time since the publication of the IFR, the livestock and poultry industries have not changed their structures, practices, or methodologies. Also, GIPSA correctly predicted that many firms would take a ''wait and see'' approach and would not want to make significant changes to their operations or procurement practices until they were sure that the IFR would become effective. Consequently, no small businesses should incur any costs from the IFR's withdrawal.

Based on this analysis, GIPSA certifies that withdrawal of the IFR is not expected to have a significant economic impact on a substantial number of small business entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

C. Executive Order 12988

GIPSA reviewed this final rule under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect nor will it pre-empt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted before any judicial challenge to this final rule. Nothing in this final rule is intended to interfere with a person's right to enforce liability against any person subject to the P&S Act under authority granted in section 308 of the P&S Act.

D. Executive Order 13175

GIPSA reviewed this final rule in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and 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 on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Although GIPSA has assessed the impact of this final rule on Indian tribes and determined that this final rule does not, to its knowledge, have tribal implications that require tribal consultation under Executive Order

[67] See: *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

13175, GIPSA offered opportunities to meet with representatives from Tribal Governments during the comment period for the June 2010 NPRM (June 22 to November 22, 2010) with specific opportunities in Rapid City, South Dakota, on October 28, 2010, and Oklahoma City, Oklahoma, on November 3, 2010. GIPSA invited all tribal governments to participate in these venues for consultation. GIPSA has received no specific indication that the final rule will have tribal implications and has received no further requests for consultation as of the date of this publication. If a Tribe requests consultation, GIPSA will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications herein are not expressly mandated by Congress.

E. Paperwork Reduction Act

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does not involve collection of new or additional information by the federal government.

F. E-Government Act Compliance

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

List of Subjects in 9 CFR Part 201

Contracts, Livestock, Poultry, Trade practices.

■ Accordingly, the interim final rule amending 9 CFR Part 201 that was published at 81 FR 92566–92594 on December 20, 2016, is withdrawn.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–22593 Filed 10–17–17; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

RIN 0580–AB27

Unfair Practices and Undue Preferences in Violation of the Packers and Stockyards Act

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule; notification of no further action.

SUMMARY: The Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA), Packers and Stockyards Program (P&SP) is notifying the public that after review and careful consideration of the public comments received, GIPSA will take no further action on the proposed rule published on December 20, 2016.

DATES: As of October 18, 2017, GIPSA will take no further action on the proposed rule published on December 20, 2016, at 81 FR 92703.

FOR FURTHER INFORMATION CONTACT: S. Brett Offutt, Director, Litigation and Economic Analysis Division, P&SP, GIPSA, 1400 Independence Ave. SW., Washington, DC 20250–3601, (202) 720–7051, *s.brett.offutt@usda.gov.*

SUPPLEMENTARY INFORMATION: On December 20, 2016, GIPSA published in the **Federal Register** (81 FR 92703) and invited comments on a proposed rule to amend the regulations issued under the Packers and Stockyards Act (P&S Act) (7 U.S.C. 181–229c). GIPSA intended that the proposed rule would clarify the conduct or action that GIPSA considers unfair, unjustly discriminatory, or deceptive in violation of 7 U.S.C. 192(a). The proposed rule also identified criteria that the Secretary would use to determine if conduct or action by packers, swine contractors, or live poultry dealers constitutes an undue or unreasonable preference or advantage in violation of 7 U.S.C. 192(b). GIPSA published a document in the February 7, 2017, **Federal Register** (82 FR 9533) to extend the comment period for the proposed rule from February 21, 2017, to March 24, 2017. GIPSA received 866 comments on the proposed rule.

Commenters opposing the proposed rule stated that the purpose of the P&S Act is to protect competition, not individual competitors or market participants. The commenters commonly claimed that the proposed rule would increase litigation industry-wide. Commenters stated that if the requirement to show harm to competition was no longer applicable, the proposed rule would embolden producers and growers to sue for any perceived slight by a packer, swine contractor, or live poultry dealer. Commenters also pointed out that the proposed rule contains vague terms and phrases including: ''legitimate business justification,'' ''retaliatory action,'' ''similarly situated,'' ''reasonable time to remedy,'' ''arbitrary reason,'' and ''but is not limited to.'' They argued that those terms and phrases are overbroad and create ambiguity regarding the conduct or action that would be permitted or prohibited. They speculated that this ambiguity would lead to broad interpretations that would make compliance difficult, and that this uncertainty would generate litigation.

Also, commenters noted that the proposed rule conflicts with case law in multiple U.S. Courts of Appeals that have ruled that 7 U.S.C. 192(a) and (b) only authorize a cause of action if the conduct at issue harms, or is likely to harm, competition. The Department of Justice (DOJ) filed amicus briefs with several of these courts, but DOJ's legal arguments failed to persuade the courts. Commenters further wrote that at least two of these U.S. Courts of Appeals are unlikely to grant deference to the proposed rule if finalized. Also, commenters argued that Congress considered and ultimately declined to enact legislation in 2007 that would have overturned the judicial decisions interpreting 7 U.S.C. 192(a) that require a showing of harm or likely harm to competition.

Producers, growers, and farm trade groups generally supported the proposed rule, with some exceptions. Commenters who expressed support often noted that many farmers invest millions of dollars of their own money on new—or upgrades to existing—production facilities in order to meet the contractual demands of packers, swine contractors, or live poultry dealers. Many wrote that farmers need the proposed rule to protect them from unfair, deceptive, or retaliatory practices that can cause farmers to lose their operations and investments. These commenters stated that this proposed rule provided long overdue protection to farmers and clarified to the industry the conduct or action that is a violation of the P&S Act.

The proposed rule closely relates to the interim final rule (IFR) published in the **Federal Register** (81 FR 92566) on December 20, 2016, which stated that conduct or actions can violate 7 U.S.C. 192(a) or (b) of the P&S Act without a finding of harm or likely harm to competition. In the IFR, GIPSA formalized its longstanding interpretation of 7 U.S.C. 192(a) and (b). In the preamble to the proposed rule, GIPSA explained that the rule was consistent with the IFR because proposed 9 CFR 201.210(b) and 201.211 give examples of conduct that does not require likelihood of harm to competition to violate 7 U.S.C. 192(a) and (b). GIPSA withdrew the IFR because, among other reasons, it is inconsistent with court decisions in several Courts of Appeals and those courts are unlikely to give GIPSA's interpretation deference.

As the comments noted, this proposed rule, like the IFR, conflicts with legal precedent in several Circuits. These conflicts pose serious concerns. GIPSA is cognizant of the commenters who support allowing the proposed rule and their concerns regarding the imbalance of bargaining power Also, we recognize that the livestock and poultry industries have a vested interest in understanding what conduct or actions violate 7 U.S.C. 92(a) and (b). This proposed rule, however, would inevitably generate litigation in the livestock and poultry industries. Protracted litigation to both interpret this regulation and defend it serves neither the interests of the livestock and poultry industries nor GIPSA.

Also, as the preamble to the proposed rule noted: ''For several decades, GIPSA has brought administrative enforcement actions against packers for violations of the regulations under the P&S Act without demonstrating harm or likely harm to competition.'' In the proposed rule itself, GIPSA linked the proposed rule to practices that are already violations of the regulations and statute, such as 9 CFR 201.82, and 7 U.S.C. 228b. GIPSA also predicted that the proposed rule would not increase administrative enforcement actions against packers because GIPSA designed the regulations to follow its current interpretation of 7 U.S.C. 192(a) and (b). On the other hand, some commenters wrote that the breadth of the proposed regulation would suppress innovative contracting because regulated entities would fear the increased risk of litigation presented by ambiguous terms in the proposed rule. As stated previously, commenters noted producers and growers might be emboldened to sue for any perceived slight.

Executive Order 13563 directs, as a matter of regulatory policy, that USDA identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends; to

account for benefits and costs, both quantitative and qualitative; and to tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives. To the extent the proposed rule codified longstanding practice, the prescriptions of the proposed rule could have the unintended consequence of preventing future market innovations that might better accommodate rapidly evolving social and industry norms. In the past, GIPSA has approached the elimination of specific unfair and deceptive practices on a case-by-case basis. Continuing this approach will better foster market-driven innovation and evolution, and is consistent with the obligation to promote regulatory predictability, reduce regulatory uncertainty, and identify and use the most innovative and least burdensome tools for achieving regulatory ends.

Therefore, after review and careful consideration of the public comments received, GIPSA will take no further action on the December 20, 2016, proposed rule referenced above.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–22588 Filed 10–17–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Wednesday,
No. 200 October 18, 2017

Part III

The President

Notice of October 16, 2017—Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

Federal Register
Vol. 82, No. 200
Wednesday, October 18, 2017

Presidential Documents

Title 3—

The President

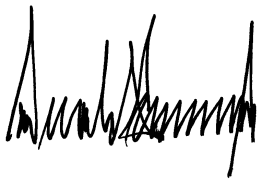
Notice of October 16, 2017

Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

On October 21, 1995, by Executive Order 12978, the President declared a national emergency with respect to significant narcotics traffickers centered in Colombia pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant narcotics traffickers centered in Colombia and the extreme level of violence, corruption, and harm such actions cause in the United States and abroad.

The actions of significant narcotics traffickers centered in Colombia continue to threaten the national security, foreign policy, and economy of the United States and to cause an extreme level of violence, corruption, and harm in the United States and abroad. For this reason, the national emergency declared in Executive Order 12978 of October 21, 1995, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond October 21, 2017. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to significant narcotics traffickers centered in Colombia declared in Executive Order 12978.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
October 16, 2017.

[FR Doc. 2017–22765
Filed 10–17–17; 11:15 am]
Billing code 3295–F8–P

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Federal Register

Vol. 82, No. 200

Wednesday, October 18, 2017

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

45679–45954 2
45955–46122 3
46123–46368 4
46369–46654 5
46655–46892 6
46893–47082 10
47083–47362 11
47363–47610 12
47611–47952 13
47953–48192 16
48193–48388 17
48389–48608 18

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Proposed Rules:
1201 46716

3 CFR

Proclamations:
9646 46353
9647 46355
9648 46357
9649 46359
9650 46361
9651 46653
9652 47361
9653 47943
9654 47945
9655 47947
9656 47949
9657 47951
9658 48191
9659 48383

Executive Orders:
13522 (Revoked by EO 13812) 46367
13708 (Superseded by EO 13811) 46363
13805 (Revoked by EO 13811) 46363
13811 46363
13812 46367
13813 48385

Administrative Orders:
Memorandums:
Memorandum of September 25, 2017 46649

3 CFR

Administrative Orders:
Notices:
Notice of October 16, 2017 48607

5 CFR

1201 47083

7 CFR

15a 46655
319 45955

Proposed Rules:
33 46425
35 46425

09 CFR

201 48594

Proposed Rules:
201 48603

10 CFR

20 46666

Proposed Rules:
50 46717

11 CFR

Proposed Rules:
110 46937

12 CFR

271 45679
Ch. II 46668
Ch. V 47083
1002 45680
1024 47953
1101 45697

Proposed Rules:
211 47164
238 47164
740 46173
1026 48463

13 CFR

102 46369
120 47958

Proposed Rules:
Ch. I 47645

14 CFR

25 ..... 48193, 48389, 48394
36 46123
39 ..... 45697, 45701, 45703, 45705, 45710, 46379, 46382, 46669, 47084, 47091, 47094, 47363, 47367, 47371
71 ..... 45713 45714, 45715, 45716, 45717, 45719, 45720, 45957, 45958, 46893, 46894, 46895, 46897, 47097, 47098, 47103, 47104, 47611, 47612, 47959, 47960, 47961, 47962
73 ..... 45721, 46898, 47964
91 46123
97 ..... 46385, 46386

Proposed Rules:
Ch. I 45750
39 ..... 45743, 46719, 46722, 46725, 46727, 46729, 46938, 47405
71 ..... 45747, 45749, 46426, 48010, 48011
97 46738
Ch. II 45750
Ch. III 45750

15 CFR

730 45959
732 45959
734 45959
736 45959
738 45959
740 45959
742 45959
743 45959
744 45959
746 45959
748 45959

750.....45959
754.....45959
756.....45959
758.....45959
760.....45959
762.....45959
764.....45959
766.....45959
768.....45959
770.....45959
772.....45959
774.....45959

Proposed Rules:
30.....46739

16 CFR

Proposed Rules:
Ch. II.....46740
1250.....47645

17 CFR

Ch. I.....48394
227.....45722
230.....45722

18 CFR

Proposed Rules:
35.....46940, 48013
801.....47407

21 CFR

862.....48413
866.....47965, 47967
870.....46900
876.....45725, 47969
882.....47373
1308.....47971

Proposed Rules:
101.....45753
112.....47656

23 CFR

Proposed Rules:
Ch. I.....45750
Ch. II.....45750
Ch. III.....45750
490.....46427

25 CFR

Proposed Rules:
517.....48205

26 CFR

1 .....46388, 46671, 46672
54.....47792, 47838

Proposed Rules:
1.....47408, 48013
54.....47656, 47658
301.....48013

27 CFR

Proposed Rules:
4.....47164, 47165
24.....47165, 47167

29 CFR

2590.....47792, 47838
4022.....47613

Proposed Rules:
2560.....47409

30 CFR

56.....46411
57.....46411
583.....45962

31 CFR

0.....47105
23.....47107

32 CFR

706.....48415

33 CFR

100 .....45977, 45979, 46413, 46672, 47615, 48417
117 .....45728, 45729, 45980, 45981, 47112, 47615, 47974, 47975, 48419
155.....47975
165 .....45729, 45981, 45984, 45986, 45988, 46132, 46901, 47113, 47374, 47616, 47618, 47620, 47623, 48420, 48422
326.....47623

Proposed Rules:
110.....46004
117.....46948
165.....46007

34 CFR

600.....48424
668.....48195
674.....48195
682.....48195
685.....48195

37 CFR

Proposed Rules:
2.....48469
201.....47415
202.....47415

38 CFR

Proposed Rules:
17.....45756, 48018

39 CFR

111.....47628
266.....47115

Proposed Rules:
111.....46010, 47659
3050.....46950, 47168

40 CFR

9.....45990
52 .....45995, 45997, 46134, 46136, 46415, 46417, 46420, 46672, 46674, 46679, 46681, 46682, 46903, 46915, 46917, 46919, 46921, 46923, 47122, 47145, 47147, 47149, 47154, 47376, 47378, 47380, 47383, 47385, 47393, 47396, 47397, 47629, 47630, 47631, 47634, 47635, 47636, 47640, 47930, 47936, 47981, 47983, 47985, 47988, 47992, 47993, 48324, 48425, 48431, 48435, 48439, 48442, 48448
60.....48202
62.....47398
63.....47328, 48156
70.....46420
81.....48442, 48448
97.....48324
180 .....45730, 46685, 46926, 46929, 47996, 48000
261.....45736
721.....45990

Proposed Rules:
52 .....45762, 46010, 46433, 46434, 46444, 46450, 46453, 46741, 46742, 46951, 47169, 47170, 47662, 48030, 48033, 48034, 48035, 48472, 48473, 48474, 48475
60.....48035
62.....47421
70.....46453
80.....46174
81.....48474, 48475
180.....47422
271.....46454
711.....47423

41 CFR

Proposed Rules:
Ch. 301.....47663
App. C.....47663
304.....47663
305.....47663
306.....47663

42 CFR

405.....46138
409.....46163
411.....46163
412.....46138
413.....46138, 46163
414.....46138
416.....46138
424.....46163
486.....46138
488.....46138, 46163
489.....46138
495.....46138

Proposed Rules:
416.....46181
418.....46181
424.....46181
482.....46181
483.....46181
485.....46181
511.....46182

43 CFR

Proposed Rules:
3160.....46458
3170.....46458

45 CFR

147.....47792, 47838

Proposed Rules:
160.....46182
162.....46182

46 CFR

Proposed Rules:
Ch. II.....45750

47 CFR

1.....46688
2 .....46688, 47155, 48459
15.....46688
27.....47155
51.....47161
64.....48203
80.....48459
90 .....46688, 46690, 47400, 48005, 48459
95.....46688
97.....46688

Proposed Rules:
1.....46011
20.....46011, 47663
52.....47669
74.....47683
76.....47683
78.....47683

48 CFR

Proposed Rules:
Ch. 12.....45750

49 CFR

174.....48006
831.....47401

Proposed Rules:
Ch. I.....45750
Ch. II.....45750
Ch. III.....45750
Ch. V.....45750
Ch. VI.....45750
Ch. VII.....45750
Ch. VIII.....45750
Ch. X.....45750
Ch. XI.....45750
1102.....45771

50 CFR

17.....46691
622 .....46170, 47162, 47640, 47641
635.....46000, 46934
648 .....46002, 46936, 48007, 48008
665.....47642
679 .....46171, 46422, 47162, 47402, 47403, 48204,48460

Proposed Rules:
17 .....45779, 46183, 46197, 46618, 46748
20.....46011
36.....45793
229.....47424
300.....46016
622.....46205
648.....46749
660.....46209
679.....46016

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 12, 2017

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