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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0993; Product Identifier 2017–CE–026–AD; Amendment 39–19168; AD 2018–02–15]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2007–08–06 for British Aerospace Regional Aircraft Models HP.137 Jetstream Mk.1, Jetstream Series 200, Jetstream Series 3101, and Jetstream Model 3201 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the need for airworthiness limitations for critical components in the main and nose landing gear assemblies. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective March 5, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 5, 2018.

ADDRESSES: You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0993; or in person at the Docket Operations, U.S. Department of Transportation M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44 1292 675704; email: *RApublications@baesystems.com;* internet: *http://www.baesystems.com/Businesses/RegionalAircraft/*. You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for Docket No. FAA–2017–0993.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to British Aerospace Regional Aircraft Models HP.137 Jetstream Mk.1, Jetstream Series 200, Jetstream Series 3101, and Jetstream Model 3201 airplanes. That NPRM was published in the **Federal Register** on October 24, 2017 (82 FR 49144), and proposed to supersede AD 2007–08–06, Amendment 39–15023 (72 FR 18565; April 13, 2007) (''AD 2007–08–06'').

Since we issued AD 2007–08–06, new part numbers have been introduced into service that allow for a change in the life limits requirements in the airworthiness limitations.

The NPRM proposed to address an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states that:

> The airworthiness limitations for critical Main Landing Gear and Nose Landing Gear components installed on Jetstream 3100 and 3200 aeroplanes, which are approved by EASA, are currently defined and published in BAE Systems (Operations) Ltd Service Bulletin (SB) 32–JA981042. These instructions have been identified as mandatory actions for continued airworthiness. Failure to accomplish these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2006–0087 to require implementation of the airworthiness limitations for critical landing gear components as specified in BAE Systems (Operations) Ltd SB 32–JA981042 at Revision 5.
>
> Since that [EASA] AD was issued, two new Part Numbers (P/N) were introduced into service (alternative port and starboard axles P/N AIR141958 and P/N AIR141959 specific to Jetstream 3200). Consequently, BAE Systems (Operations) Ltd published SB 32–JA981042 Revision 7 (later revised) to introduce the associated life limits, and to introduce a life limit for the steering jack piston, which was found missing in the SB at Revision 5.
>
> For the reason described above, this [EASA] AD retains the requirements of AD 2006–0087, which is superseded, and requires implementation of the airworthiness limitations as specified in BAE Systems (Operations) Ltd SB 32–JA981042 at Revision 9 (hereafter referred to as 'the SB' in this AD).

The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/document?D=FAA-2017-0993-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JA981042, Revision No. 9, dated July 11, 2017. The service information describes airworthiness limitations for landing gear components

and procedures for replacement of those components as necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the AD.

Costs of Compliance

We estimate that this AD will affect 26 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $4,420, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 6 work-hours and require parts costing $5,000, for a cost of $5,510 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0993; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15023 (72 FR 18565; April 13, 2007) and adding the following new AD:

2018–02–15 British Aerospace Regional Aircraft: Amendment 39–19168; Docket No. FAA–2017–0993; Product Identifier 2017–CE–026–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 5, 2018.

(b) Affected ADs

This AD supersedes AD 2007–08–06, Amendment 39–15023 (72 FR 18565; April 13, 2007) (''AD 2007–08–06'').

(c) Applicability

This AD applies to British Aerospace Regional Aircraft Models HP.137 Jetstream Mk.1, Jetstream Series 200 and 3101, and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the need for airworthiness limitations for critical components in the main and nose landing gear assemblies. We are issuing this AD to introduce new replacement part numbers and incorporate new limitations for the replacement part numbers to prevent failure of the main and nose landing gear, which could result in loss of control.

(f) Actions and Compliance

Unless already done, do the following actions listed in paragraphs (f)(1) through (4) of this AD:

(1) *For all affected airplanes:* Before further flight after March 5, 2018 (the effective date of this AD), replace each component part in the main and nose landing gear assemblies as applicable to airplane model and configuration before exceeding the applicable life limit, following the Accomplishment Instructions in BAE Systems British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JA981042 Rev 9, dated July 11, 2017.

(2) *For the affected Model Jetstream 3201 airplanes:* Within the next 50 hours after March 5, 2018 (the effective date of this AD), replace alternative port and starboard axles part numbers (P/N) AIR141958 and P/N AIR141959 that have exceeded the applicable life limits as shown in table 5 of BAE Systems British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JA981042 Rev 9, dated July 11, 2017.

(3) *For all affected airplanes:* Before further flight after March 5, 2018 (the effective date of this AD), revise the FAA-approved maintenance program (instructions for continued airworthiness) that the operator or the owner uses to ensure the continuing airworthiness of each operated airplane, as applicable to the airplane model, by incorporating the limitations described in BAE Systems British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JA981042 Rev 9, dated July 11, 2017, as applicable to the airplane model and depending on the airplane configuration.

(4) *For all affected airplanes:* The compliance times in paragraphs (f)(1) and (2)

of this AD are presented in flight cycles (landings). If the total flight cycles have not been kept, multiply the total number of airplane hours time-in-service (TIS) by 0.75 to calculate the cycles. For the purposes of this AD:

(i) 100 hours TIS × .75 = 75 cycles; and

(ii) 1,000 hours TIS × .75 = 750 cycles.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, Small Airplane Standards Branch, FAA; or the European Aviation Safety Agency (EASA).

(h) Related Information

(1) Refer to MCAI EASA AD 2017–0157, dated August 25, 2017, and, for related information. The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/document?D=FAA-2017-0993-0002*.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) BAE Systems British Aerospace Jetstream Series 3100 and 3200 Service Bulletin 32–JA981042 Rev 9, dated July 11, 2017.

(ii) Reserved.

(3) For BAE Systems (Operations) Limited service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44 1292 675704; email: *RApublications@baesystems.com;* internet: *http://www.baesystems.com/Businesses/RegionalAircraft/*.

(4) You may view this service information at FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. In addition, you can access this service information on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0993.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on January 16, 2018.

Melvin J. Johnson,

Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–01310 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0621; Product Identifier 2017–NM–049–AD; Amendment 39–19169; AD 2018–02–16]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC–8–400 series airplanes. This AD was prompted by reports that operation of fuselage doors was interrupted due to corrosion in certain door roller bearings. This AD requires a one-time detailed inspection of the bearings for corrosion, and replacement if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 5, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 5, 2018.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* internet *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0621.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0621; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on June 21, 2017 (82 FR 28269) (''the NPRM''). The NPRM was prompted by reports that operation of fuselage doors was interrupted due to corrosion in certain door roller bearings. The NPRM proposed to require a one-time detailed inspection of the bearings for corrosion, and replacement if necessary. We are issuing this AD to detect and correct bearing corrosion and prevent door operation interruptions that could inhibit safe evacuation of the airplane in an emergency.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–18, dated June 6, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–400 series airplanes. The MCAI states:

> A number of translating fuselage door operation interruptions has been reported. In one case, the Aft Service door could not be opened. It was found that the door lift latch bearings had corroded, which prevented the door from opening.

The translating doors are classified as emergency exits. The inability to open an emergency exit could inhibit evacuation in the event of an emergency. This [Canadian] AD is issued to mandate a one-time inspection of the translating door bearings to check for corrosion, replace bearings if required, and apply Corrosion Inhibiting Compound (CIC).

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0621.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment. The Air Line Pilots Association, International (ALPA) supported the NPRM.

Request To Remove Certain Service Information Procedures

Horizon Air requested that we change the language in paragraph (g) of the proposed AD to exclude the ''Job Set-Up'' and ''Close Out'' sections of the Accomplishment Instructions, because accomplishing those sections does not correct the unsafe condition, and requiring them restricts an operator's ability to perform other maintenance in conjunction with the requirements of the AD. Horizon Air requested that the final rule mandate only paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–88, dated April 14, 2016.

We agree with the commenter's request to exclude the ''Job Set-up'' and ''Close Out'' sections of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–88, dated April 14, 2016, because they are not required to address the unsafe condition identified in this AD. We have revised paragraph (g) of this AD to require only accomplishment of paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–88, dated April 14, 2016.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR part 51

Bombardier has issued Service Bulletin 84–52–88, dated April 14, 2016. This service information describes procedures for identification of corrosion in fuselage door bearings, replacement if necessary, and CIC application. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 143 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and CIC application	8 work-hours × $85 per hour = $680 for 3 doors	$0	$680	$97,240

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTSESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	4 work-hours × $85 per hour = $340 per door	$432	$772 per door.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2018–02–16 Bombardier, Inc.: Amendment 39–19169; Docket No. FAA–2017–0621; Product Identifier 2017–NM–049–AD.

(a) Effective Date

This AD is effective March 5, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 and 4003 through 4488 inclusive, except those incorporating Bombardier ModSum IS4Q5200050.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by reports of interrupted operation of translating fuselage doors caused by corrosion in the door lift and latch shaft roller bearings. We are issuing this AD to detect and correct bearing corrosion and prevent door operation interruptions that could inhibit safe evacuation of the airplane in an emergency.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Replacement of Bearings

Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs earlier, do a detailed visual inspection of all translating fuselage door lift and latch shaft roller bearings for signs of corrosion, damaged seals, and loss of lubricant; replace any corroded bearings; and apply corrosion-inhibiting compound (CIC); in accordance with paragraph 3.B., ''Procedure,'' of the Accomplishment Instructions of Bombardier Service Bulletin 84–52–88, dated April 14, 2016.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–52–85, dated September 23, 2015; or Bombardier Service Bulletin 84–52–85, Revision A, dated January 22, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–18, dated June 6, 2016, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0621.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 84–52–88, dated April 14, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on January 17, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–01317 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0896; Product Identifier 2017–SW–034–AD; Amendment 39–19166; AD 2018–02–13]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2017–07–02 for Sikorsky Aircraft Corporation (Sikorsky) Model 269D and Model 269D Configuration A helicopters. AD 2017–07–02 required reducing the life limit of and inspecting certain drive shafts. This new AD retains the requirements of AD 2017–07–02 and requires repeating the inspections. The actions of this AD are intended to detect and prevent an unsafe condition on these products.

DATES: This AD is effective March 5, 2018.

ADDRESSES: For service information identified in this final rule, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–Winged–S or 203–416–4299; email *wcs_cust_service_eng.gr-sik@lmco.com.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* in Docket No. FAA–2017–0896; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the economic evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Document Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7761; email *michael.schwetz@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2017–07–02, Amendment 39–18840 (82 FR 15120, March 27, 2017) and add a new AD. AD 2017–07–02 applied to Sikorsky Model 269D and Model 269D Configuration A helicopters with a KAflex engine side drive shaft part number (P/N) SKCP2738–7 and KAflex pulley side drive shaft P/N SKCP2738–5 installed. AD 2017–07–02 required reducing the life limit of the drive shafts and performing several inspections of the drive shafts within 25 hours time-in-service (TIS). AD 2017–07–02 also specified replacing the drive shaft assemblies as an optional terminating action for the requirements of the AD. AD 2017–07–02 was prompted by four incidents involving failure of the engine side drive shaft. The actions required by AD 2017–07–02 were intended to prevent failure of the drive shaft, loss of rotor drive, and subsequent loss of control of the helicopter.

The NPRM published in the **Federal Register** on September 22, 2017 (82 FR 44353) to provide the public an opportunity to comment on proposed requirements with longer intervals. The NPRM proposed to retain the requirements of AD 2017–07–02 and repeat some of the inspections every 100 hours TIS or 400 hours TIS. Repeating these inspections is necessary to detect and prevent the unsafe condition.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

We reviewed Appendix B to Sikorsky S–330 Model 269D Helicopter Basic Handbook of Maintenance Instructions No. CSP–D–2, dated February 1, 1993, and revised October 15, 2014; and Appendix B to Sikorsky S–333 Model 269D Config. ''A'' Helicopter Basic Handbook of Maintenance Instructions No. CSP–D–9, dated July 20, 2001, and revised October 15, 2014. This service information specifies repetitive inspection procedures, overhaul and retirement schedules, and weight and balance procedures. The Airworthiness Limitations section, which is included in this service information, contains the life limits for drive shaft assembly P/Ns SKCP2738–5 and SKCP2738–7.

We also reviewed Sikorsky 269D Helicopter Alert Service Bulletin DB–052, Basic Issue, dated January 16, 2014, for Sikorsky Model 269D and Model 269D Configuration A helicopters. This service information distributes the service life reduction information and implements a new 1,200-hour overhaul inspection for drive shaft assembly P/Ns SKCP2738–3, SKCP2738–5, and SKCP2738–7.

Differences Between This AD and the Service Information

The Sikorsky service information specifies a drive shaft assembly service life of 3,000 hours TIS with a 1,200 hour overhaul inspection for Model 269D Configuration A helicopters, while this AD specifies a service life of 1,200 hours TIS.

The Sikorsky service information specifies different inspection procedures if there is spline engagement interference or resistance while inspecting the drive shaft alignment. This AD specifies replacing both the engine side and pulley side drive shafts if there is any spline engagement interference or resistance.

The Sikorsky service information specifies inspecting the working fastener condition without any specific succeeding action regarding the inspection. This AD specifies replacing both the engine side and pulley side drive shafts if there is any joint movement.

The Sikorsky service information specifies returning the drive shaft assembly to Sikorsky if there is fretting dust or red metallic residue at a joint. This AD specifies replacing both the engine side and pulley side drive shafts if there is any fretting corrosion.

Costs of Compliance

We estimate that this AD will affect 18 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD.

Removing the engine side and pulley side drive shafts that have reached the new life limit will take about 4 work-hours for a cost of $340 per helicopter. Inspecting the lower pulley to engine alignment using the belt alignment tool will take about 0.5 work-hour for an estimated cost of $43 per helicopter and $774 for the U.S. fleet per inspection cycle. Adjusting the engine elevation alignment will take about 0.5 work-hour for an estimated cost of $43 per helicopter. Inspecting the drive shaft alignment by checking spline engagement will take about 1 work-hour for a cost of $85 per helicopter and $1,530 for the U.S. fleet per inspection cycle. Inspecting the drive shafts for damage will take about 1 work-hour for an estimated cost of $85 per helicopter and $1,530 for the U.S. fleet per inspection cycle. Inspecting the joints will take about 1 work-hour for an estimated cost of $85 per helicopter and $1,530 for the U.S. fleet per inspection cycle. Replacing the engine side and pulley side drive shafts, if required, will take about 8 work-hours and parts will cost about $20,000, for an estimated cost of $20,680 per helicopter.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that a regulatory distinction is required, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017–07–02, Amendment 39–18840 (82 FR 15120, March 27, 2017), and adding the following new AD:

2018–02–13 Sikorsky Aircraft Corporation (Sikorsky): Amendment 39–19166; Docket No. FAA–2017–0896; Product Identifier 2017–SW–034–AD.

(a) Applicability

This AD applies to Sikorsky Model 269D and Model 269D Configuration A helicopters with a KAflex engine side drive shaft part number (P/N) SKCP2738–7 and KAflex pulley side drive shaft P/N SKCP2738–5 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a drive shaft. This condition could result in loss of rotor drive and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2017–07–02, Amendment 39–18840 (82 FR 15120, March 27, 2017).

(d) Effective Date

This AD becomes effective March 5, 2018.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Before further flight:

(i) For Model 269D helicopters, remove from service any KAflex engine side drive shaft P/N SKCP2738–7 and any KAflex pulley side drive shaft P/N SKCP2738–5 that has 6,000 or more hours time-in-service (TIS). Thereafter, remove from service any KAflex engine side drive shaft P/N SKCP2738–7 and any KAflex pulley side drive shaft P/N SKCP2738–5 before accumulating 6,000 hours TIS.

(ii) For Model 269D Configuration A helicopters, remove from service any KAflex engine side drive shaft P/N SKCP2738–7 and any KAflex pulley side drive shaft P/N SKCP2738–5 that has 1,200 or more hours TIS. Thereafter, remove from service any KAflex engine side drive shaft P/N SKCP2738–7 and any KAflex pulley side drive shaft P/N SKCP2738–5 before accumulating 1,200 hours TIS.

(iii) If interchanged between Model 269D and Model 269D Configuration A helicopters, remove from service any KAflex engine side drive shaft P/N SKCP2738–7 and any KAflex pulley side drive shaft P/N SKCP2738–5 that has 1,200 or more hours TIS. Thereafter, if interchanged between Model 269D and Model 269D Configuration A helicopters, remove from service any KAflex engine side drive shaft P/N SKCP2738–7 and any KAflex pulley side drive shaft P/N SKCP2738–5 before accumulating 1,200 hours TIS.

(2) Within 25 hours TIS, and thereafter at intervals not to exceed 25 hours TIS, using a belt drive alignment tool 269T3303–003, inspect the lower pulley to engine alignment by engaging the tool on the drive shaft and inserting in the lower pulley bore. Rotate the tool 360° around the drive shaft and inspect for interference. If there is any interference with the rotation of the tool, before further flight, adjust the engine elevation alignment to eliminate the interference.

(3) Within 25 hours TIS, and thereafter at intervals not to exceed 100 hours TIS:

(i) Remove the drive shaft to adapter bolt and inspect the drive shaft alignment. Engage and disengage the splines a minimum of 3 times by sliding the engine power output shaft in and out of the engine. Inspect the alignment at each 90° interval by rotating the lower pulley with the power shaft disengaged. Determine whether the adapter slides on and off the drive shaft splines without spline engagement interference or resistance along the entire length of movement. If there is any spline engagement interference or resistance, before further flight, replace both the engine side and pulley side drive shafts.

(ii) Inspect each drive shaft for a crack, any corrosion or pitting, a nick, a dent, and a scratch. If there is a crack, any corrosion or pitting, a nick, a dent, or a scratch that exceeds allowable limits, before further flight, replace both the engine side and pulley side drive shafts.

(4) Within 25 hours TIS, and thereafter at intervals not to exceed 400 hours TIS, remove the engine side drive shaft and pulley side drive shaft and perform the following:

(i) Inspect each flex frame (frame) bolted joint (joint) for movement by hand. If there is any movement, before further flight, replace both the engine side and pulley side drive shafts.

(ii) Visually inspect each joint for fretting corrosion (which might be indicated by metallic particles) and each frame and mount bolt torque stripe for movement. If there is any fretting corrosion or torque stripe movement, before further flight, replace both the engine side and pulley side drive shafts.

(iii) Using a 10x or higher power magnifying glass, visually inspect each joint for fretting and for a crack around the bolt head and washer side, and around the nut and washer side. Also inspect both sides of each frame for a crack on the inside and outside corner radii and radii edge (four). If there is any fretting, a crack at any point over the full circumference (360°) of the bolt head and washer side or the nut and washer side, or a crack in any of the corner radii edges, before further flight, replace both the engine side and pulley side drive shafts.

(5) As an optional terminating action to the repetitive inspections in this AD, you may install KAflex engine side drive shaft P/N SKCP2738–9 and KAflex pulley side drive shaft P/N SKCP2738–101.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, Compliance and Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238–7761; email *michael.schwetz@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

Appendix B of Sikorsky S–330 Model 269D Helicopter Basic Handbook of Maintenance Instructions, No. CSP–D–2, dated February 1, 1993, and revised October 15, 2014; Appendix B of Sikorsky S–330 Model 269D Config. ''A'' Helicopter Basic Handbook of Maintenance Instructions, No. CSP–D–9, dated July 20, 2001, and revised October 15, 2014; and Sikorsky 269D Helicopter Alert Service Bulletin DB–052, Basic Issue, dated January 16, 2014, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Sikorsky Aircraft Corporation, Customer Service Engineering, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–Winged–S or 203–416–4299; email *wcs_cust_service_eng.gr-sik@lmco.com.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6310, Engine/Transmission Coupling.

Issued in Fort Worth, Texas, on January 17, 2018.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–01572 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 85

[Docket No. OAG 159; AG Order No. 4093–2018]

Civil Monetary Penalties Inflation Adjustment

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is adjusting for inflation the civil monetary penalties assessed or enforced by components of the Department, in accordance with the provisions of the Bipartisan Budget Act of 2015, for penalties assessed after January 29, 2018, with respect to violations occurring after November 2, 2015.

DATES: This rule is effective January 29, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue NW, Washington, DC 20530, telephone (202) 514–8059 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Statutory Process for Implementing Annual Inflation Adjustments

Section 701 of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015) (''BBA''), 28 U.S.C. 2461 note, substantially revised the prior provisions of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Public Law 101–410 (the ''Inflation Adjustment Act''), and substituted a different statutory formula for calculating inflation adjustments on an annual basis.

In accordance with the provisions of the BBA, on June 30, 2016 (81 FR 42491), the Department of Justice published an interim rule to adjust for inflation the civil monetary penalties assessed or enforced by components of the Department after August 1, 2016, with respect to violations occurring after November 2, 2015, the date of enactment of the BBA. Readers may refer to the Supplementary Information (also known as the preamble) of the Department's 2016 interim rule for additional background information regarding the statutory authority for adjustments of civil monetary penalty amounts to take account of inflation and the Department's past implementation of inflation adjustments.

The BBA also provides for agencies to adjust their civil penalties on January 15 of each year to account for inflation during the preceding year, rounded to the nearest dollar. Accordingly, on February 3, 2017 (82 FR 9131), the Department published a final rule to adjust for inflation the civil monetary penalties assessed or enforced by components of the Department after that date, with respect to violations occurring after November 2, 2015.

II. Inflation Adjustments Made by This Rule

As required, the Department is publishing this final rule to adjust the civil penalties that were most recently adjusted as of February 3, 2017. Under the statutory formula, the adjustments made by this rule are based on the Bureau of Labor Statistics' Consumer Price Index for October 2017. The OMB Memorandum for the Heads of Executive Departments and Agencies M–18–03 (Dec. 15, 2017), *https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf* (last visited Jan. 1, 2018), instructs that the applicable inflation factor for this adjustment is 1.02041. Accordingly, this rule adjusts the civil penalty amounts in 28 CFR 85.5 by applying this inflation factor mechanically to each of the civil penalty amounts listed (rounded to the nearest dollar).

Example:

- In 2016, the Program Fraud Civil Remedies Act penalty was increased to $10,781 in accordance with the adjustment requirements of the BBA.
- For 2017, where the applicable inflation factor was 1.01636, the existing penalty of $10,781 was multiplied by 1.01636 and revised to $10,957 (rounded to the nearest dollar).
- For this final rule in 2018, where the applicable inflation factor is 1.02041, the existing penalty of $10,957 is multiplied by 1.02041 and revised to $11,181 (rounded to the nearest dollar).

This rule adjusts for inflation civil monetary penalties within the jurisdiction of the Department of Justice for purposes of the Inflation Adjustment Act, as amended. Other agencies are responsible for the inflation adjustments of certain other civil monetary penalties that the Department's litigating components bring suit to collect. The reader should consult the regulations of those other agencies for inflation adjustments to those penalties.

III. Effective Date of Adjusted Civil Penalty Amounts

Under this rule, the adjusted civil penalty amounts are applicable only to civil penalties assessed after January 29, 2018, with respect to violations occurring after November 2, 2015, the date of enactment of the BBA.

The penalty amounts set forth in the existing table in 28 CFR 85.5 are applicable to civil penalties assessed after August 1, 2016, and on or before the effective date of this rule, with respect to violations occurring after November 2, 2015. Civil penalties for violations occurring on or before November 2, 2015, and assessments made on or before August 1, 2016, will continue to be subject to the civil monetary penalty amounts set forth in the Department's regulations in 28 CFR parts 20, 22, 36, 68, 71, 76, and 85 as such regulations were in effect prior to August 1, 2016 (or as set forth by statute if the amount had not yet been adjusted by regulation prior to August 1, 2016).

Statutory and Regulatory Analyses

Administrative Procedure Act

The BBA provides that, for each annual adjustment made after the initial adjustments of civil penalties in 2016, the head of an agency shall adjust the civil monetary penalties each year notwithstanding 5 U.S.C. 553. Accordingly, this rule is being issued as a final rule without prior notice and public comment, and without a delayed effective date.

Regulatory Flexibility Act

Only those entities that are determined to have violated Federal law and regulations would be affected by the increase in the civil penalty amounts made by this rule. A Regulatory Flexibility Act analysis is not required for this rule because publication of a notice of proposed rulemaking was not required. *See* 5 U.S.C. 603(a).

Executive Orders 12866 and 13563—Regulatory Review

This final rule has been drafted in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1, General Principles of Regulation. Executive Orders 12866 and 13563 direct agencies, in certain circumstances, to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' section 3(f), and, accordingly, this rule has not been reviewed by the Office of Management and Budget. This final rule implements the BBA by making an across-the-board adjustment of the civil penalty amounts in 28 CFR 85.5 to account for inflation since the adoption of the Department's final rule published on February 3, 2017.

Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects in 28 CFR Part 85

Administrative practice and procedure, Penalties.

Accordingly, for the reasons set forth in the preamble, chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

■ 1. The authority citation for part 85 continues to read as follows:

Authority: 5 U.S.C. 301, 28 U.S.C. 503; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321; Pub. L. 114–74, section 701, 28 U.S.C. 2461 note.

■ 2. Revise § 85.5 to read as follows:

§ 85.5 Adjustments to penalties for violations occurring after November 2, 2015.

For civil penalties assessed after January 29, 2018, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are adjusted as set forth in the sixth column of the following table. For civil penalties assessed after February 3, 2017, and on or before January 29, 2018, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are those set forth in the fifth column of the following table. For civil penalties assessed after August 1, 2016, and on or before February 3, 2017, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are those set forth in the fourth column of the following table. All figures set forth in this table are maximum penalties, unless otherwise indicated.

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 8/1/16 ($)	DOJ penalty assessed after 2/3/17 ($) [1]	DOJ penalty assessed after 1/29/2018 ($) [2]
		ATF			
18 U.S.C. 922(t)(5)	Brady Law—Nat'l Instant Criminal Check System; Transfer of firearm without checking NICS.		8,162	8,296	8,465.
18 U.S.C. 924(p)	Child Safety Lock Act; Secure gun storage or safety device, violation.		2,985	3,034	3,096.
		Civil Division			
12 USC 1833a(b)(1)	Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Violation.	28 CFR 85.3(a)(6)	1,893,610	1,924,589	1,963,870.
12 U.S.C. 1833a(b)(2)	FIRREA Violation (continuing) (per day)	28 CFR 85.3(a)(7)	1,893,610	1,924,589	1,963,870.
12 U.S.C. 1833a(b)(2)	FIRREA Violation (continuing)	28 CFR 85.3(a)(7)	9,468,050	9,622,947	9,819,351.
22 U.S.C. 2399b(a)(3)(A).	Foreign Assistance Act; Fraudulent Claim for Assistance (per act).	28 CFR 85.3(a)(8)	5,500	5,590	5,704.
31 U.S.C. 3729(a)	False Claims Act; [3] Violations	28 CFR 85.3(a)(9)	Min. 10,781, Max. 21,563.	Min. 10,957, Max. 21,916.	Min. 11,181, Max. 22,363.

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 8/1/16 ($)	DOJ penalty assessed after 2/3/17 ($) [1]	DOJ penalty assessed after 1/29/2018 ($) [2]
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act; Violations Involving False Claim (per claim).	28 CFR 71.3(a)	10,781	10,957	11,181.
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act; Violation Involving False Statement (per statement).	28 CFR 71.3(f)	10,781	10,957	11,181.
40 U.S.C. 123(a)(1)(A)	Federal Property and Administrative Services Act; Violation Involving Surplus Government Property (per act).	28 CFR 85.3(a)(12)	5,500	5,590	5,704.
41 U.S.C. 8706(a)(1)(B)	Anti-Kickback Act; Violation Involving Kickbacks [4] (per occurrence).	28 CFR 85.3(a)(13)	21,563	21,916	22,363.
18 U.S.C. 2723(b)	Driver's Privacy Protection Act of 1994; Prohibition on Release and Use of Certain Personal Information from State Motor Vehicle Records—Substantial Non-compliance (per day).		7,954	8,084	8,249.
18 U.S.C. 216(b)	Ethics Reform Act of 1989; Penalties for Conflict of Interest Crimes [5] (per violation).	28 CFR 85.3(c)	94,681	96,230	98,194.
41 U.S.C. 2105(b)(1)	Office of Federal Procurement Policy Act; [6] Violation by an individual (per violation).		98,935	100,554	102,606.
41 U.S.C. 2105(b)(2)	Office of Federal Procurement Policy Act; [6] Violation by an organization (per violation).		989,345	1,005,531	1,026,054.
42 U.S.C. 5157(d)	Disaster Relief Act of 1974; [7] Violation (per violation).		12,500	12,705	12,964.
Civil Rights Division (excluding immigration-related penalties)					
18 U.S.C. 248(c)(2)(B)(i)	Freedom of Access to Clinic Entrances Act of 1994 ("FACE Act"); Nonviolent physical obstruction, first violation.	28 CFR 85.3(b)(1)(i)	15,909	16,169	16,499.
18 U.S.C. 248(c)(2)(B)(ii).	FACE Act; Nonviolent physical obstruction, subsequent violation.	28 CFR 85.3(b)(1)(ii)	23,863	24,253	24,748.
18 U.S.C. 248(c)(2)(B)(i)	FACE Act; Violation other than a nonviolent physical obstruction, first violation.	28 CFR 85.3(b)(2)(i)	23,863	24,253	24,748.
18 U.S.C. 248(c)(2)(B)(ii).	FACE Act; Violation other than a nonviolent physical obstruction, subsequent violation.	28 CFR 85.3(b)(2)(ii)	39,772	40,423	41,248.
42 U.S.C. 3614(d)(1)(C)(i).	Fair Housing Act of 1968; first violation	28 CFR 85.3(b)(3)(i)	98,935	100,554	102,606.
42 U.S.C. 3614(d)(1)(C)(ii).	Fair Housing Act of 1968; subsequent violation	28 CFR 85.3(b)(3)(ii)	197,869	201,106	205,211.
42 U.S.C. 12188(b)(2)(C)(i).	Americans With Disabilities Act; Public accommodations for individuals with disabilities, first violation.	28 CFR 36.504(a)(3)(i)	89,078	90,535	92,383.
42 U.S.C. 12188(b)(2)(C)(ii).	Americans With Disabilities Act; Public accommodations for individuals with disabilities, subsequent violation.	28 CFR 36.504(a)(3)(ii)	178,156	181,071	184,767.
50 U.S.C. 4041(b)(3)	Servicemembers Civil Relief Act of 2003; first violation.	28 CFR 85.3(b)(4)(i)	59,810	60,788	62,029.
50 U.S.C. 4041(b)(3)	Servicemembers Civil Relief Act of 2003; subsequent violation.	28 CFR 85.3(b)(4)(ii)	119,620	121,577	124,058.
Criminal Division					
18 U.S.C. 983(h)(1)	Civil Asset Forfeiture Reform Act of 2000; Penalty for Frivolous Assertion of Claim.		Min. 342, Max. 6,834.	Min. 348, Max. 6,946.	Min. 355, Max. 7,088.
18 U.S.C. 1956(b)	Money Laundering Control Act of 1986; Violation [8].		21,563	21,916	22,363.
DEA					
21 U.S.C. 844a(a)	Anti-Drug Abuse Act of 1988; Possession of small amounts of controlled substances (per violation).	28 CFR 76.3(a)	19,787	20,111	20,521.
21 U.S.C. 961(1)	Controlled Substance Import Export Act; Drug abuse, import or export.	28 CFR 85.3(d)	68,750	69,875	71,301.
21 U.S.C. 842(c)(1)(A)	Controlled Substances Act ("CSA"); Violations of 842(a)—other than (5), (10) and (16)—Prohibited acts re: controlled substances (per violation).		62,500	63,523	64,820.
21 U.S.C. 842(c)(1)(B)	CSA; Violations of 842(a)(5) and (10)—Prohibited acts re: controlled substances.		14,502	14,739	15,040.
21 U.S.C. 842(c)(1)(C)	CSA; Violation of 825(e) by importer, exporter, manufacturer, or distributor—False labeling of anabolic steroids (per violation).		500,855	509,049	519,439.
21 U.S.C. 842(c)(1)(D)	CSA; Violation of 825(e) at the retail level—False labeling of anabolic steroids (per violation).		1,002	1,018	1,039.
21 U.S.C. 842(c)(2)(C)	CSA; Violation of 842(a)(11) by a business—Distribution of laboratory supply with reckless disregard [9].		375,613	381,758	389,550.
21 U.S.C. 856(d)	Illicit Drug Anti-Proliferation Act of 2003; Maintaining drug-involved premises [10].		321,403	326,661	333,328.

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 8/1/16 ($)	DOJ penalty assessed after 2/3/17 ($) [1]	DOJ penalty assessed after 1/29/2018 ($) [2]
Immigration-Related Penalties					
8 U.S.C. 1324a(e)(4)(A)(i).	Immigration Reform and Control Act of 1986 (''IRCA''); Unlawful employment of aliens, first order (per unauthorized alien).	28 CFR 68.52(c)(1)(i) ...	Min. 539, Max. 4,313.	Min. 548, Max. 4,384.	Min. 559, Max. 4,473.
8 U.S.C. 1324a(e)(4)(A)(ii).	IRCA; Unlawful employment of aliens, second order (per such alien).	28 CFR 68.52(c)(1)(ii) ..	Min. 4,313, Max. 10,781.	Min. 4,384, Max. 10,957.	Min. 4,473, Max. 11,181.
8 U.S.C. 1324a(e)(4)(A)(iii).	IRCA; Unlawful employment of aliens, subsequent order (per such alien).	28 CFR 68.52(c)(1)(iii)	Min. 6,469, Max. 21,563.	Min. 6,575, Max. 21,916.	Min. 6,709, Max. 22,363.
8 U.S.C. 1324a(e)(5)	IRCA; Paperwork violation (per relevant individual).	28 CFR 68.52(c)(5)	Min. 216, Max. 2,156.	Min. 220, Max. 2,191.	Min. 224, Max. 2,236.
8 U.S.C. 1324a, (note) ..	IRCA; Violation relating to participating employer's failure to notify of final nonconfirmation of employee's employment eligibility (per relevant individual).	28 CFR 68.52(c)(6)	Min. 751 Max.1,502.	Min. 763, Max. 1,527.	Min. 779, Max. 1,558.
8 U.S.C. 1324a(g)(2)	IRCA; Violation/prohibition of indemnity bonds (per violation).	28 CFR 68.52(c)(7)	2,156	2,191	2,236.
8 U.S.C. 1324b(g)(2)(B)(iv)(I).	IRCA; Unfair immigration-related employment practices, first order (per individual discriminated against).	28 CFR 68.52(d)(1)(viii)	Min. 445, Max. 3,563.	Min. 452, Max. 3,621.	Min. 461, Max. 3,695.
8 U.S.C. 1324b(g)(2)(B)(iv)(II).	IRCA; Unfair immigration-related employment practices, second order (per individual discriminated against).	28 CFR 68.52(d)(1)(ix)	Min. 3,563, Max. 8,908.	Min. 3,621, Max. 9,054.	Min. 3,695, Max. 9,239.
8 U.S.C. 1324b(g)(2)(B)(iv)(III).	IRCA; Unfair immigration-related employment practices, subsequent order (per individual discriminated against).	28 CFR 68.52(d)(1)(x)	Min. 5,345, Max. 17,816.	Min. 5,432, Max 18,107.	Min. 5,543, Max.18,477.
8 U.S.C. 1324b(g)(2)(B)(iv)(IV).	IRCA; Unfair immigration-related employment practices, unfair documentary practices (per individual discriminated against).	28 CFR 68.52(d)(1)(xii)	Min. 178, Max. 1,782.	Min. 181, Max. 1,811.	Min. 185, Max. 1,848.
8 U.S.C. 1324c(d)(3)(A)	IRCA; Document fraud, first order—for violations described in USC 1324c(a)(1)–(4) (per document).	28 CFR 68.52(e)(1)(i) ..	Min. 445, Max. 3,563.	Min. 452, Max. 3,621.	Min. 461, Max. 3,695.
8 U.S.C. 1324c(d)(3)(B)	IRCA; Document fraud, subsequent order—for violations described in USC 1324c(a)(1)–(4) (per document).	28 CFR 68.52(e)(1)(iii)	Min. 3,563, Max. 8,908.	Min. 3,621, Max. 9,054.	Min. 3,695, Max. 9,239.
8 U.S.C. 1324c(d)(3)(A)	IRCA; Document fraud, first order—for violations described in USC 1324c(a)(5)–(6) (per document).	28 CFR 68.52(e)(1)(ii) ..	Min. 376, Max. 3,005.	Min. 382, Max. 3,054.	Min. 390, Max.3,116.
8 U.S.C. 1324c(d)(3)(B)	IRCA; Document fraud, subsequent order—for violations described in USC 1324c(a)(5)–(6) (per document).	28 CFR 68.52(e)(1)(iv)	Min. 3,005, Max. 7,512.	Min. 3,054, Max. 7,635.	Min. 3,116, Max. 7,791.
FBI					
49 U.S.C. 30505(a)	National Motor Vehicle Title Identification System; Violation (per violation).	.....	1,591	1,617	1,650.
Office of Justice Programs					
34 U.S.C. 10231(d)	Confidentiality of information; State and Local Criminal History Record Information Systems—Right to Privacy Violation.	28 CFR 20.25	27,500	27,950	28,520.

[1] The figures set forth in this column represent the penalty as last adjusted by Department of Justice regulation on February 3, 2017.

[2] All figures set forth in this table are maximum penalties, unless otherwise indicated.

[3] Section 3729(a)(1) of Title 31 provides that any person who violates this section is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, plus 3 times the amount of damages which the Government sustains because of the act of that person. 31 U.S.C. 3729(a)(1) (2015). Section 3729(a)(2) permits the court to reduce the damages under certain circumstances to not less than 2 times the amount of damages which the Government sustains because of the act of that person. *Id.* section 3729(a)(2). The adjustment made by this regulation is only applicable to the specific statutory penalty amounts stated in subsection (a)(1), which is only one component of the civil penalty imposed under section 3729(a)(1).

[4] Section 8706(a)(1) of Title 41 provides that the Federal Government in a civil action may recover from a person that knowingly engages in conduct prohibited by section 8702 of Title 44 a civil penalty equal to twice the amount of each kickback involved in the violation and not more than $10,000 for each occurrence of prohibited conduct. 41 U.S.C. 8706(a)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (a)(1)(B), which is only one component of the civil penalty imposed under section 8706.

[5] Section 216(b) of Title 18 provides that the civil penalty should be no more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. 18 U.S.C. 216(b) (2015). Therefore, the adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b), which is only one aspect of the possible civil penalty imposed under section 216(b).

[6] Section 2105(b) of Title 41 provides that the Attorney General may bring a civil action in an appropriate district court of the United States against a person that engages in conduct that violates section 2102, 2103, or 2104 of Title 41. 41 U.S.C. 2105(b) (2015). Section 2105(b) further provides that on proof of that conduct by a preponderance of the evidence, an individual is liable to the Federal Government for a civil penalty of not more than $50,000 for each violation plus twice the amount of compensation that the individual received or offered for the prohibited conduct, and an organization is liable to the Federal Government for a civil penalty of not more than $500,000 for each violation plus twice the amount of compensation that the organization received or offered for the prohibited conduct. *Id.* section 2105(b). The adjustments made by this regulation are only applicable to the specific statutory penalty amounts stated in subsections (b)(1) and (b)(2), which are each only one component of the civil penalties imposed under sections 2105(b)(1) and (b)(2).

[7] The Attorney General has authority to bring a civil action when a person has violated or is about to violate a provision under this statute. 42 U.S.C. 5157(b) (2015). The Federal Emergency Management Agency has promulgated regulations regarding this statute and has adjusted the penalty in its regulation. 44 CFR 206.14(d) (2015). The Department of Health and Human Services (HHS) has also promulgated a regulation regarding the penalty under this statute. 42 CFR 38.8 (2015).

[8] Section 1956(b)(1) of Title 18 provides that whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of the value of the property, funds, or monetary instruments involved in the transaction; or $10,000. 18 U.S.C. 1956(b)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b)(1)(B), which is only one aspect of the possible civil penalty imposed under section 1956(b).

[9] Section 842(c)(2)(C) of Title 21 provides that in addition to the penalties set forth elsewhere in the subchapter or subchapter II of the chapter, any business that violates paragraph (11) of subsection (a) of the section shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under the section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater. 21 U.S.C. 842(c)(2)(C) (2015). The adjustment made by this regulation regarding the penalty for a succeeding violation is only applicable to the specific statutory penalty amount stated in subsection (c)(2)(C), which is only one aspect of the possible civil penalty for a succeeding violation imposed under section 842(c)(2)(C).

[10] Section 856(d)(1) of Title 21 provides that any person who violates subsection (a) of the section shall be subject to a civil penalty of not more than the greater of $250,000; or 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person. 21 U.S.C. 856(d)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (d)(1)(A), which is only one aspect of the possible civil penalty imposed under section 856(d)(1).

Dated: January 19, 2018.

Jefferson B. Sessions III,

Attorney General.

[FR Doc. 2018–01464 Filed 1–26–18; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–256–FOR; OSM–2012–0014; S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval with exceptions.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, with exceptions, an amendment to the Kentucky regulatory program (hereinafter, the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky submitted a proposed amendment to OSMRE that revises its bonding regulations to satisfy, in part, concerns OSMRE conveyed to the State pertaining to bonding inadequacies.

DATES: The effective date is February 28, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Evans, Lexington Field Office Director. Telephone: (859) 260–3900. Email: *bevans@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program
II. Description of the Amendment
III. OSMRE's Findings
IV. Summary and Disposition of Comments
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I. Background on the Kentucky Program

A. Background: Kentucky Regulatory Program: Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program effective May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

B. Background: Kentucky Bonding Program: The following is a description of the bonding program implemented by Kentucky and approved by OSMRE in 1986. Permittees are required to furnish a performance bond that covers the area of land upon which the operator will initiate and conduct surface coal mining and reclamation operations. The amount of the bond should be sufficient to assure completion of the reclamation plan. Kentucky's program included two options to post bond: (1) Post a full-cost bonding (performance bond covering the entire cost of reclamation); or (2) participate in a voluntary bond pool (VBP) and post a reduced permit-specific performance bond. The VBP, an alternative bonding system (ABS), was limited to qualified applicants and required membership fees and production fees that were used to supplement the reduced permit-specific performance bonds posted for surface mining operations. Generally, the second option was used by smaller operators that would otherwise have difficulty posting a full-cost bond due to limited financial resources.

1. Permit-Specific Bonds for Non-VBP Members: If an applicant/permittee elected not to participate or did not qualify to become a member of the VBP, the permittee was required to submit an adequate ''full-cost'' bond using a basic bond rate of $2500/acre to which several site factors (difficulty of mining, geologic/hydrologic concerns, permanent structures, etc.) were added as additional rates per acre if necessary. Over 90% of Kentucky permits were not part of the VBP.

2. Alternative Bonding System: In lieu of requiring all permittees to submit permit-specific performance bonds covering the full cost of permit-specific reclamation for coal mining operations, we approved a request from Kentucky to implement an ABS as provided for in 30 CFR 800.11(e). The requirements of § 800.11(e) provide that an alternative system to the permit-specific bond requirements could be authorized if the following two conditions are met: (1) The ABS would assure sufficient money is available to complete the reclamation plan for any areas which may be in default at any time and (2) the ABS provides a substantial economic incentive for the permittee to comply with all reclamation provisions. Kentucky's ABS created the VBP. We announced approval of Kentucky's ABS in the July 18, 1986, **Federal Register** (51 FR 26002).

a. ABS—Voluntary Bond Pool Fund Membership: Participation in the Kentucky bond pool was voluntary, limited to qualified participants, and required application for membership. Bond pool members, herein referred to as VBP members, were permitted to post a performance bond to cover the costs of reclamation under the Kentucky program that was less than the estimated full cost of reclamation if the member qualified for participation in the bond pool and paid the required fees to the VBP's supplemental fund. The VBP fund would then be used to supplement the reduced operator bond in the event of operator default on reclamation. Acceptance into the VBP was based on the applicant's financial standing and reclamation compliance record.

Applicants for membership in the VBP qualified for an ''A,'' ''B,'' or ''C'' rating, based on length of time the applicant had held a permit under the same permittee name and the type of compliance rating, ''excellent'' or ''acceptable,'' the permittee had exhibited. The rating method also considered such things as number and seriousness of violations for which the applicant had been cited, applicant's abatement of violations, timely payment

of penalties, and the applicant's bonding experiences. Other membership restrictions applied based on ownership and control by, of, or with the applicant.

Membership fees and tonnage fees were collected from VBP members and placed in an interest-bearing account. The fees were used for the following purposes: (1) To reclaim permit areas covered by the fund in the event of bond forfeiture (after permit-specific bonds were used); (2) to cover administrative costs of the fund; (3) to fund audits and actuarial studies required for the fund; and (4) to cover operating and legal expenses of the bond pool commission. Less than 10% of Kentucky permits were in the VBP.

b. ABS—Voluntary Bond Pool Commission: Kentucky created a voluntary bond pool commission consisting of seven members that was responsible for: Reviewing membership applications and ratings; notifying members of the tonnage fee required; revoking or reinstating membership; employing a certified public accountant to audit the VBP fund; authorizing necessary expenditures from the fund; and reporting yearly to the governor on the financial status of the fund. The VBP fund was administered by the Natural Resources and Environmental Protection Cabinet, now known as the Kentucky Energy and Environment Cabinet (the cabinet).

c. ABS—Permit-Specific Performance Bond for VBP Members: VBP members were required to provide reduced permit-specific bond amounts as follows: For each acre or fraction thereof in the proposed permit area, a basic bond rate of $500/acre was required for ''A'' rated members; $1,500/acre for ''B'' rated members; and $2,000/acre for ''C'' rated members. Other site factors (for difficulty of mining, geologic/hydrologic concerns, permanent structures, etc.) were added as additional rates/acre to the basic bond amount to determine the final bond amount. For each acre of prime farmland, $1,500 additional bond was required. A permit would not be issued to a VBP member until the permit-specific bond was posted.

d. ABS—Membership Fees and Tonnage Fees: Membership fees and production fees (per ton) were paid to the fund by VBP members. Membership fees were based on ratings as follows: $1,000 for A-rated members, $2,000 for B-rated members, and $2,500 for C-rated members. Tonnage fees were based on the amount of coal produced as follows: $.08 cents per ton of coal extracted by surface mining and $.01 cent per ton of coal extracted by underground mining. If the VBP fund reached $7 million, VBP members who had made 36 or more monthly payments into the VBP fund were notified that tonnage fees would be suspended. Tonnage fees were reinstated when the VBP fund fell below $5 million. These minimum and maximum dollar numbers could be raised under certain circumstances.

II. Description of the Proposed Amendment

A review conducted by OSMRE and Kentucky resulted in a report entitled ''National Priority Oversight Evaluation of Adequacy of Kentucky Reclamation Performance Bond Amounts dated January 4, 2011.'' The review concluded that reclamation performance bonds in Kentucky were not always sufficient to complete the reclamation required in the approved permit. Bond forfeiture studies determined that a majority of forfeited permits did not always have sufficient bond to complete the reclamation to permanent program standards. Consequently, on May 1, 2012, in accordance with 30 CFR 733.12(b), we sent a letter to the cabinet (referred to as a 733 Notice) stating that we had reason to believe that Kentucky was not implementing, administering, enforcing, and maintaining the reclamation bond provisions of its approved program in a manner that ensured the amount of the performance bond for each surface coal mining and reclamation operation was ''sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture,'' as required by section 509(a) of SMCRA. As stated in the letter, our review indicated that from 2008 to 2011, bond forfeiture proceeds were insufficient to complete the approved reclamation plan for 51 of the 61 permits for which bond were forfeited in Kentucky. As a result, we required Kentucky to take immediate and long-term steps to ensure bond amounts are adequate to complete reclamation in the event of forfeiture.

Kentucky responded to the 733 Notice by taking action and sending us statutory and regulatory provisions on three different occasions. Kentucky sent us information on September 28, 2012, (Administrative Record No. KY–2000–01); July 5, 2013, (Administrative Record No. KY–2000–02); and December 3, 2013, (Administrative Record No. KY–2000–03). We announced receipt of the September 28, 2012, submission on February 20, 2013, in the **Federal Register** (78 FR 11796), (Administrative Record No. KY–2000–01d). We combined that submission with the July 5, 2013, and December 3, 2013, submissions and announced them collectively in the **Federal Register** on March 26, 2015, (Administrative Record No. KY–2000–04b). Public comments were received but no hearing was requested.

Emergency Kentucky Administrative Regulations (KARs) were submitted by Kentucky in 2012 that immediately increased minimum bond rates and effected other changes. The Governor signed House bill 66 (H.B. 66) on March 22, 2013, which provided substantive changes to Kentucky's bonding program. H.B. 66 established a bonding program that provides, among other things, creation of a new land reclamation bond-pool for members; creation of a commission to oversee the pool; changes regarding permit-specific bonds; transition provisions for members and assets of the old bond pool; and clarification that the pool shall not be used for long-term treatment of substandard water discharges and subsidence. The Kentucky Revised Statutes (KRSs), which codify the legislative provisions of H.B. 66, and the permanent KARs to administer the provisions, were later submitted.

This amendment includes: 7 emergency regulations; 11 repealed KRSs related to the old bond pool (VBP); 8 new KRSs; 3 amended KRSs; 3 repealed permanent KARs; 4 new permanent KARs; and 4 amended KARs.

Through the action of the Governor and the legislative action by the Assembly, Kentucky changed the bonding program in the following manner by: (1) Increasing bonding rates for ABS permit-specific bonds by approximately 60%; (2) requiring all permittees to participate in the Kentucky Reclamation Guaranty Fund (KRGF) at the time of conversion, unless they opt-out; (3) eliminating the classification standards and associated fees for bond pool members that were used under the old system; (4) establishing new membership and production fees; (5) requiring the Kentucky Reclamation Guaranty Fund Commission (KRGFC) to make recommendations to the cabinet regarding the KRGF's solvency; (6) increasing the supplemental assurance amounts for KRGF members; (7) requiring actuarial reviews annually for three years, then bi-annually instead of every three years as previously required; (8) changing the manner in which bonds are released for old VBP members; (9) requiring bond to be posted for the treatment of long-term treatment pollutional discharges for estimated costs covering 20 years; and (10) implementing other bonding changes.

Descriptions of the substantive changes to the Kentucky program

resulting in the changes above are noted in the Findings section that follows.

III. OSMRE's Findings

Section 509(a), along with 30 CFR 800.14(b) ''require that the amount of performance bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture.'' Section 509(c), along with 30 CFR 800.11(e), provides that an alternative system to full-cost performance bond may be approved if it will achieve the purposes of the bonding program. To gain approval, (1) a bonding program must assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time; and (2) must provide a substantial economic incentive for the permittee to comply with all reclamation provisions. We reviewed the emergency KARs; statutory language of H.B. 66, its corresponding KRSs; and permanent KARs collectively to determine whether or not the bonding program/system as a whole is able to meet reclamation obligations. Below are our findings of the substantive changes to Kentucky's bonding program.

A. Kentucky Emergency Administrative Regulations (KARs)

Seven emergency regulations were submitted to us for approval. Two of the emergency regulations repealed other administrative regulations (405 KAR 10:011E and 405 KAR 10:201E); four created new regulations (405 KAR 10:015E, 405 KAR 10:070E, 405 KAR 10:080E, and 405 KAR 10:090E); and one amended an already existing administrative regulation (405 KAR 10:001). Three of these emergency regulations were later replaced by nearly identical permanent (ordinary) regulations (405 KAR 10:001, 405 KAR 10:015, and 405 KAR 10:090). We are not issuing findings on the three emergency provisions that were replaced because the emergency provisions are no longer in place, and we are making a finding on the nearly identical permanent ones. We are issuing findings on the other four emergency regulations because they involved the repeal or relocation of administrative regulations or they involved matters related to the transition to the new bonding system.

The following four emergency regulations remove or relocate certain administrative regulations due to changes in the bonding regulations:

KAR 10:011E, Repeal of 405 KAR 10:010, and KAR 10:020; 405 KAR 10:010, General requirements for performance bond and liability insurance (sections 1 through 5) and 405 KAR 10:020, Amount and duration of performance bond (sections 1 through 9): The emergency regulation repealed these performance bond and liability insurance regulations and the amount and duration of the performance bond regulations and relocated them into the new administrative regulation at 10:015, with the exception of section 4 of 405 KAR 10:010, which was relocated to 405 KAR 10:030.

OSMRE Finding: We find that the relocation of provisions from one regulation to another is a non-substantive change. The change documents the relocation of these provisions into the new program; therefore, 405 KAR 10:011E is approved.

KAR 10:201E, Repeal of 10:200, Kentucky bond pool (sections 1 through 9): The emergency regulation repealed the VBP regulations from Kentucky's program.

OSMRE Finding: Because we are approving, with exceptions, the new bonding system amendments proposed by Kentucky, we find that the repeal of the VBP regulations is not inconsistent with SMCRA or the Federal regulations. Therefore, 405 KAR 10:201E is hereby approved.

The following two emergency regulations specifically addressed matters related to the transition from the old bonding system to the new one and were not entirely duplicated in the permanent administrative regulations:

405 KAR 10.070E, Kentucky Reclamation Guaranty Fund (sections 1 through 6): In addition to establishing the new bond pool entitled the KRGF and creating the KRGFC, this regulation addressed the initial capitalization of the KRGF (transfer of assets and one-time assessments) and the terms and conditions in which these assessments were paid. It also provided the terms in which former VBP members report coal mined and sold until and after January 1, 2014. The following provisions were not included in the permanent regulations at 405 KAR 10:070: Section 2, Initial Capitalization; section 3(3) related to member production records and reporting; and section 6(b) related to a required monthly production report.

OSMRE Finding: The portions of this regulation that were promulgated in emergency format only, and were not converted to permanent regulations at 405 KAR 10:070, addressed the capitalization of a bond pool and forms required to document production under the old system and have no direct Federal counterparts. We find that these provisions are not inconsistent with section 509(c) of SMCRA or with the Federal regulations at § 800.11(e), and are hereby approved.

405 KAR 10:080E: Full-cost bonding (sections 1 through 4): In addition to allowing permittees to elect not to participate in the KRGF (opt-out) and to provide full-cost reclamation bonds for coal mine surface disturbances, this regulation also included provisions pertaining to members with permits issued prior to July 1, 2013. It provided the terms and conditions in which the permittee would make such election. This provision was not included in the permanent regulation at 405 KAR 10:080.

OSMRE Finding: This regulation provided that permittees make an election regarding participation in the KRGF by a specific date. This was a one-time event and facilitated the transition to the new bonding system. We find there are no direct Federal counterparts. However, the provisions are not inconsistent with section 509(c) of SMCRA or with the Federal regulations at § 800.11(e), and are hereby approved.

B. Legislative Action—House Bill 66 and Kentucky Revised Statutes (KRSs)

On March 11, 2013, H.B. 66 was passed by the legislature and enacted on March 22, 2013, when it was signed by the Governor. H.B. 66 included 14 sections and resulted in the following: 8 KRSs being added; 3 KRSs being amended; and 11 KRSs being repealed as described below:

H.B. 66 Section 1—KRS 350.500. Definitions for KRS 350.500 to 350.521: This is a new chapter that provides the H.B. 66 definitions of actuarial soundness, date of the establishment of the new KRGF, the KRGFC, and VBP fund.

OSMRE Finding: There are no comparable Federal regulations that define actuarial soundness, prescribe an effective date of a bond pool or fund, or establish a commission to govern a bond pool. However, the establishment of a bond pool is consistent with the provisions of 30 CFR 800.11(e). Therefore, we find that the proposed definitions are not inconsistent with section 509(c) of SMCRA and with the Federal regulations at 30 CFR 800.11(e), and they are hereby approved.

H.B. 66 Section 2—KRS 350.503. Kentucky reclamation guaranty fund: This is a new chapter that establishes the KRGF, which is assigned to the cabinet. The KRGF is an interest-bearing reclamation account designed to cover the excess costs of reclamation for coal mining sites when the permit-specific performance bond is inadequate. This chapter does not apply to permits

forfeited prior to January 1, 2014, except for obligations that may arise from the forfeiture of bonds prior to that date which were secured by the VBP. Funds are also used to compensate the cabinet for costs incurred in performance of the following duties: Administering the fund; procuring audits and actuarial studies; and operating and necessary legal expenses of the KRGFC. The KRGF cannot be used for the long-term treatment of substandard water discharges or to repair subsidence damage and is exempt from the requirements applicable to insurers.

OSMRE Finding: There is no counterpart in SMCRA or the Federal regulations that establishes a bond fund system such as the one established under H.B. 66. However, as we noted previously, section 509(c) of SMCRA and 30 CFR 800.11(e) provide for the establishment of an ABS if the system (1) assures the regulatory authority will have available sufficient money to complete the reclamation plan for any areas in default at any time and (2) provides an economic incentive for the permittee to comply with all reclamation provisions. Because the changes to Kentucky's bonding program noted above have only recently been established, we have no new data to suggest that there will not be sufficient funding to address land reclamation obligations or that the KRGFC or the cabinet will not fulfill their obligation to take measures to ensure the solvency of the KRGF. Kentucky's system provides an economic incentive to reclaim in KRS 350.130(3) because it requires the submission of permit-specific performance bonds and provides that no person shall be eligible to receive another permit or begin another operation until the person has reimbursed the KRGF for any money from the KRGF that was used to reclaim that person's operation. Therefore, we are approving the changes to the program because they establish an ABS that combines the use of permit-specific bonds and a bond pool to address land reclamation needs.

We note that the KRGF restricts its ABS coverage to land reclamation costs and is not intended to cover the cost of treating pollutional discharges. The cost of treating pollutional discharges needs to be adequately addressed, *e.g.,* covered under full-cost, site-specific bonds or an alternative financial mechanism that generates an income stream capable of addressing these discharges in perpetuity. Kentucky proposes to require operators to post site-specific bonds to cover the costs of long-term treatment of substandard water discharges. Our finding on this proposal is included in findings of ''C. Kentucky Administration Regulations (KARs), Section 8 of 405 KAR 10:015.''

H.B. 66 Section 3—KRS 350.506. Reclamation Guaranty Fund Commission—Membership—Bylaws—Meetings—Conflicts of Interest—Applicability of Executive Branch Code of Ethics: This is a new section that creates the KRGFC that is attached to the cabinet. This chapter provides the composition of the KRGFC membership, the terms and conditions of membership appointments, and the establishment of bylaws, official domicile, meeting frequency, member stipend, and attendance requirements. Further, it addresses limits on direct or indirect financial interests of the members, membership immunity from civil or criminal proceedings, and ethics terms.

OSMRE Finding: There are no comparable Federal regulations that address the creation or management of bond pools. However, there is nothing in these provisions that is inconsistent with section 509(c) of SMCRA or with the Federal regulations at 30 CFR 800.11(e), and they are hereby approved.

H.B. 66 Section 4—KRS 350.509. Duties of commission: This is a new chapter that outlines the responsibilities of the KRGFC, which include reviewing, recommending, and promulgating regulations necessary to perform the following duties: Monitor and maintain the KRGF, establish a structure for processing claims and making payments; establish the mechanisms for the review of the viability of the KRGF; set a schedule for penalties for late payment or failure to pay fees and assessments, review and assign classification of mine types for fee assessments; establish a structure for the payment of fees and assessments, authorize expenditures from the KRGF, notify the permittees of suspension/reinstatement of fees; take action against permittees to recover funds if necessary, and conduct investigations and issue subpoenas on behalf of the KRGFC to verify reporting, payment, and other activities of permittees participating in the fund.

In addition, the KRGFC is also responsible for employing a certified public accountant to perform an annual audit of the KRGF for the first five years of the operations of the KRGF, then every two years or more frequently as deemed necessary by the KRGFC. The results of the audit shall be reported to the KRGFC and the Governor. Also, the KRGFC is responsible for employing a qualified actuary to perform an actuarial study annually for the first three years of the operations of the KRGF. Thereafter, the KRGFC must have actuarial studies performed every two years or more frequently as deemed necessary by the KRGFC. Results of these studies must be reported to the KRGFC and to the Governor. The KRGFC is responsible to report to the Governor and the Interim Joint Committee on Natural Resources and Environment no later than December 31 of each year as to the financial status of the KRGFC.

OSMRE Finding: There are no comparable Federal regulations that address the management of bond pools. With the exception of one provision discussed below, there is nothing in these provisions that is inconsistent with section 509(c) of SMCRA or with the Federal regulations at 30 CFR 800.11(e), and they are hereby approved.

We are approving the requirement to conduct annual actuarial studies for the first three years of the implementation of the KRGF. However, as proposed, beginning in year four, actuarial studies would be required only bi-annually or more frequently as deemed necessary by the commission. Given the reliance upon the actuarial study for the adjustment of fee rates (established in Section 7), the immaturity of the KRGF, the provisions of the bonding program that have not been approved, and the rapidly changing nature of the current coal mining industry, we believe it is premature to approve a two-year lapse between actuarial evaluations. We are concerned that a two-year time period may not sufficiently ensure that needed adjustments to maintain the solvency of the KRGF are recommended and implemented in a timely matter. Therefore, we are deferring our decision on the bi-annual review provision of H.B. 66 until such time as we are able to evaluate the stability of the KRGF over its initial years of implementation. After our receipt and review of the actuarial study based upon the third full year of operation of the fund, we will reconsider our deferral and determine whether to: (1) Approve the bi-annual actuarial study requirement; (2) require that the studies continue to be performed annually; or (3) take other appropriate action.

H.B. 66 Section 5—KRS 350.512. Office of the Reclamation Guaranty Fund—Duties of executive director: This is a new chapter that establishes an Office of the Reclamation Guaranty Fund (ORGF), appoints an executive director to manage its affairs, and describes the responsibilities of the executive director. The responsibilities of the executive director include collecting and depositing all fees

submitted by permittees into the fund; assessing permit eligibility of permittees for late payment or nonpayment of fees; compiling information about permittees for use by the commission in assigning or revising classifications and fees; paying monies out of the fund as authorized; reporting to the commission on the status of the fund and the activities of the fund's executive director; and performing other administrative functions as necessary.

OSMRE Finding: There are no comparable Federal regulations that address the management of bond pools. However, there is nothing in these provisions that is inconsistent with section 509(c) of SMCRA or with the Federal regulations at 30 CFR 800.11(e) and they are hereby approved.

H.B. 66 Section 6—KRS 350.515. Mandatory participation in fund—Initial capitalization—One-time assessments—Full-cost bond in lieu of participation: This is a new chapter that mandates that all surface coal mining permittees be participants in the KRGF, unless the permittee elects to provide full-cost bond. Member entities are given the option to provide financial assurance in one of two ways: (1) Provide full-cost bonds based on a reclamation cost estimate that reflects potential reclamation costs to the cabinet; or (2) participate in the KRGF, which includes assessment of fees noted in KRS 350.518 below.

In addition, this chapter also provides for the initial capitalization of the KRGF consisting of the following sources of funds: (1) Transfer of the assets and liabilities of the VBP fund; (2) a one-time start-up assessment for all current permittees as of July 1, 2013, in the amount of $1,500; and (3) a one-time $10 per active permitted acre assessment. Entities entering the KRGF after July 1, 2013, must pay a one-time assessment of $10,000 to the fund. No individual permit may be issued until the one-time assessments are paid. Members of the former VBP are exempt from the one-time start-up assessment and active permitted acre assessment. If an applicant opts out and elects to provide a full-cost bond, the applicant shall not be subject to these assessments.

OSMRE Finding: Maintaining adequate resources is essential to the success and compliance of any bond pool. The transfer of funds from the existing bond pool and the assessment of start-up fees will assist in the initial capitalization of a new bond pool. Provided the permits previously covered by the transferred funds are adequately covered by the new pool, there is nothing in these provisions that is inconsistent with section 509(c) of SMCRA or with the Federal regulations at 30 CFR 800.11(e), and they are hereby approved.

H.B. 66 Section 7—KRS 350.518. Permittee to submit permit-specific bond under KRS 350.060(11)—Tonnage fees—Assignment of mine type classification—inclusion of future permits of existing classification—Inclusion of future permits of existing voluntary bond pool fund members—Permit-specific penal bond—Administrative regulations—Suspension of permit for arrearage in fees—Distribution of penalties collected under KRS 350.990(1)—Rights and remedies: This is a new chapter that provides the following provisions related to the KRGF that apply to each member permittee: (1) Each member must submit a permit-specific bond; and (2) each member must pay a tonnage fee (production fee) of $.0757 per ton for surface coal mining operations (including auger and highwall mining) and $.0357 per ton for underground coal mining. If the permit consists of a combination of surface and underground mining operations, the operator must pay a fee in accordance with the predominant method of coal extraction.

This chapter also contains special provisions for permits that were subject to the VBP as follows: (1) These permits are excluded from the one-time start-up assessment/fee; (2) these permits are subject to the new tonnage fees, instead of the tonnage fees which had been previously established (prior to July 1, 2013); (3) these permits will continue to receive subsidization of the reclamation bonding authorized under these new statutes and new permanent regulations; and (4) the KRGF will continue to provide coverage for existing bonds previously issued under the VBP. This chapter also provides the criteria that members of the VBP as of July 1, 2013, must meet in order to be included in the KRGF. It also specifies a maximum allowable increase in the total amount of bonds issued to any one member of the VBP. This chapter provides that administrative regulations will be promulgated by the KRGFC to address the reporting and payment of fees (see administrative regulations section that follows). It also provides that a permit will be suspended if the permittee is in arrearage in the payment of any fees and sets out the remedies to address the suspension. It also provides the manner in which penalties collected shall be deposited and applied.

In addition, if an entity was not a participant in the VBP as of March 22, 2013, a permit may be considered for inclusion in the VBP if the entity and entity's owners can meet eligibility standards established in permanent regulations promulgated by the KRGFC.

These provisions make clear that the KRGFC must make changes to the rates set forth in these sections and other sections in an amount sufficient to maintain actuarial soundness of the fund in accordance with the actuarial studies performed.

OSMRE Finding: We find that these provisions are consistent with section 509(c) of SMCRA and with the Federal regulations at 30 CFR 800.11, and are hereby approved. However, subsection (4) requires some further explanation. It states that:

> The increase in the total amount of bonds issued to any one (1) member of the voluntary bond pool under subsection (3) of this section shall not exceed twenty-five (25%) of the greater of:
>
> (a) The member's aggregate amount of bonds in force and issued by the voluntary bond pool as of March 22, 2013; or
>
> (b) The total of that member's aggregate amount of bonds in force and issued by the voluntary bond pool as of March 22, 2013, plus fifty-five percent (55%) of that total.

We note that paragraph (b) will always result in a total greater than paragraph (a) and, therefore, renders the provision at paragraph (a) meaningless. Nevertheless, the introductory paragraph, coupled with paragraph (b), is consistent with section 509(c) of SMCRA and the Federal regulations at 30 CFR 800.11, and they are therefore approved.

H.B. 66 Section 8—KRS 350.521. Forfeiture of bonds for permits covered by fund—Use of additional moneys when bond insufficient to cover estimated reclamation cost: This is a new chapter that provides that bonds for permits covered by the fund forfeited after January 1, 2014, must be placed in the KRGF. It also provides that in the event that a forfeited bond and the cost estimate prepared by the cabinet indicates the bond is insufficient to reclaim the permit to the requirements of KRS Chapter 350, any outstanding permit-specific performance bond for reclamation on the forfeited permit must be used first before any additional monies necessary to reclaim the permit area are approved by the cabinet and withdrawn from available funds in the KRGF. It also provides the manner in which the request from the cabinet and transfer shall occur, and provides that the commission, its members, and employees must not be named a party to any forfeiture action.

OSMRE Finding: We find that this provision sets forth a procedure that is typical of an ABS that employs both

site-specific performance bonds and a bond pool. We find that it is consistent with section 509(c) of SMCRA and with the Federal regulations at 30 CFR 800.11(e) and is hereby approved.

H.B. 66 Section 9—KRS 12.020. Enumeration of departments, program cabinets, and administrative bodies: This chapter is amended to add the ORGF within the Department of Natural Resources (DNR) to the list of departments, program cabinets and their departments, and the respective major bodies.

OSMRE Finding: This change was included in H.B. 66, but the revised statute was not submitted for approval. We find this change does not require our approval because it is not part of the State regulatory program.

H.B. 66 Section 10—KRS 350.595. Application for inclusion under Abandoned Mine Land Enhancement Program—Coverage under Kentucky reclamation guaranty fund: This chapter is amended to provide that an applicant who desires to remine property which is classified as abandoned mine land under KRS 350.560, may apply to the KRGFC instead of the VBP Commission for authorization to use bond pool funds under the Abandoned Mine Land Enhancement Program. It also adds appropriate references or deletes references related to the VBP.

OSMRE Finding: This change is needed to acknowledge the dissolution of the old VBP commission and its replacement by the KRGFC. We find that it is not inconsistent with SMCRA or the Federal regulations and is hereby approved.

H.B. 66 Section 11—KRS 350.990. Penalties: This chapter is amended to require that civil penalty monies assessed pursuant to this chapter be deposited in the State Treasury, except those penalty monies collected in excess of $800,000 in any fiscal year. Fifty percent of the excess monies are required to be deposited in the KRGF (rather than the VBP) and fifty percent in a supplemental fund. The supplemental fund is comprised of the interest from the deposit of forfeited bonds and may be used to supplement forfeited bonds that are inadequate to complete reclamation plans. It removes the $16 million base amount below which the VBP could not be allowed to fall to ensure solvency of the fund.

OSMRE Finding: This change identifies the manner in which funds collected from civil penalties must be distributed. The $16 million base amount for the VBP is no longer required because the VBP bonding system was replaced. Under the KRGF, required actuarial studies and the KRGFC will establish the financial needs of the KRGF to ensure the solvency of the fund and assure sufficient money is available to complete the reclamation plan for any areas covered by the KRGF which may be in default at any time. As such, it is not required to establish an amount, such as $16 million, as a floor for the KRGF. There is nothing in these provisions that is inconsistent with section 509(c) of SMCRA or with the Federal regulations at 30 CFR 800.11(e), and they are approved.

H.B. 66 Section 12—KRS 350.700 to 350.755: The following chapters are repealed due to the abolishment of the VBP:

350.700. Bond pool fund established;
350.705. Bond Pool Commission;
350.710. Powers of the Commission;
350.720. Bond Pool (Criteria compliance records);
350.725. Membership fee—tonnage fee;
350.730. Tonnage fee suspension or reinstatement;
350.735. Permit-specific penal bond;
350.740. Permit issuance;
350.745. Payments from fund for reclamation;
350.750. Revocation of membership in bond pool; and
350.755. Grounds for refusal of permit.

OSMRE Finding: Removal of the identified chapters involving the VBP is consistent with the newly established KRGF. However, it is our understanding that, consistent with the title, H.B. 66 was intended to also repeal KRS 350.715, Pool administrator. Because the repeal of KRS 350.715 was not specifically submitted for approval, this chapter remains in effect and cannot be removed until the repeal is submitted for approval.

H.B. 66 Section 13—(no corresponding KRS chapter because a revised statute is not necessary): This section provides that the assets and liabilities of the VBP be immediately transferred to the KRGF. Any records, files and documents associated with the activities of the VBP must also be transferred. The affairs of the VBP must be wound up, and the cabinet will have disposition over placement or transfer of any personnel of the VBP. No existing contract shall be impaired.

OSMRE Finding: This provision involves the initial capitalization of the new bonding system and administratively and financially concludes the old bonding system. We find that this transfer of funds and records is needed for establishment and proper implementation of the KRGF, and that it is not inconsistent with section 509(c) of SMCRA or with the Federal regulations at 30 CFR 800.11(e). It is hereby approved.

H.B. 66 Section 14—(no corresponding KRS chapter because a revised statute is not necessary): This section provides for the immediate implementation of the provisions of the bill.

OSMRE Findings: We find that section 14 is not inconsistent with SMCRA or the Federal regulations and is therefore approved.

C. Kentucky Administrative Regulations (KARs)

This portion of the program amendment includes additions and changes to current administrative regulations addressing Kentucky's bonding program. These regulations involve the repeal of three regulations; the addition of four new regulations; and amendments to four regulations as described below:

405 KAR 10:001. Definitions for 405 KAR Chapter 10 (section 1): This regulation is amended to add the definition of the following terms: Acquisition; active acre; actuarial soundness; dormancy fee; coal mined and sold; final disposition; full-cost bonding; Kentucky Reclamation Guaranty Fund; Office of the Reclamation Guaranty Fund (ORGF); opt-out; member, non-production fee; and acquisition as it relates to criteria for identifying land historically used for cropland. The definitions of bond pool, bond pool administrator, and bond pool commission have been deleted. Bond pool and bond pool administrator have been replaced with definitions of KRGF and the ORGF.

OSMRE Finding: There are no comparable Federal definitions for the definitions mentioned above. These changes are not inconsistent with section 509 of SMCRA and with the Federal regulations at 30 CFR part 800 and are hereby approved.

405 KAR 10:015, General bonding provisions (sections 1 through 12): This is a new regulation that combines two repealed sections (405 KAR 10:010 and 405 KAR 10:020 mentioned above as part of the Emergency Regulations) and incorporates parts of 405 KAR 10:030 (addressed below). It consolidates into one regulation all current existing bonding criteria, types of bonds, bonding methods, terms and conditions of bonds, and new calculation protocols. It also contains a protocol for bond calculation for demolition and disposal costs for materials used in mining operations at preparation plants. In addition, it provides for the calculation of costs associated with mine sites that have been identified as producers of

substandard effluent discharges requiring long-term treatment. For clarity, we note that Section 1, Bonding Requirements; Section 4, Bonding Methods; Section 5, Substitution of Bonds; Section 9, Period of Liability; and Section 10, Adjustment of Amount, were unaffected by these changes. Substantive changes are included below.

Section 2, Terms and Conditions of Performance Bond

Section 2(9) provides that for any existing permits with permit-specific bonds posted by the VBP members, prior to the establishment of the KRGF, the permit-specific bond would be released in its entirety upon successful completion of Phase I bond release requirements, while permit-specific bonds posted by these members on new permits after the establishment of the KRGF, will be released in equal percentages at each reclamation phase, which is different than the release provisions for full-cost bond permits. The Phase 1 bond release for VBP members' permit-specific bond was formerly included in the now repealed statute at KRS 350.735(3). We announced our approval of this provision, along with the other statutory portions of the VBP, in the July 18, 1986, **Federal Register** document. (51 FR 26002).

OSMRE Finding: We find the phase-by-phase release of equal portions of the new permit-specific bonds posted after the establishment of the KRGF ensures that two-thirds of the permit-specific bond, coupled with any moneys needed from the KRGF, will remain available for reclamation after Phase I bond release. These provisions are not inconsistent with section 519(c) of SMCRA and with the Federal regulations at 30 CFR 800.40(c), and are hereby approved. Inasmuch as permit-specific bonds in existence prior to the creation of the KRGF were posted according to the approved program at the time, the grandfather provision maintaining the release of these bonds in their entirety, upon successful completion of Phase I bond release requirements, remains approved.

Section 3, Types of Performance Bonds

Section 3(2)(c) adds to the list of approvable bonds the following types of bonds: Those filed pursuant to the provisions of the KRGF; those filed by VBP members; or a combination of both. Section 3(3) provides that permit-specific bonds associated with the VBP prior to its repeal are deemed valid and convey the same legal rights as bonds issued by the KRGF.

OSMRE Finding: The types of bonds allowed under section 3(2)(c) are not inconsistent with the Federal regulations since bond pools and their related bonds are permissible under 30 CFR 800.11(e). With regard to section 3(3), we find that because the bonds approved under the VBP were valid when issued, Kentucky may continue to recognize their validity after the creation of the KRGF. We are approving section 3(3) because it is consistent with section 509 of SMCRA and with the Federal regulations at 30 CFR part 800.

Section 6, Determination of Bond Amounts

Sections (6)(1) and (6)(4) make clear, by cross-references, that the new provision at 405 KAR 10:080, which is being approved in this decision and addresses full-cost bonding estimates prepared by permittees, does not apply to the determination of bond amounts for KRGF participants.

OSMRE Finding: These cross-references are not inconsistent with SMCRA and the Federal regulations at 30 CFR 800.11 and 800.14 and are hereby approved.

Section 6(2) allows the cabinet to use the reclamation costs submitted in the permit application to establish the bond amount required, if those costs are higher than the reclamation costs calculated by the cabinet.

OSMRE Finding: While there is no direct Federal counterpart to this revision, erring on the side of the higher bond amount calculation is consistent with the Federal requirements at 30 CFR 800.14(a), which governs the determination of the bond amount. Therefore, section 6(2) is hereby approved.

Section 6(3) requires the cabinet to review bond amounts established in the regulations at a minimum of every two years to determine if those amounts are adequate after consideration of the impacts of inflation and increases in reclamation costs.

OSMRE Finding: This revision is no less effective than the Federal regulation at 30 CFR 800.15(a), which allows the regulatory authority to specify periodic times or to set a schedule for reevaluating and adjusting the bond amount. Therefore, section 6(3) is hereby approved.

Section 6(4) requires full-cost bonding participants to provide a cost estimate that reflects the cost of reclamation to the cabinet in accordance with full-cost bonding regulations at section 405 KAR 10:080.

OSMRE Finding: We find that this provision is consistent with the Federal regulations at 30 CFR 800.14, and is hereby approved.

Section 7, Minimum Bond Amount

Section 7 increases minimum bond amounts to $75,000 for the entire surface area under one permit, $75,000 per increment for incrementally bonded permits, $50,000 for a permit or increment operating on previously mined areas, and $10,000 for underground mines that have only underground operations (no surface facilities).

OSMRE Finding: We find the proposed changes at 405 KAR 10:015 section 7 are no less effective than the Federal requirements at 30 CFR 800.14(b), which mandate a minimum bond amount of $10,000 for the entire area under one permit, and are hereby approved.

Section 8, Bonding Rate of Additional Areas

Section 8 establishes new, increased bond amounts that vary depending upon the type of area being affected (*i.e.,* coal refuse area, preparation plants, and mining areas) as follows:

- $2,500 per acre and each fraction thereof for coal haul roads, other mine access roads, and mine management areas.
- $7,500 per acre and each fraction thereof for refuse disposal areas.
- $10,000 per acre and each fraction thereof for an embankment sediment control pond. Each pond must be measured separately if the pond is located off-bench downstream of the proposed mining or storage area. The cabinet also may apply this rate to partial embankment structures as deemed necessary to meet the requirements of section 6(1) of 405 KAR 10:015.
- $3,500 per acre and each fraction thereof for coal preparation plants. In addition, the bond amount must include the costs associated with demolition and disposal of concrete, masonry, steel, timber, and other materials associated with surface coal mining and reclamation operations.
- $2,000 per acre and each fraction thereof for operations on previously mined areas.
- $3,500 per acre and each fraction thereof for all areas not otherwise addressed in 405 KAR 10:015 section 8.

OSMRE Findings: Because all of the changes, summarized above to bonding rates, identified in sections 8(1) through 8(6), constitute increases in bond amounts, they are not inconsistent with the Federal requirements at 30 CFR 800.14, which govern the determination

of bond amounts, and are hereby approved.

However, by approving the sections identified above, we do not conclude, in this decision, that Kentucky has satisfied all of the concerns we set forth in the May 1, 2012, letter issued pursuant to 30 CFR 733.12(b) with regard to the sufficiency of the bond amounts. That determination will be made subsequent to this decision during review of the solvency of the revised bonding system.

Section 8(7)(a) provides that for permits with substandard drainage that require long-term treatment, the cabinet must calculate and the permittee must post an additional bond amount based on the annual treatment cost provided by the permittee, multiplied by 20 years. Section (8)(7)(b) provides that the cost estimate is subject to the verification and acceptance by the cabinet. Kentucky may use its own estimate for annual treatment costs if it cannot verify the accuracy of the permittee's estimate. Section (8)(7)(c), provides that in lieu of posting this additional bond amount, the permittee may submit a satisfactory reclamation and remediation plan for the areas producing the substandard drainage.

Both SMCRA and the Federal regulations require that operators post bonds that are sufficient in amount to guarantee the completion of all reclamation, if that reclamation must be completed by the regulatory authority. See, for example, 30 CFR 800.13(a)(1), which states that performance bond liability must be for the duration of the surface coal mining and reclamation operation and for a period which is equal to the operator's period of extended responsibility for successful revegetation provided in 30 CFR 816.116/817.116 or until achievement of the reclamation requirements of the Act, regulatory programs, and permit, whichever is later. A permit may not be issued if, after sufficient study, analysis, and planning, water pollution is anticipated. Abatement of any unanticipated water pollution is an element of reclamation, and the treatment obligation may extend to perpetuity. Neither SMCRA nor its implementing regulations allow regulatory authorities to set arbitrary time limits as multipliers for calculating bond amounts. Kentucky has not demonstrated that a 20-year multiplier will result in an adequate bond. As such, we find 405 KAR 10:015 8(7)(a) is less stringent than section 509 of SMCRA, 30 U.S.C. 1259, and less effective than the Federal regulations at 30 CFR part 800, and we are not approving it. Because section 8(7)(b) refers to the water treatment calculation in 8(7)(a) that is not being approved, we are also not approving 8(7)(b).

In addition, the allowance of a land reclamation-based remediation plan in lieu of posting an adequate bond for long-term pollutional drainage treatment is unacceptable. Neither SMCRA nor its implementing regulations provide any exceptions to the requirement to post a bond that is fully adequate to cover the cost of reclamation, including water treatment.

We have approved other financial mechanisms under 30 CFR 800.11(e) that are capable of generating an income stream to address unanticipated discharges in perpetuity, *e.g.,* treatment trusts or annuities. Treatment trusts and annuities are types of financial instruments capable of generating revenue for the purpose of maintaining treatment for these discharges. See, for example, **Federal Register** document dated March 2, 2007, addressing the approval of Tennessee's use of treatment trusts. (72 FR 9616). We recommend that Kentucky avail itself of these alternative financial mechanisms to ensure adequate funds are available to fully cover the cost of reclamation. Because this provision at 405 KAR 10:015 8(7)(c) is less stringent than section 509 of SMCRA, and less effective than the Federal regulations at 30 CFR part 800, we are not approving it.

Section 11, Supplemental Assurance

Section 11 includes the supplemental assurance requirements previously located at 405 KAR 16:020 (see summary of 16:020 in *D. Kentucky Administrative Regulations Affected by the Bonding Regulations* below) and increases the supplemental assurance amount from $50,000 to $150,000.

OSMRE Finding: Supplemental assurance funds are required when alternative distance limits or additional pits are approved. While these provisions have no Federal counterparts, we find that, because the increases in supplemental assurance amounts provide additional assurances that reclamation will be completed, the changes are not inconsistent with the Federal regulations at 30 CFR part 800, and are hereby approved.

405 KAR 10:070. Kentucky reclamation guaranty fund (sections 1 through 5): This is a new regulation and provides information related to the operation and sources of revenue for the KRGF, classification of permits, reporting and payment of fees, and penalties. Permittees will automatically be considered participants in the KRGF unless they affirmatively chose to opt-out of the KRGF and post full cost performance bonds. These regulations require that permittees comply with reporting requirements, maintain production records, provide initial assessments, pay fees, comply with penalty provisions, and complete and submit required forms.

OSMRE Finding: We find that this provision sets forth components that are needed for the orderly establishment, monitoring, maintenance, and enforcement, where necessary, of an ABS. Therefore, we further find this provision to be consistent with section 509(c) of SMCRA and with the Federal regulations at 30 CFR 800.11(e), and is hereby approved.

We note however, that the establishment of a bond pool, particularly in a declining coal market, brings inherent risks to participating permittees and to Kentucky. As the number of bond pool members and the amount of coal produced in Kentucky declines, the production fees placed on coal being produced will need to rise correspondingly to maintain a financially sound and stable bond pool. By exercising its discretion to establish this bond pool, Kentucky is accepting these risks.

405 KAR 10:080. Full-cost bonding (sections 1 through 4): This is a new regulation and provides that members have the option to provide full-cost bonds in lieu of maintaining membership in the KRGF (*i.e.,* they may opt-out of the KRGF) and the manner in which a permittee shall make such declaration. These sections provide for the calculation of bonding estimates, the forms required to submit such estimates, the requirement for a registered professional engineer to certify estimates, and the requirement to submit a bond once the reclamation estimate has been accepted. A member with permits issued prior to July 1, 2013, that has made the decision to opt-out is required to post full-cost reclamation bonds with the Department before April 30, 2014, on all permits held by the member.

OSMRE Finding: This regulation is not inconsistent with SMCRA and the Federal regulations at 30 CFR 800.11 and 800.14, and is hereby approved.

405 KAR 10:090. Production fee (section 1): This is a new regulation and provides information on production fees, the amount of the fees, and the schedule that payments are to be remitted.

OSMRE Finding: There are no comparable Federal regulations that prescribe production fees to be imposed on permittees. We find that these changes are not inconsistent with

SMCRA or its implementing Federal regulations, and are hereby approved.

We again note that the establishment of a bond pool, particularly in a declining coal market, brings inherent risks to participating permittees and to Kentucky. As the number of bond pool members and the amount of coal produced in Kentucky declines, the production fees placed on coal being produced will need to rise correspondingly to maintain a financially sound and stable bond pool. By exercising its discretion to establish this bond pool, Kentucky is accepting these risks.

D. Kentucky Administrative Regulations Affected by the Bonding Regulations

These regulations are affected by the bonding regulations and involve the amendment of four regulations as described below:

405 KAR 8:010. General provisions for permits (Sections 1 through 26): This regulation has been amended to provide the Division of Mine Permits 30 working days after the notice of administrative completeness to review minor revisions on full-cost bonding operations. The original provisions allowed for 15 working days.

OSMRE Finding: We find that these changes are not inconsistent with SMCRA and the Federal regulations at 30 CFR 774.13(b)(1), and are hereby approved.

405 KAR 10:030. General requirements for liability insurance (sections 1 through 3): This regulation has been amended. Prior to this revision the regulation included general requirements for the types, terms, and conditions of performance bonds and liability insurance. With this revision, all references to performance bonds have been removed from sections 1 through 3, and now only requirements for liability insurance are included (former sections 4 and 5 have been renumbered as sections 2 and former section 5 has been moved to section 3). Requirements for performance bonds have been moved to 405 KAR 10:015 as noted above. Also, two forms are specified as requirements related to liability insurance coverage: (1) Certificate of Liability Insurance, and (2) Notice of Cancellation, Nonrenewal or Change of Liability Insurance.

OSMRE Finding: These changes are non-substantive in nature, not inconsistent with the Federal requirements at 30 CFR 800.60, and are hereby approved.

405 KAR 12:020. Enumeration of departments, program cabinets, and administrative bodies: This section has been amended to include the Office of the Reclamation Guaranty Fund to the list of Offices within the Department of Natural Resources.

OSMRE Finding: This change was mentioned in H.B. 66 but does not require our approval because it is not part of the State program.

405 KAR 16:020. Contemporaneous reclamation (sections 1 through 5): This regulation has been amended. A new section is included (Section 1, Definitions) and defines the term ''completed reclamation.'' Subsequently, other sections have been renumbered. Other changes include adding references to the new section, 405 KAR 10:015, and removing the section involving Supplemental Assurance. Regulatory information about supplemental assurance has been relocated to 405 KAR 10:015, noted above.

OSMRE Finding: There is no comparable definition within the Federal regulations. We find, however, that this section is not inconsistent with the Federal regulations and is hereby approved.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment and received responses from three entities: The Surety & Fidelity Association of America (TSFAA) on February 21, 2013, (Administrative Record No. KY–2000–06a); the Appalachian Mountain Advocates (AMA) on March 22, 2013, (Administrative Record No. KY–2000–06c); and the Kentucky Coal Association (KCA) on March 22, 2013, (Administrative Record No. 2000–06b) and April 21, 2015, (Administrative Record No 2000–06d). No public hearing was requested. The following summarizes the comments that were received.

TSFAA: TSFAA cited financial concerns over the surety bond increases listed at 405 KAR 10:015 in that an operator who qualified at the lower amount may not be able to qualify at the higher amount. TSFAA suggests an increase in the stringency of enforcement activities relative to contemporaneous reclamation as required in the statutes and regulations. The consequent sizeable bond amounts likely could be avoided if the operator engages in contemporaneous reclamation. Strengthening enforcement and inspection activities should be the first means to addressing the sufficiency of bonds before considering increases in bond amounts. TSFAA is concerned that the bond issued may also extend to the long-term, if not perpetual, obligation of water treatment. TSFAA suggests that Kentucky establish the necessary framework whereby a trust could be established in lieu of a bond with respect to water treatment obligations.

OSMRE's Response: Both SMCRA and the Federal regulations require that operators post bonds that are sufficient in amount to guarantee the completion of all reclamation, if that reclamation must be completed by the regulatory authority. Kentucky's amendments were submitted, and are being approved, with exceptions, because they are designed to improve the bonding program. If surety bonds are not available in these higher amounts, operators must obtain one of several other forms of bonding. While strengthening enforcement and inspection activities may be a laudable goal, its achievement is not a substitute for the requirement for a permittee to post an adequate bond.

The Surety & Fidelity Association of America (TSFAA) also stated:

> Water treatment obligations are a different risk, involving funding obligations in perpetuity. This could be a risk not susceptible to underwriting. Establishment of a treatment trust that would fund the treatment obligations in lieu of a bond would facilitate the availability of the bond and put less strain on the bond amount to cover the reclamation obligations. We recommend that the DNR should establish the necessary framework whereby a trust could be established in lieu of a bond with respect to water treatment obligations.

We agree with this comment.

AMA: The AMA is concerned that long-term pollutional discharges would allow permittees to post a bond that would not cover the full cost of reclamation. The AMA believes that the amendment to 405 KAR 10:015 section 8(7)(a) properly mandates additional bond amounts but would allow permittees to escape their duty if they submit a remediation plan for areas with inadequate drainage. The AMA also believes that there is no evidence that land reclamation techniques are effective at eliminating long-term acid mine drainage; the regulations fail to clearly require an increase in the bond amount to reflect the added cost of land remediation techniques; and the amendment's assumption of a 20-year time frame for ongoing treatment costs is arbitrary and capricious.

OSMRE's Response: We share the AMA's concerns. As set forth in the finding above, we are not approving the 20-year multiplier in 405 KAR 10:015 section 8(7)(a), and the provision at 405 KAR 10:015 section 8(7)(c), which allows a permittee to submit a land

reclamation and remediation plan for areas producing substandard drainage in lieu of bond.

KCA: The KCA commented on March 22, 2013, and April 21, 2015, stating it believes the amendment submission should render the Kentucky program fully consistent with the SMCRA statute and implementing regulations and should be approved by OSMRE. Furthermore, the KCA submits that these program revisions successfully address the alleged program deficiencies identified in the 733 Notice. Upon approval of the amendment, KCA urges that the 733 proceedings be terminated.

OSMRE's Response: For the reason specified in our finding with respect to 405 KAR 10:015, Section 8, we are not terminating the 733 proceedings at this time.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on April 21, 2015, we requested comments on the amendments from various Federal agencies with an actual or potential interest in the Kentucky program (Administrative Record No. KY–2000–05 (a–g). In a letter dated May 13, 2015, (Administrative Record No. KY–2000–06b), the Mine Safety and Health Administration responded that it did not have any comments. No other Federal agency comments were received.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.)* or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Kentucky proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment, but requested comment on April 21, 2013. The EPA responded in a letter dated May 6, 2015, (Administrative Record No. KY–2000–06e) acknowledging OSMRE's efforts to collaborate with the EPA on improvements to the effectiveness and consistency of regulatory programs and efforts to reduce the environmental impacts of surface coal mine operations. They did not provide any comments specific to the amendment.

V. OSMRE's Decision

Based on the above findings, we are approving, Kentucky's amendment that was submitted September 28, 2012, with the following two exceptions:

1. We are deferring our decision on the bi-annual actuarial review provision of H.B. 66 until such time as we are able to evaluate the stability of the KRGF over its first three full years of implementation. Following receipt and review of the third actuarial study, we will reconsider our deferral and determine whether to: (1) Approve the bi-annual actuarial study requirement; (2) require that the studies continue to be performed annually; or (3) take other appropriate action.

2. We are not approving 405 KAR 10:015 8(7), that allows for a posting of a financial performance bond covering a specified period of time and allows a permittee to submit a land reclamation and remediation plan for areas producing substandard drainage in lieu of bond. We are requiring Kentucky to take one of the following actions within 60 days following publication of this document: (1) Notify us how Kentucky will require operators to address financial assurances for the treatment of post-mining discharges, potentially in perpetuity, under its currently approved program, given that we are not approving 10:015 8(7); or (2) submit an amendment to its approved program, or a written description of an amendment, together with a timetable for enactment that is consistent with established administrative or legislative procedures in Kentucky, that requires operators to provide sufficient financial assurances for the treatment of post-mining discharges for as long as such discharges continue to exist.

To implement this decision, we are amending the Federal regulations at 30 CFR part 917, which codify decisions concerning the Kentucky program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after date of publication. Section 503(a) of SMCRA requires that a State program demonstrate that such State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

Pursuant to Office of Management and Budget (OMB) Guidance dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3(a) of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of Kentucky drafted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the Kentucky program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism set forth in SMCRA. See, *e.g.,* 30 U.S.C. 1201(f). As such, pursuant to Section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Government

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally

recognized Indian tribes and have determined that the rule does not 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. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal regulation involving Indian Lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

Executive Order 13211 of May 18, 2001, requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the Kentucky submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the Kentucky submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 19, 2017.

Thomas D. Shope,

Regional Director, Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 917.12 is amended by adding paragraphs (g) and (h) to read as follows:

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

* * * * *

(g) We are deferring our decision on the bi-annual actuarial review provision of 350 KRS 350.509 until such time as we are able to evaluate the stability of the Kentucky Reclamation Guaranty Fund (KRGF) over its first three full years of implementation.

(h) We are not approving 405 KAR 10:015 8(7).

■ 3. Section 917.15 is amended by adding an entry to the table in paragraph (a) in chronological order by ''Date of final publication'' to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
September 28, 2012; July 5, 2013; and December 3, 2013.	1/29/18	The following emergency KAR sections are approved: 10:001E; 10:070E; 10:080E; and 10:201E. The following KRS sections are repealed: 350 KRS:700–755, except 350.715; the following are amended: 350:595 and 350:990; the following are added: 350.500–521. The following KAR sections are repealed: 405 KAR 10:010, 10:020 and 10:200; the following are amended: 8:010, 10:001, 10:030, 16:020; the following are added: 10:015, 10:070, 10:080, and 10:090.

* * * * *

■ 4. Section 917.16 is amended by adding paragraph (p) to read as follows:

§ 917.16 Required regulatory program amendments.

* * * * *

(p) We are requiring Kentucky to take one of the following actions by March 30, 2018: (1) Notify us how Kentucky will require operators to address financial assurances for the treatment of post-mining discharges, potentially in perpetuity, under its currently approved program, given that we are not approving 405 KAR 10:015 8(7); or (2) Submit an amendment to its approved program, or a written description of an amendment together with a timetable for enactment that is consistent with established administrative or legislative procedures in Kentucky, that requires operators to provide sufficient financial assurances for the treatment of post-mining discharges for as long as such discharges continue to exist.

Editorial note: This document was received for publication by the Office of the Federal Register on January 24, 2018.

[FR Doc. 2018–01635 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1015]

RIN 1625–AA09

Drawbridge Operation Regulation; China Basin, Mission Creek, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the 3rd Street Bridge, across China Basin, Mission Creek, mile 0.0, at San Francisco, California. The bridge owner, the City of San Francisco, submitted a request to secure the bridge in the closed-to-navigation position for 18 months in order to conduct critical mechanical and structural rehabilitation of the bridge. The temporary change to the regulations is expected to meet the reasonable needs of navigation on the waterway.

DATES: This temporary final rule is effective from 6 a.m. on February 28, 2018, until 11 p.m. on September 30, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Type USCG–2017–1015 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IAW In accordance with
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On November 14, 2017, we published a NPRM entitled, ''Drawbridge Operation Regulation; China Basin, Mission Creek, San Francisco, CA'' in the **Federal Register** (82 FR 218). We received no comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The 3rd Street Bridge, across China Basin, Mission Creek, mile 0.0, at San Francisco, California, is a single leaf bascule bridge which provides 3 feet of vertical clearance at mean high water in the closed position and unlimited vertical clearance in the open position. According to the Coast Guard Drawbridge Operation Regulations in 33 CFR 117.149 the draw shall open on signal if at least one hour notice is given.

The owner of the bridge, the City of San Francisco, has submitted a request to the Coast Guard to keep the bridge in the closed-to-navigation position for 18 months to complete critical mechanical and structural rehabilitation of the bridge.

China Basin, Mission Creek, is 0.64 miles in length with the 3rd Street Bridge at the mouth of the basin. Approximately 35 recreational vessels are moored upstream of the bridge and require the drawspan to open in order to depart the basin into San Francisco Bay. There are no commercial vessels that regularly use the waterway. The City of San Francisco has indicated that they will assist vessel owners in China Basin, Mission Creek, to find alternate moorings during the closure period. Vessels able to transit the bridge, while in the closed-to-navigation position, can continue to do so during the closure period.

Under this temporary final rule the draw need not open for the passage of vessels from 6 a.m. on February 28, 2018, until 11 p.m. on September 30, 2019.

If necessary, during this temporary final rule period, the draw shall open on signal if at least 45 days notice is given.

IV. Discussion of Comments, Changes, and the Temporary Final Rule

The Coast Guard provided a comment period of 30 days and no comments were received. As a result, no changes have been made to the rule as proposed.

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 protesters.

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, it 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 limited number of vessels impacted and the ability of those vessel owners, located upstream of the bridge, to receive assistance from the City of San Francisco in finding alternate moorings while the bridge is in the closed-to-navigation position.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. 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 bridge 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**, above.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Government

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.

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 an 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 guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 6 a.m. on February 28, 2018, until 11 p.m. on September 30, 2019, § 117.149, is suspended and § 117.149(T) is added to read as follows:

§ 117.149–T China Basin, Mission Creek.

(a) The draw of the 3rd Street bridge, mile 0.0, at San Francisco, need not be opened for the passage of vessels. The draw shall be returned to operable condition within 45 days after notification by the District Commander to do so.

(b) The draw of the 4th Street bridge, mile 0.2, at San Francisco, shall open on signal if at least one hour notice is given.

Dated: January 23 2018.

Todd A. Sokalzuk,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2018–01556 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0057]

Drawbridge Operation Regulation; Three Mile Slough, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the California Route 160 Drawbridge across Three Mile Slough, mile 0.1, near Rio Vista, CA. This deviation allows the bridge to remain in the closed-to-navigation position while the bridge owner conducts emergency repairs.

DATES: This deviation is effective without actual notice from January 29, 2018 through 11 p.m. on February 23, 2018. For the purposes of enforcement, actual notice will be used from 10:30 a.m. on December 16, 2017, until January 29, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0057, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION: On December 16, 2017 the California Department of Transportation reported that the California Route 160 Drawbridge over Three Mile Slough, mile 0.1, near Rio Vista, CA suffered a mechanical failure. The drawspan was secured in the closed-to-navigation position due to damaged uphaul/downhaul wire ropes, wire rope drums and sheaves. The drawbridge navigation span provides a vertical clearance of 12 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal as required by 33 CFR 117.5. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 10:30 a.m. on December 16, 2017, through 11 p.m. on February 23, 2018, to allow the bridge owner to conduct emergency repairs. This temporary deviation has not been coordinated with waterway users.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies. The Sacramento River and San Joaquin River can be used as alternate routes for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway 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 its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 24, 2018.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2018–01634 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0750]

RIN 1625–AA09

Drawbridge Operation Regulation; Pequonnock River, Bridgeport, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Metro-North Peck Bridge across the Pequonnock River, mile 0.3, at Bridgeport, Connecticut. The owner of the Bridge, Metro-North Railroad, submitted a request that vessels seeking an opening of the draw provide a minimum of four hours advance notice. It is expected this change to the regulations will better serve the needs of the community while satisfying the reasonable needs of navigation.

DATES: This rule is effective February 28, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0750. In the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jeffrey Stieb, Project Officer, First Coast Guard District, telephone, 617–223–8364, *Jeffrey.D.Stieb@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On October 10, 2017, we published a NPRM entitled ''Drawbridge Operation Regulation; Pequonnock River, Bridgeport, Connecticut,'' in the **Federal Register** (82 FR 46948). We received three comments on this rule that are discussed in Section IV.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Metro-North Peck Bridge, mile 0.3, across the Pequonnock River at Bridgeport, Connecticut, has a vertical clearance of 26 feet at Mean High Water and 32 feet at Mean Low Water when the span is in the closed position. Vertical clearance is 65 feet when draw is open. Horizontal clearance is 105 feet. Waterway users include recreational and a limited number of small commercial vessels. The drawbridge operating regulations are listed at 33 CFR 117.219(b).

The bridge is a component of the Northeast Corridor, which supports Metro-North, Amtrak, and freight rail service. 211 Metro-North commuter trains alone cross the bridge daily. The owner of the bridge, the Metro-North Railroad, requested a change to require a minimum of four hours of advance notice to better facilitate the orderly flow of rail traffic while satisfying the reasonable needs of navigation. The Metro-North Railroad also requested to increase the number of hours the bridge need not open, except for emergencies, from 2 hours and 40 minutes to a total of 8 hours per day with exceptions for weekends, holidays, and emergencies, and to extend the allowable delay to an opening when a train is approaching the bridge from seven to fifteen minutes. Allowing the bridge owner to require such notice will allow for more efficient and economical operation of the bridge. The bridge has not received any requests for an opening in the past four years.

The Coast Guard believes this change balances the needs of land-based and marine traffic as it will enhance railroad traffic flow without significantly impacting vessel traffic.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard received three comments in response to the NPRM. No changes in the regulatory text were made in response to the comments. One comment inquired whether the phone number for the bridge will be available other than by viewing the number posted as the bridge. Bridge openings can be requested by calling the Metro-North 24 hour Operations Control Center (OCC) at 212–340–2050. Metro-North will contact local waterway users directly to advise them of the number and the amended regulation.

A second comment asked how the amended regulation will be communicated to the maritime community. Metro-North will contact local waterway users directly and the Coast Guard will publish notice of the amended regulation and the phone number for the bridge in the Coast Guard's Local Notice to Mariners.

A third comment noted that, with exceptions for weekends, holidays and emergencies, the time that the bridge need not open daily, except for emergencies, has increased from 2 hours and 40 minutes to a total of 8 hours. This comment asked whether this increase will have any impact. The additional 5 hours and 20 minutes that the bridge need not open daily is not expected to have a significant impact. The bridge has not received any requests for an opening in the past four years and there are no businesses located upstream of the bridge hosting either vessels or barges that would need an opening of the draw as a routine matter. Metro-North will continue to fully maintain and open the bridge as needed to keep the bridge in operable condition.

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 protesters.

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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard has determined this rule is not a significant regulatory action. There have been no requested openings for vessel for the past four years. The 26 foot vertical clearance available at Mean High Water when the bridge is in the closed position is sufficient to allow a majority of traffic to pass without an opening.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. 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 bridge 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**, above.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Government

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.

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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under Table 1, L49 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.219, paragraph (b) is revised to read as follows:

§ 117.219 Pequonnock River.

* * * * *

(b) The draw of the Metro-North Peck Bridge at mile 0.3, at Bridgeport shall operate as follows:

(1) The draw shall open on signal between 5:45 a.m. to 9 p.m. if at least four hours advance notice is given; except that, from 5:45 a.m. to 9:45 a.m., and 4 p.m. to 8 p.m., Monday through Friday excluding holidays, the draw need not open for the passage of vessel traffic unless an emergency exists.

(2) From 9 p.m. to 5:45 a.m., the draw shall open on signal if at least an eight hour notice is given.

(3) A delay in opening the draw not to exceed 15 minutes may occur when a train scheduled to cross the bridge without stopping has entered the drawbridge block.

(4) Requests for bridge openings may be made by calling the telephone number posted at the bridge.

* * * * *

Dated: January 16, 2018.

S.D. Poulin,

Rear Admiral, U. S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2018–01605 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0022]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters on the Lower Mississippi River between mile marker (MM) 95.6 and MM 96.6 Above Head of Passes (AHP). This safety zone is necessary to protect persons and vessels from potential safety hazards associated with a fireworks display on February 3, 2018. This rulemaking will prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative.

DATES: This rule is effective from 10 p.m. through 11:20 p.m. on February 3, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2018–0022. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Commander (LCDR) Howard K. Vacco, Sector New Orleans, Waterways Management Division Chief, U.S. Coast Guard; telephone 504–365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AHP Above Head of Passes
BNM Broadcast Notice of Mariners
CFR Code of Federal Regulations
COTP Captain of the Port Sector New Orleans
DHS Department of Homeland Security
FR Federal Register
LMR Lower Mississippi River
MM Mile Marker
MSIB Marine Safety Information Bulletin
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 this safety zone by February 3, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. It is also contrary to the public interest as it would delay the safety measures necessary to protect life and property from the possible hazards associated with the fireworks display launched from the waterway. The impacts on navigation are expected to be minimal as the safety zone will only be in effect for a short duration. The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via Broadcast Notice to Mariners (BNM) and Marine Safety Information Bulletin (MSIB).

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because the safety zone is necessary to respond to potential hazards associated with a fireworks display.

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 New Orleans (COTP) has determined that a temporary safety zone is necessary to provide for the safety of life and vessels transiting the area where the fireworks will be launched. The fireworks display is scheduled to take place from 10 p.m. through 11:20 p.m. on February 3, 2018, on the navigable waters of the Lower Mississippi River at New Orleans, LA.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. to 11:20 p.m. on February 3, 2018. The safety zone would cover all navigable waters of the Lower Mississippi River (LMR) between Mile Marker (MM) 95.6 and MM 96.6 Above Head of Passes (AHP) in New Orleans, LA. The duration of the zone is intended to ensure the safety of vessels on these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the 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.

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 safety zone. This safety zone will restrict vessel traffic from entering or transiting within a one mile area of navigable waterway of the LMR between MM 95.6.0 and 96.6 AHP in New Orleans, LA. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone 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 proposed 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 would 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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour and twenty minutes on one mile of navigable waters between MM 95.6 and 96.6 AHP of the LMR. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration (REC) 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 to amend 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.T08–0022 to read as follows:

§ 165.T08–0022 Safety Zone; Lower Mississippi River, New Orleans, LA

(a) *Location.* The following area is a safety zone: All navigable waters of the

Lower Mississippi River, New Orleans, LA between mile marker (MM) 95.6 and MM 96.6 Above Head of Passes.

(b) *Effective period.* This section is effective from 10 p.m. through 11:20 p.m. on February 3, 2018.

(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 New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

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

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: January 22, 2018.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2018–01616 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0107; FRL–9972–53-Region 1]

Air Plan Approval; Massachusetts; Revised Format for Materials Being Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is revising the format for materials submitted by the Commonwealth of Massachusetts that are incorporated by reference (IBR) into the Massachusetts State Implementation Plan (SIP). The regulations and other materials affected by this format change have all been previously submitted by Massachusetts and approved by EPA as part of the SIP.

DATES: *Effective Date:* This final rule is effective on January 29, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R01–OAR–2017–0107. SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 1, 5 Post Office Square, Boston, Massachusetts 02109–3912; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1660, fax number (617) 918–0660, email *garcia.ariel@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:

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- I. The Historical Record of SIP Revision Approvals

II. What is EPA doing in this action?

III. Incorporation by Reference

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I. Background

A. Description of a SIP

Each State has a SIP containing the control measures and strategies to attain and maintain the National Ambient Air Quality Standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces SIPs

Before formally adopting required control measures and strategies, each State must provide the public with an opportunity to comment on them. The States then submit these measures and strategies to EPA as requested SIP revisions on which EPA must formally act.

When these control measures and strategies are approved by EPA, after notice and comment rulemaking, they are incorporated into the Federally-approved SIP and identified in title 40 of the Code of Federal Regulations, part 52 (Approval and Promulgation of Implementation Plans) (40 CFR part 52). The actual State regulations approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference,'' which means that EPA has approved a given State regulation with a specific effective date. This format allows both EPA and the public to know which measures are contained in a given SIP and to help determine whether the State is enforcing the regulations.

C. How the State and EPA Update the SIP

The SIP is periodically revised as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time takes action on State SIP submissions containing new and/or revised regulations and other materials; if approved, they become part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR).

As a result, EPA began the process of developing the following: (1) A revised SIP document for each State that would be incorporated by reference under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and ''Identification of plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

D. How EPA Compiles the SIP

The Federally-approved regulations, source-specific requirements, and nonregulatory provisions (entirely or portions of) submitted by each State agency and approved by EPA have been organized into a ''SIP compilation.'' The SIP compilation contains the updated regulations, source-specific requirements, and nonregulatory provisions approved by EPA through

previous rulemaking actions in the **Federal Register**.

E. How EPA Organizes the SIP Compilation

Each SIP compilation contains three parts approved by EPA: Part one contains regulations; part two contains source-specific requirements; and part three contains nonregulatory provisions. Each State's SIP compilation contains a table of identifying information for each of these three parts. In this action, EPA is publishing the tables summarizing the applicable SIP requirements for Massachusetts. The effective dates in the tables indicate the date of the most recent revision of each regulation. The EPA Region 1 Office has the primary responsibility for updating the compilation and ensuring its accuracy.

F. Where You Can Find a Copy of the SIP Compilation

EPA's Region 1 Office developed and will maintain the compilation for Massachusetts. A copy of the full text of Massachusetts' regulatory and source-specific compilations will also be maintained at NARA.

G. The Format of the New Identification of Plan Section

To better serve the public, EPA revised the organization of the ''Identification of plan'' section and included additional information to clarify which provisions are the enforceable elements of the SIP.

The revised Identification of plan section contains five subsections: (a) Purpose and scope; (b) Incorporation by reference; (c) EPA-approved regulations; (d) EPA-approved source-specific requirements; and (e) EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, and monitoring networks.

H. When a State Submission Becomes Part of the SIP and Federally Enforceable

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable Identification of Plan section found in each subpart of 40 CFR part 52.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously-approved SIP provisions and provide a smooth transition to the new SIP compilation, EPA has retained the original Identification of plan section, previously appearing in the CFR as the first or second section of part 52 for each State subpart. After an initial two-year period, EPA will review its experience with the new table format and will decide whether or not to retain the Identification of plan appendices for some further period.

II. What is EPA doing in this action?

Today's rule constitutes a record keeping exercise to ensure that all revisions to the State programs and accompanying SIP that have already occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish proposed rulemaking in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided for in the APA. Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Accordingly, we find that public comment is ''unnecessary'' and ''contrary to the public interest'' under section 553 of the APA, since the codification of the revised format for denoting IBR of the State materials into the SIP only reflects existing law and since immediate notice in the CFR benefits the public by removing outdated citations from the CFR.

III. 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 Massachusetts Regulations described in amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk

and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of January 29, 2018. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Massachusetts SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these ''Identification of plan'' reorganization actions for Massachusetts.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 24, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart W—Massachusetts

§ 52.1120 [Redesignated as § 52.1166 and Amended]

■ 2. Redesignate § 52.1120 as § 52.1166, and revise the section heading and paragraph (a) to read as follows:

§ 52.1166 Original identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the State of Massachusetts'' and all revisions submitted by Massachusetts that were federally approved prior to January 20, 2017.

* * * * *

■ 3. A new § 52.1120 is added to read as follows:

§ 52.1120 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan (SIP) for Massachusetts under section 110 of the Clean Air Act, 42 U.S.C. 7401, and 40 CFR part 51 to meet National Ambient Air Quality Standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to January 20, 2017, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval date after January 20, 2017 have been approved by EPA for inclusion in the State Implementation Plan and for incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region 1 certifies that the materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference into the SIP may be inspected at the EPA Region 1 Office, 5 Post Office Square, Boston, Massachusetts 02109–3912. You may also inspect the material with an EPA approval date prior to January 20, 2017 at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA-approved regulations.*

EPA APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
310 CMR 6.04	Standards	7/25/1990	10/4/2002, 67 FR 62184	Adopted PM_{10} as the criteria pollutant for particulates.
310 CMR 7.00	Definitions	1/2/2015	11/29/2016, 81 FR 85897	Approved thirty-three new or updated definitions.
310 CMR 7.00 Appendix A	Emission Offsets and Non-attainment Review.	7/15/1994 and 4/14/1995.	10/27/2000, 65 FR 64360	Approving 1990 CAAA revisions and general NSR permit requirements.
310 CMR 7.00 Appendix B	Emission Banking, Trading and Averaging.	8/30/2013	10/9/2015, 80 FR 61101	Approved amended language regarding emissions averaging bubbles.

EPA APPROVED MASSACHUSETTS REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
Regulations for the Control of Air Pollution.	Regulation 1 General Regulations to Prevent Air Pollution.	1/27/1972	5/31/1972, 37 FR 10841.	
Regulations for Prevention And/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies.	Regulation 1 Introduction	8/28/1972	10/28/1972, 37 FR 23085.	
Regulations for the Control of Air Pollution.	Regulation 2 Plans Approval and Emission Limitations.	2/1/1978	3/15/1979, 44 FR 15703	Regulation 2 is now known as 310 CMR 7.02.
Regulations for Prevention And/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies.	Regulation 2 Definitions	8/28/1972	10/28/1972, 37 FR 23085.	
310 CMR 7.02	Plans Approval and Emission Limitations.	6/6/1994	4/5/1995, 60 FR 17226.	
Regulations for the Control of Air Pollution.	Regulation 3 Nuclear Energy Utilization Facilities.	6/1/1972	10/28/1972, 37 FR 23085.	
310 CMR 7.03	Plan Application Exemption Construction Requirements. Paint Spray Booths 310 CMR 7.03(13).	2/17/1993	9/3/1999, 64 FR 48297.	
Regulations for the Control of Air Pollution.	Regulation 4 Fossil Fuel Utilization Facilities.	1/27/1972	10/28/1972, 37 FR 23085	Regulation 4 is now known as 310 CMR 7.04.
310 CMR 7.04	U Fossil Fuel Utilization Facilities.	12/28/2007	4/24/2014, 79 FR 22774	Only approved 7.04(2) and 7.04(4)(a).
Regulations for the Control of Air Pollution.	Regulation 5 Fuels	8/31/1978	3/7/1979, 44 FR 12421	Regulation 5 is now known as 310 CMR 7.05. Portions of Regulation 5 have been replaced with the approval of 310 CMR 7.05.
310 CMR 7.05	Fuels All Districts	9/23/2005	5/29/2014, 79 FR 30741	Removed landfill gas from requirements of section.
Regulations for the Control of Air Pollution.	Regulation 6 Visible Emissions.	8/28/1972	10/28/1972, 37 FR 23085	Regulation 6 is now known as 310 CMR 7.06.
310 CMR 7.07	Open Burning	9/28/1979	6/17/1980, 45 FR 40987.	
Regulations for the Control of Air Pollution.	Regulation 8 Incinerators	8/28/1972	10/28/1972, 37 FR 23085	Regulation 8 is now known as 310 CMR 7.08.
310 CMR 7.08	Incinerators. Municipal Waste Combustors 310 CMR 7.08(2).	1/11/1999	9/2/1999, 64 FR 48095.	
Regulations for the Control of Air Pollution.	Regulation 9 Dust and Odor	12/9/1977	9/29/1978, 43 FR 44841	Regulation 9 is now known as 310 CMR 7.09.
Regulations for the Control of Air Pollution.	Regulation 10 Noise	6/1/1972	10/28/1972, 37 FR 23085	Regulation 10 is now known as 310 CMR 7.10.
Regulations for the Control of Air Pollution.	Regulation 11 Transportation Media.	6/1/1972	10/28/1972, 37 FR 23085	Regulation 11 is now known as 310 CMR 7.11. This regulation restricts idling.
310 CMR 7.12	U Source Registration	12/28/2007	4/24/2014, 79 FR 22774	Approved Section 7.12(1) through 7.12(4) with the except of 7.12(2)(a)(3) which was not approved.
Regulations for the Control of Air Pollution.	Regulation 13 Stack Testing	6/1/1972	10/28/1972, 37 FR 23085	Regulation 13 is now known as 310 CMR 7.13.
310 CMR 7.14	Monitoring Devices and Reports.	11/21/1986 1/15/1987	3/10/1989, 54 FR 10147.	
Regulations for Prevention And/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies.	Regulation 15. Asbestos	8/28/1972	10/28/1972, 37 FR 23085	Regulation 15 is now known as 310 CMR 7.15.
310 CMR 7.16	Reduction of Single-Occupant Commuter Vehicle Use.	12/31/1978, 5/16/1979	9/16/1980, 45 FR 61293.	
310 CMR 7.17	Conversions to Coal	1/22/1982	6/9/1982, 47 FR 25007.	
310 CMR 7.18	Volatile and Halogenated Organic Compounds.	8/30/2013	10/9/2015, 80 FR 61101	Approved revisions to 7.18(1)(d) and (f); 7.18(2)(b), (e), and (f); 7.18(20)(a) and (b); and 7.18(30).

EPA APPROVED MASSACHUSETTS REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
310 CMR 7.19	Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_X).	8/30/2013	10/9/2015, 80 FR 61101	Approved revisions to 7.19(1)(c)(9).
310 CMR 7.24	Organic Material Storage and Distribution.	1/2/2015	11/29/2016, 81 FR 85897	Revised to require the decommissioning of Stage II vapor recovery systems and require Stage I Enhanced Vapor Recovery systems certified by the California Air Resources Board.
310 CMR 7.25	Best Available Controls for Consumer and Commercial Products.	10/19/2007	10/9/2015, 80 FR 61101	Approved amended existing consumer products related requirements, added provisions concerning AIM coatings.
310 CMR 7.26	Industry Performance Standards.	12/28/2007	4/24/2014, 79 FR 22774	EPA did not approve 310 CMR 7.26 (1) through 7.26 (29), or 310 CMR 7.26 (38) through 7.26 (49) into the Massachusetts SIP.
310 CMR 7.27	NO_X Allowance Program	11/19/1999	12/27/2000, 65 FR 81743.	
310 CMR 7.28	NO_X Allowance Trading Program.	3/30/2007	12/3/2007, 72 FR 67854.	
310 CMR 7.29	Emissions Standards for Power Plants.	1/25/2008, 6/29/2007	9/19/2013 78 FR 57487	Only approving the SO_2 and NO_X requirements. The following exceptions which are not applicable to the Massachusetts Alternative to BART were not approved: (1) In 310 CMR 7.29(1), the reference to mercury (Hg), carbon monoxide (CO), carbon dioxide (CO_2), and fine particulate matter ($PM_{2.5}$) in the first sentence and the phrase " . . . and CO_2 and establishing a cap on CO_2 and Hg emissions from affected facilities. CO_2 emissions standards set forth in 310 CMR 7.29(5)(a)5.a. and b. shall not apply to emissions that occur after December 31, 2008" in the second sentence. (2) In 310 CMR 7.29(2), the definitions of Alternate Hg Designated Representative, Automated Acquisition and Handling System or DAHS, Mercury (Hg) Designated Representative, Mercury Continuous Emission Monitoring System or Mercury CEMS, Mercury Monitoring System, Sorbent Trap Monitoring System, and Total Mercury; (3) 310 CMR 7.29(5)(a)(3) through (5)(a)(6);

EPA APPROVED MASSACHUSETTS REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
				(4) In 310 CMR 7.29(5)(b)(1), reference to compliance with the mercury emissions standard in the second sentence; (5) 310 CMR 7.29(6)(a)(3) through (6)(a)(4); (6) 310 CMR 7.29(6)(b)(10); (7) 310 CMR 7.29(6)(h)(2); (8) The third and fourth sentences in 310 CMR 7.29(7)(a); (9) In 310 CMR 7.29(7)(b)(1), the reference to CO_2 and mercury; (10) In 310 CMR 7.29(7)(b)(1)(a), the reference to CO_2 and mercury; (11) 310 CMR 7.29(7)(b)(1)(b) through 7.29(7)(b)(1)(d); (12) In 310 CMR 7.29(7)(b)(3), the reference to CO_2 and mercury; (13) In 310 CMR 7.29(7)(b)(4)(b), the reference to CO_2 and mercury; and (14) 310 CMR 7.29(7)(e) through 7.29(7)(i).
310 CMR 7.30	Massport/Logan Airport Parking Freeze.	12/26/2000	3/12/2001, 66 FR 14318	Applies to the parking of motor vehicles on Massport property.
310 CMR 7.31	City of Boston/East Boston Parking Freeze.	12/26/2000	3/12/2001, 66 FR 14318	Applies to the parking of motor vehicles within the area of East Boston.
310 CMR 7.32	Massachusetts Clean Air Interstate Rule (Mass CAIR).	3/30/2007	12/3/2007, 72 FR 67854.	
310 CMR 7.33	City of Boston/South Boston Parking Freeze.	7/30/1993	10/15/1996, 61 FR 53628	Applies to the parking of motor vehicles within the area of South Boston, including Massport property in South Boston.
310 CMR 7.36	Transit System Improvements.	10/25/2013	12/8/2015, 80 FR 76225	Removes from the SIP the commitment to design the Red Line/Blue Line Connector project.
310 CMR 7.37	High Occupancy Vehicle Lanes.	12/9/1991	10/4/1994, 59 FR 50495	High Occupancy Vehicle Lanes Regulation for Boston Metropolitan Area.
310 CMR 7.38	Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District.	12/30/2005	2/15/2008, 73 FR 8818.	
310 CMR 7.40	Low Emission Vehicle Program.	12/24/1999	12/23/2002, 67 FR 78179	''Low Emission Vehicle Program'' (LEV II) except for 310 CMR 7.40(2)(a)(5), 310 CMR 7.40(2)(a)(6), 310 CMR 7.40(2)(c)(3), 310 CMR 7.40(10), and 310 CMR 7.40(12).
Regulations for the Control of Air Pollution.	Regulation 50 Variances	9/14/1974	2/4/1977, 42 FR 6812	Regulation 50 is now known as 310 CMR 7.50.
Regulations for the Control of Air Pollution.	Regulation 51 Hearings Relative To Orders and Approvals.	8/28/1972	10/28/1972, 37 FR 23085	Regulation 51 is now known as 310 CMR 7.51.

EPA APPROVED MASSACHUSETTS REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
Regulations for the Control of Air Pollution.	Regulation 52 Enforcement Provisions.	8/28/1972	10/28/1972, 37 FR 23085	Regulation 52 is now known as 310 CMR 7.52.
Regulations for Prevention And/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies.	Regulation 8 Emission Reduction Plans (ERP).	2/22/1972	10/28/1972, 37 FR 23085	Regulation 8 is now Known as 310 CMR 8.00.
310 CMR 8.02 and 8.03	The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies.	7/25/1990	10/4/2002, 67 FR 62184	8.02 Definitions; 8.03 Air Pollution Episode Criteria.
310 CMR 60.02	Regulations for the Enhanced Motor Vehicle Inspection and Maintenance Program.	9/5/2008	1/25/2013, 78 FR 5292	Revises enhanced I/M test requirements to consist of "OBD2-only" testing program. Approving submitted regulation with the exception of subsection 310 CMR 60.02(24)(f).
540 CMR 4.00	Annual Safety and Combined Safety and Emissions Inspection of all Motor Vehicles, Trailers, Semi-trailers and converter Dollies.	9/5/2008	1/25/2013, 78 FR 5292	Revises Requirement for Inspection and Enforcement of I/M Program.
Massachusetts General Laws, Part IV, Title I, Chapter 268A, Sections 6 and 6A.	Conduct of Public Officials and Employees.	Amended by Statute in 1978 and 1984.	12/21/2016, 81 FR 93624	Approved Section 6: Financial interest of state employee, relative or associates; disclosure, and Section 6A: Conflict of interest of public official; reporting requirement.

[1] To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) *EPA-approved State Source specific requirements.*

EPA-APPROVED MASSACHUSETTS SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date [2]	Explanations
Cambridge Electric Light Company's Kendall Station, First Street, Cambridge, MA.	Cambridge Electric Light Company Variance.	Submitted 12/28/78	6/17/1980, 45 FR 40987	Regulation 310 CMR 7.04(5), Fuel Oil Viscosity; Revision for Cambridge Electric Light Company's Kendall Station, First Street, Cambridge, MA.
Blackstone Station, Blackstone Street, Cambridge, MA.	Cambridge Electric Light Company Variance.	Submitted 12/28/1978.	6/17/1980, 45 FR 40987	Regulation 310 CMR 7.04(5), Fuel Oil Viscosity; Revision for Cambridge Electric Light Company's Blackstone Station, Blackstone Street, Cambridge, MA.
Holyoke Water Power Company, Mount Tom Plant, Holyoke, MA.	Holyoke Water Power Company Operations.	Submitted 1/22/1982	6/9/1982, 47 FR 25007	A revision specifying the conditions under which coal may be burned at the Holyoke Water Power Company, Mount Tom Plant, Holyoke, MA.
Esleeck Manufacturing Company, Inc., Montague, MA.	Esleek Manufacturing Emission Limit.	Submitted 2/8/1983	4/28/1983, 48 FR 19173	Source specific emission limit allowing the Company to burn fuel oil having a maximum sulfur content of 1.21 pounds per million Btu heat release potential provided the fuel firing rate does not exceed 137.5 gallons per hour.
Erving Paper company, Erving, MA.	Erving Paper Company Operations.	Submitted 7/18/1984, 4/17/1985, and 11/25/1987	2/15/1990, 55 FR 5447	A revision approving sulfur-in-fuel limitations.
Monsanto Chemical Company in Indian Orchard, MA.	Monsanto Chemical Company Operations.	6/20/1989	2/21/1990, 55 FR 5986	Revisions which define and impose reasonably available control technology to control volatile organic compound emissions from Monsanto Chemical Company in Indian Orchard, MA. Including a final RACT Compliance Plan.

EPA-APPROVED MASSACHUSETTS SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit number	State effective date	EPA approval date [2]	Explanations
Spalding Sports Worldwide in Chicopee, MA.	PV–85–IF–019	7/12/1989 and 10/7/1985.	11/8/1989, 54 FR 46894	Amendments to the Conditional Plans imposing reasonably available control technology.
Duro Textile Printers, Incorporated in Fall River, MA.	SM–85–168–IF	8/1/1989 and 8/8/1989.	11/8/1989, 54 FR 46896	Amended Conditional Plan Approval (SM–85–168–IF) dated and effective August 1, 1989 and an Amendment to the Amended Conditional Plan Approval (SM–85–168–IF Revision) dated and effective August 8, 1989 imposing reasonably available control.
Acushnet Company, Titleist Golf Division, Plant A in New Bedford, MA.	SM–85–151–IF and 4–P–90–104.	6/1/1990	2/27/1991, 56 FR 8130	An Amended Plan imposing reasonably available control technology.
General Motors Corporation in Framingham, MA.	General Motors Operations.	6/8/1990	2/19/1991, 56 FR 6568	An Amended Plan imposing reasonably available control technology.
Erving Paper Mills in Erving, MA.	Erving Paper Company Operations.	10/16/1990	3/20/1991, 56 FR 11675	Revisions which define and impose RACT to control volatile organic compound emissions. Including a conditional final plan approval issued by the Massachusetts Department of Environmental Protection (MassDEP).
Erving Paper Mills in Erving, MA.	Erving Paper Company Operations.	4/16/1991	10/8/1991, 56 FR 50659	Revisions which clarify the requirements of RACT to control volatile organic compound emissions. Including a conditional final plan approval amendment that amends the October 16, 1990 conditional plan approval.
Brittany Dyeing and Finishing of New Bedford, MA.	4–P–92–012	3/16/1994	3/6/1995, 60 FR 12123	Final Plan Approval No. 4P92012, imposing reasonably available control technology.
Specialty Minerals, Incorporated, Adams, MA.	1–P–94–022	6/16/1995	9/2/1999, 64 FR 48095	Emission Control Plan (Reasonably Available Control Technology for Sources of Oxides of Nitrogen).
Monsanto Company's Indian Orchard facility, Springfield, MA.	1–E–94–106	10/28/1996	9/2/1999, 64 FR 48095	Emission Control Plan (Reasonably Available Control Technology for Sources of Oxides of Nitrogen).
Medusa Minerals Company in Lee, MA.	1–E–94–110	4/17/1998	9/2/1999, 64 FR 48095	Emission Control Plan (Reasonably Available Control Technology for Sources of Oxides of Nitrogen).
Gillette Company Andover Manufacturing Plant.	MBR–92–IND–053	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	Reasonably Available Control Technology Plan Approval issued on June 17, 1999.
Norton Company	C–P–90–083	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	Reasonably Available Control Technology Plan Approval issued on August 5, 1999.
Barnet Corporation	Barnet Corporation Operations.	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	Reasonably Available Control Technology Plan Approval issued on May 14, 1991.
Solutia	1–P–92–006	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	310 CMR 7.02 BACT plan approvals issued by the MassDEP.
Saloom Furniture	Saloom Winchendon Operations.	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	310 CMR 7.02 BACT plan approvals issued by the MassDEP.
Eureka Manufacturing.	4–P–95–094	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	310 CMR 7.02 BACT plan approvals issued by the MassDEP.
Moduform	Moduform Operations.	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	310 CMR 7.02 BACT plan approvals issued by the MassDEP.
Polaroid	MBR–99–IND–001	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	310 CMR 7.02 BACT plan approvals issued by the MassDEP.
Globe	4–P–96–151	Submitted 2/17/1993, 4/16/1999, and 10/7/1999	10/4/2002, 67 FR 62179	310 CMR 7.02 BACT plan approvals issued by the MassDEP.

EPA-APPROVED MASSACHUSETTS SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit number	State effective date	EPA approval date [2]	Explanations
Wheelabrator Saugus, Inc.	MBR–98–ECP–006 ..	Submitted 12/30/2011, 8/9/2012, and 8/28/2012.	9/19/2013, 78 FR 57487	The sulfur dioxide (SO_2), oxides of nitrogen (NO_X), and $PM_{2.5}$ provisions of the MassDEP Emission Control Plan ''Saugus—Metropolitan, Boston/Northeast Region, 310 CMR 7.08(2)—Municipal Waste Combustors, Application No. MBR–98–ECP–006, Transmittal No. W003302, Emission Control Plan Modified Final Approval'' dated March 14, 2012 to Mr. Jairaj Gosine, Wheelabrator Saugus, Inc. and signed by Cosmo Buttaro and James E. Belsky, with the following exceptions which are not applicable to the Massachusetts Alternative to BART.
General Electric Aviation.	MBR–94–COM–008	Submitted 12/30/2011, 8/9/2012, and 8/28/2012.	9/19/2013, 78 FR 57487	The MassDEP Emission Control Plan ''Lynn—Metropolitan, Boston/Northeast Region, 310 CMR 7.19, Application No. MBR–94–COM–008, Transmittal No. X235617, Modified Emission Control Plan Final Approval'' dated March 24, 2011 to Ms. Jolanta Wojas, General Electric Aviation and signed by Marc Altobelli and James E. Belsky. Note, this document contains two section V; V. RECORD KEEPING AND REPORTING REQUIREMENTS and V. GENERAL REQUIREMENTS/PROVISIONS.
Mt. Tom Generating Company, LLC	1–E–01–072	Submitted 12/30/2011, 8/9/2012, and 8/28/2012.	9/19/2013, 78 FR 57487	The MassDEP Emission Control Plan, ''Holyoke Western Region 310 CMR 7.29 Power Plant Emission Standards, Application No. 1–E–01–072, Transmittal No. W025214, Amended Emission Control Plan'' dated May 15, 2009 to Mr. John S. Murry, Mt. Tom Generating Company, LLC and signed by Marc Simpson, with the following exceptions which are not applicable to the Massachusetts Alternative to BART.
Dominion Energy Salem Harbor, LLC	NE–12–003	Submitted 12/30/2011, 8/9/2012, and 8/28/2012.	9/19/2013, 78 FR 57487	The MassDEP Emission Control Plan ''Salem—Metropolitan Boston/Northeast Region, 310 CMR 7.29 Power Plant Emission Standards, Application No. NE–12–003, Transmittal No. X241756, Final Amended Emission Control Plan Approval'' dated March 27, 2012 to Mr. Lamont W. Beaudette, Dominion Energy Salem Harbor, LLC and signed by Edward J. Braczyk, Cosmo Buttaro, and James E. Belsky with the following exceptions which are not applicable to the Massachusetts Alternative to BART.
Dominion Energy Brayton Point, LLC	SE–12–003	Submitted 12/30/2011, 8/9/2012, and 8/28/2012.	9/19/2013, 78 FR 57487	MassDEP Emission Control Plan ''Amended Emission Control Plan Final Approval Application for: BWP AQ 25, 310 CMR 7.29 Power Plant Emission Standards, Transmittal Number X241755, Application Number SE–12–003, Source Number: 1200061'' dated April 12, 2012 to Peter Balkus, Dominion Energy Brayton Point, LLC and signed by John K. Winkler, with the following exceptions which are not applicable to the Massachusetts Alternative to BART.
Somerset Power LLC	Facility Shutdown	Submitted 12/30/2011, 8/9/2012, and 8/28/2012.	9/19/2013 78 FR 57487	MassDEP letter ''Facility Shutdown, FMF Facility No. 316744'' dated June 22, 2011 to Jeff Araujo, Somerset Power LLC and signed by John K. Winkler.

[2] To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) *Nonregulatory.*

MASSACHUSETTS NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Miscellaneous non-regulatory changes to the plan submitted by the Division of Environmental Health, Massachusetts Department of Public Health.		4/27/72	10/28/72, 37 FR 23085	
Miscellaneous non-regulatory additions to the plan submitted by the Bureau of Air Quality Control, Massachusetts Department of Public Health.		5/5/72	10/28/72, 37 FR 23085	
Letter of concurrence on AQMA identifications submitted on July 23, 1974, by the Governor.		7/23/74	6/2/75, 40 FR 23746	
Letter dated February 8, 1979 from Kenneth Hagg of the Massachusetts Department of Environmental Quality Engineering (DEQE) to Frank Ciavattieri of the Environmental Protection Agency.		2/8/79	5/14/79, 44 FR 27991	
Non-attainment area plan for Total Suspended Particulates (TSP) in Worcester.		3/30/1979 and 4/23/1979.	1/10/1980, 45 FR 2036	
Miscellaneous statewide regulation changes.		3/30/1979 and 4/23/1979.	1/10/1980, 45 FR 2036	
An extension request for the attainment of TSP secondary standards for areas designated non-attainment as of March 3, 1978.		3/30/1979 and 4/23/1979.	1/10/1980, 45 FR 2036	
Revision entitled ''Massachusetts Implementation Plan, Amended Regulation—All Districts, New Source Review Element,'' relating to construction and operation of major new or modified sources in non-attainment areas.		5/3/1979, 8/7/1979, and 5/17/1980.	1/10/1980, 45 FR 2036	
Revision to the state ozone standard and adoption of an ambient lead standard.		8/21/79	6/17/1980, 45 FR 40987	
Attainment plans to meet the requirements of Part D for carbon monoxide and ozone and other miscellaneous provisions.		12/31/1978 and 5/16/1979.	9/16/1980, 45 FR 61293	
Supplemental information to the Attainment plans to meet the requirements of Part D for carbon monoxide and ozone and other miscellaneous provisions.		9/19/1979, 11/13/1979, and 3/20/1980.	9/16/1980, 45 FR 61293	
Supplemental information to the Attainment plans to meet the requirements of Part D for carbon monoxide and ozone and other miscellaneous provisions.		12/7/1979 and 4/7/1980.	8/27/1981, 46 FR 43147	
A revision entitled ''Appendix J Transportation Project Level Guidelines'' relating to policy guidance on the preparation of air quality analysis for transportation projects.		1/5/1981	9/3/1981, 46 FR 44186	
A comprehensive air quality monitoring plan, intended to meet requirements of 40 CFR part 58.		1/28/1980	3/4/1981, 46 FR 15137	
Revisions to meet the requirements of Part D and certain other sections of the Clean Air Act, as amended, for making a commitment to public transportation in the Boston urban region.		7/9/1981 and 7/30/1981.	9/28/1981, 46 FR 47450	
Letter clarifying State procedures		11/12/1981	3/29/82, 47 FR 13143	
The Massachusetts DEQE submitted an updated VOC emissions inventory.		9/3/1981	1/25/1982, 47 FR 3352	
Procedures to annually update the VOC emission inventory on November 4, 1981.		11/4/1981	1/25/1982, 47 FR 3352	
Massachusetts Department of Environmental Protection (MassDEP) submittal for attainment plans for carbon monoxide and ozone.	Statewide	9/9/1982	11/09/1983, 48 FR 51480	
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	11/2/1982	11/09/1983, 48 FR 51480	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	11/17/1982	11/09/1983, 48 FR 51480	
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	2/2/1983	11/09/1983, 48 FR 51480	
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	3/21/1983	11/09/1983, 48 FR 51480	
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	4/7/1983	11/09/1983, 48 FR 51480	
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	4/26/1983	11/09/1983, 48 FR 51480	
MassDEP submittal for attainment plans for carbon monoxide and ozone.	Statewide	5/16/1983	11/09/1983, 48 FR 51480	
A revision to exempt the Berkshire Air Pollution Control District from Regulation 310 CMR 7.02(12)(b)(2).	Berkshire	3/25/1983	7/7/1983, 48 FR 31200	
Revisions to the State's narrative, entitled *New Source Regulations* on page 117 and 118.	Statewide	9/9/1982	7/7/1983, 48 FR 31197	
Letter from the MassDEP dated June 7, 1991, submitting revisions to the SIP.	Statewide	6/7/1991	6/30/1993, 58 FR 34908	
Letter from the MassDEP dated November 13, 1992 submitting revisions to the SIP.	Statewide	11/13/1992	6/30/1993, 58 FR 34908	
Letter from the MassDEP dated February 17, 1993 submitting revisions to the SIP.	Statewide	2/17/1993	6/30/1993, 58 FR 34908	
Nonregulatory portions of the state submittal.	Statewide	11/13/1992	6/30/1993, 58 FR 34908	
Letter from Massachusetts DEQE	Statewide	2/14/1985	9/25/1985, 50 FR 38804	
Letter from Massachusetts DEQE	Statewide	5/22/1985	9/25/1985, 50 FR 38804	
Enforcement manual including Method 27, record form, potential leak points, major tank truck leak sources, test procedure for gasoline vapor leak detection procedure by combustible gas detector, instruction manual for Sentox 2 and Notice of Violation.	Statewide	5/22/1985	9/25/1985, 50 FR 38804	
Letter from Massachusetts DEQE stating authority to undertake preconstruction review of new stationary sources of air pollution with potential to emit 5 tons or more of lead.	Statewide	8/17/1984	10/30/1984, 49 FR 43546	
Letter from Massachusetts DEQE submitting the Massachusetts Lead Implementation Plan.	Statewide	7/13/1984	10/30/1984, 49 FR 43546	
Massachusetts attainment and maintenance plans for lead.	Statewide	7/13/1984	10/30/1984, 49 FR 43546	
Memorandum from Donald C. Squires to Bruce K. Maillet, subject: Response to EPA questions regarding Phillips Academy, outlines the permanent energy conservation measures to be used.	Merrimack Valley	10/4/1985	4/1/1986, 51 FR 11019	
Letter from the Massachusetts DEQE dated December 3, 1985.	Statewide	12/3/1985	11/25/1986, 51 FR 42563	
Letter from the Massachusetts DEQE dated January 31, 1986.	Statewide	1/31/1986	11/25/1986, 51 FR 42563	
Letter from the Massachusetts DEQE dated February 11, 1986. The nonregulatory portions of the state submittals.	Statewide	2/11/1986	11/25/1986, 51 FR 42563	
Letter from the Massachusetts DEQE dated November 21, 1986.	Statewide	11/21/1986	3/10/1989, 54 FR 10147	
The Commonwealth of Massachusetts Regulation Filing document dated January 15, 1987 states that these regulatory changes became effective on February 6, 1987.	Statewide	1/15/1987	3/10/1989, 54 FR 10147	
Letter from the Massachusetts Massachusetts DEQE dated February 21, 1986.	Statewide	2/21/1986	8/31/1987, 52 FR 32791	
A Regulation Filing and Publication document from the Massachusetts DEQE, dated February 25, 1986.	Statewide	2/25/1986	8/31/1987, 52 FR 32791	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
A letter from the Massachusetts DEQE, dated June 23, 1986.	Statewide	6/23/1986	8/31/1987, 52 FR 32791	
Implementation Guidance, 310 CMR 7.18(18), Polystyrene Resin Manufacturing, dated February 1986.	Statewide	2/01/1986	8/31/1987, 52 FR 32791	
Massachusetts DEQE certification that there are no polypropylene and polyethylene manufacturing sources located in the Commonwealth of Massachusetts, dated November 8, 1985.	Statewide	11/8/1985	8/31/1987, 52 FR 32791	
Letter dated November 5, 1986 from the Massachusetts DEQE submitting revisions to the SIP.	Statewide	11/5/1986	11/19/1987, 52 FR 44394	
Letter from the Massachusetts DEQE dated December 10, 1986. Letter states that the effective date of Regulations 310 CMR 7.00, ''Definitions'' and 310 CMR 7.18(19), ''Synthetic Organic Chemical Manufacture,'' is November 28, 1986.	Statewide	11/28/1986	11/19/1987, 52 FR 44394	
Letter from the Massachusetts DEQE dated September 20, 1988 for a SIP revision involving regulations 310 CMR 7.18(2)(e) and 7.18(17).	Statewide	7/5/1988	3/6/1989, 54 FR 9212	
A Regulation Filing and Publication document from the Commonwealth of Massachusetts dated July 5, 1988 which states that the effective date of the regulatory amendments to 310 CMR 7.18(2)(e) and 310 CMR 7.18(17)(d), is July 22, 1988.	Statewide	7/5/1988	3/6/1989, 54 FR 9212	
Letter dated October 14, 1987 for the American Fiber and Finishing Company facility from Stephen F. Joyce, Deputy Regional Environmental Engineer, Massachusetts DEQE.	Pioneer Valley	10/14/1987	2/15/1990, 55 FR 5447	
Letter dated October 14, 1987 for the Erving Paper Company facility from Stephen F. Joyce, Deputy Regional Environmental Engineer, Massachusetts DEQE.	Pioneer Valley	10/14/1987	2/15/1990, 55 FR 5447	
Letter dated October 14, 1987 for the Westfield River Paper Company facility from Stephen F. Joyce, Deputy Regional Environmental Engineer, Massachusetts DEQE.	Pioneer Valley	10/14/1987	2/15/1990, 55 FR 5447	
Statement of agreement signed May 29, 1987 by Schuyler D. Bush, Vice President of Erving Paper Company.	Pioneer Valley	5/29/1987	2/15/1990, 55 FR 5447	
Statement of agreement signed May 27, 1987 by Francis J. Fitzpatrick, President of Westfield River Paper Company.	Pioneer Valley	5/27/1987	2/15/1990, 55 FR 5447	
Statement of agreement signed May 22, 1987 by Robert Young, Vice President of American Fiber and Finishing Company.	Pioneer Valley	5/22/1987	2/15/1990, 55 FR 5447	
Letter dated April 22, 1987 for the Erving Paper Company facility from Stephen F. Joyce, Deputy Regional Environmental Engineer, Massachusetts DEQE.	Pioneer Valley	5/22/1987	2/15/1990, 55 FR 5447	
Letter from the MassDEP dated July 18, 1989 submitting a revision to the SIP.	Pioneer Valley	7/18/1987	2/21/1990, 55 FR 5986	
Letter from the MassDEP submitting a revision to the SIP.	Pioneer Valley	7/18/1989	11/8/1989, 54 FR 46894	
Letter from the Massachusetts DEQE submitting a revision to the SIP.	Central Massachusetts.	7/18/1989	11/3/1989, 54 FR 46386	
Nonregulatory portions of the State submittal. Letter from the MassDEP submitting a revision to the SIP.	Central Massachusetts.	2/4/1988	11/3/1989, 54 FR 46386	
Nonregulatory portions of the State submittal. List of documents in the February 4, 1988 RACT SIP submittal to EPA.t.	Central Massachusetts.	2/10/88	11/3/1989, 54 FR 46386	
Letter from the MassDEP submitting a revision to the SIP.	Southeastern Massachusetts.	8/8/1989	11/8/1989, 54 FR 46896	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Letter from the MassDEP submitting a revision to the SIP.	Statewide	8/24/1989	4/19/1990, 55 FR 14831	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	10/16/1989	4/19/1990, 55 FR 14831	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	8/27/1982	2/23/1993, 58 FR 10964	
Letter from the MassDEP certifying that it did not rely on a dual definition in its attainment demonstration.	Statewide	6/22/1987	2/23/1993, 58 FR 10964	
Letter from the MassDEP submitting additional assurances that it is making reasonable efforts to develop a complete and approve SIP.	Statewide	12/27/1989	2/23/1993, 58 FR 10964	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	11/28/1989	8/3/1990, 55 FR 31587	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	11/28/1989	8/3/1990, 55 FR 31590	
Letter from the Massachusetts Department of Environmental submitting a revision to the SIP.	Metropolitan Boston	11/20/1989	8/27/1990, 55 FR 34914	
Letter from the MassDEP submitting a revision to the SIP.	Southeastern Massachusetts.	6/13/1990	2/27/1991, 56 FR 8130	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	7/9/1990	2/19/1991, 56 FR 6568	
Letter from the MassDEP submitting a revision to the SIP.	Pioneer Valley	10/25/1990	3/20/1991, 56 FR 11675	
Letter from the MassDEP submitting a revision to the SIP.	Pioneer Valley	4/22/1991	10/8/1991, 56 FR 50659	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	8/17/1989	10/8/1992, 57 FR 46313	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	6/7/1991	10/8/1992, 57 FR 46313	
Letter from the MassDEP withdrawing the emission limit for the Primer-surfacer application from the June 7, 1991 submittal.	Statewide	12/17/1991	10/8/1992, 57 FR 46313	
Nonregulatory portions of state submittal. MassDEP's Decision Memorandum for Proposed amendments to 310 CMR 7.00.	Statewide	5/24/1991	10/8/1992, 57 FR 46313	
Nonregulatory portions of state submittal. MassDEP's Decision Memorandum for Proposed amendments to 310 CMR 7.00, 7.18 and 7.24.	Statewide	2/25/1991	10/8/1992, 57 FR 46313	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	8/27/1982	1/11/1993, 58 FR 3492	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	4/12/1985	1/11/1993, 58 FR 3492	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	8/17/1989	1/11/1993, 58 FR 3492	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	6/7/1991	1/11/1993, 58 FR 3492	
Letter from the Massachusetts DEQE submitting 310 CMR 7.00: Appendix B.	Statewide	6/27/1984	1/11/1993, 58 FR 3492	
Letter from the Massachusetts DEQE submitting additional information on 310 CMR 7.00: Appendix B and referencing 310 CMR 7.18(2)(b).	Statewide	3/6/1985	1/11/1993, 58 FR 3492	
Letter from the MassDEP withdrawing the emission limit for the Primer-surfacer application in 310 CMR 7.18(7)(b) from the June 7, 1991 submittal.	Statewide	12/17/1991	1/11/1993, 58 FR 3492	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	8/4/1989	3/16/1993, 58 FR 14153	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	12/6/1989	3/16/1993, 58 FR 14153	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	3/23/1990	3/16/1993, 58 FR 14153	
Technical amendments to regulation (310 CMR 7.31) submitted by the MassDEP.	Metropolitan Boston	3/30/1990	3/16/1993, 58 FR 14153	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Appendix 5D, Baseline and Future Case CO Compliance Modeling, dated June 1986.	Metropolitan Boston	6/1/1986	3/16/1993, 58 FR 14153	
Policy Statement Regarding the Proposed Amendment to the Logan Airport Parking Freeze.	Metropolitan Boston	11/14/1988	3/16/1993, 58 FR 14153	
Letter from the MassDEP dated May 15, 1992 submitting a revision to the SIP.	Metropolitan Boston	5/15/1991	12/14/1992, 57 FR 58991	
Letter from the MassDEP dated January 30, 1991 submitting a revision to the SIP. Certification of Tunnel Ventilation Systems in Boston.	Metropolitan Boston	1/30/1991	10/8/1992, 57 FR 46310	
Letter from the MassDEP, dated May 17, 1990 submitting a revision to the SIP.	Statewide	5/17/1990	12/14/1992, 57 FR 58993	
Letter from the MassDEP, dated June 7, 1991, submitting a revision to the SIP.	Statewide	6/7/1991	12/14/1992, 57 FR 58993	
Letter from the MassDEP, dated July 5, 1990, requesting the withdrawal of amendments to subsection 310 CMR 7.24(2)(c) which require Stage I vapor recovery in Berkshire County from the SIP revision package submitted on May 17, 1990.	Statewide	7/5/1990	12/14/1992, 57 FR 58993	
Letter from the MassDEP, dated April 21, 1992, submitting an implementation policy statement regarding its Stage II program.	Statewide	4/21/1992	12/14/1992, 57 FR 58993	
Nonregulatory portions of the SIP submittal. March 2, 1992 Division of Air Quality Control Policy certified vapor collection and control system for Stage II Vapor Recovery Program.	Statewide	4/21/1992	12/14/1992, 57 FR 58993	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	11/13/1992	9/15/1993, 58 FR 48315	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	1/15/1993	9/15/1993, 58 FR 48315	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	2/17/1993	9/15/1993, 58 FR 48315	
Nonregulatory portions of the SIP submittal. MassDEP's Listing of Response to Comments dated January 1993.	Statewide	2/17/1993	9/15/1993, 58 FR 48315	
Nonregulatory portions of the SIP submittal. MassDEP's Background Document for Proposed Amendments to 310 CCMR 7.00, et. al. "50 Ton VOC RACT Regulations" dated September 1992.	Statewide	2/17/1993	9/15/1993, 58 FR 48315	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	8/26/1992	7/28/1994, 59 FR 38372	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	11/2/1990	7/28/1994, 59 FR 38372	
Letter from the MassDEP submitting a revision to the SIP.		7/19/1993	1/6/1995, 60 FR 2016	
Letter dated October 27, 1993 from MassDEP submitting certification of a public hearing.		10/27/1993	1/6/1995, 60 FR 2016	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	12/9/1991	10/4/1994, 59 FR 50495	
Letter from the MassDEP submitting a revision to the SIP which substitutes the California Low Emission Vehicle program for the Clean Fuel Fleet program.	Statewide	11/15/1993	2/1/1995, 60 FR 6027	
Letter from the MassDEP submitting a revision to the SIP which substitutes the California Low Emission Vehicle program for the Clean Fuel Fleet program.	Statewide	5/11/1994	2/1/1995, 60 FR 6027	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	3/31/1994	3/6/1995, 60 FR 12123	
Letter from the MassDEP dated June 6, 1994 submitting a revision to the Massachusetts SIP.	Statewide	6/6/1994	4/1/1995, 60 FR 17226	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Letter from the MassDEP dated December 9, 1994.	Statewide	12/9/1994	4/1/1995, 60 FR 17226	
Letter from the MassDEP, submitting a revision to the SIP.	Statewide	6/28/1990	3/21/1996, 61 FR 11556	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	9/30/1992	3/21/1996, 61 FR 11556	
Letter from the MassDEP, dated July 15, 1994, submitting a revision to the SIP.	Statewide	7/15/1994	3/21/1996, 61 FR 11556	
Letter from the MassDEP assuring EPA that the data elements noted in EPA's December 13, 1994 letter were being incorporated into the source registration forms used by Massachusetts emission statement program.	Statewide	12/30/1994	3/21/1996, 61 FR 11556	
Letter which included the oxygenated gasoline program, amendments to the Massachusetts Air Pollution Control Regulations, 310 CMR 7.00, with an effective date of March 1, 1994, requesting that the submittal be approved and adopted as part of the SIP.	Statewide	10/29/1993	1/30/1996, 61 FR 2918	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	12/12/1994	1/30/1996, 61 FR 2918	
The Technical Support Document for the Redesignation of the Boston Area as Attainment for Carbon Monoxide.	Metropolitan Boston	12/12/1994	1/30/1996, 61 FR 2918	
Letter from the MassDEP dated January 9, 1995 submitting a revision to the SIP.	Statewide	1/9/1995	12/19/1995, 60 FR 65240	
Letter from the MassDEP, dated January 9, 1995, submitting a revision to the SIP.	Statewide	1/9/1995	2/14/1996, 61 FR 5696	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	3/29/1995	7/5/2000, 65 FR 41344	
Letter from the MassDEP submitting a revision to the SIP (City of Boston/South Boston Parking Freeze).	Metropolitan Boston	7/30/1993	10/15/1996, 61 FR 53628	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	2/9/1994	8/8/1996, 61 FR 41335	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	3/29/1995	8/8/1996, 61 FR 41335	
Letter and attachments from the MassDEP submitting supplemental information concerning the demonstration of balance between credit creation and credit use.	Statewide	2/8/1996	8/8/1996, 61 FR 41335	
Massachusetts PAMS Network Plan, which incorporates PAMS into the ambient air quality monitoring network of State or Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS).	Statewide	11/15/1993	7/14/1997, 62 FR 37510	
Letter from the MassDEP dated December 30, 1993 submitting a revision to the SIP.	Statewide	12/30/1993	7/14/1997, 62 FR 37510	
The Commonwealth, committed in a letter dated March 3, 1997 to correct deficiencies for an enhanced motor vehicle inspection and maintenance (I/M) program within one year of conditional interim approval by EPA.	Statewide	3/3/1997	7/14/1997, 62 FR 37510	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	10/17/1997	4/11/2000, 65 FR 19323	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	7/30/1996	4/11/2000, 65 FR 19323	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	8/9/2000	12/18/2000, 65 FR 78974	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	9/11/2000	12/18/2000, 65 FR 78974	
Letter from the MassDEP dated submitting a revision to the SIP.	Statewide	7/25/1995	12/18/2000, 65 FR 78974	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	2/17/1993	9/2/1999, 64 FR 48297	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Letter from the MassDEP submitting a revision to the SIP.	Statewide	12/19/1997	6/2/1999, 64 FR 29567	
Letter from the MassDEP clarifying the program implementation process.	Statewide	3/9/1998	6/2/1999, 64 FR 29567	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	7/15/1994	9/2/1999, 64 FR 48095	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	10/4/1996	9/2/1999, 64 FR 48095	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	12/2/1996	9/2/1999, 64 FR 48095	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	1/11/1999	9/2/1999, 64 FR 48095	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	4/16/1999	9/2/1999, 64 FR 48095	
Nonregulatory portions of the SIP submittal	Statewide	1/11/1995	4/11/2000, 65 FR 19323	
Nonregulatory portions of the SIP submittal	Statewide	3/29/1995	4/11/2000, 65 FR 19323	
A September 17, 1999, Notice of Correction submitted by the Secretary of State indicating the effective date of the regulations.	Statewide	9/17/1999	11/15/2000, 65 FR 68898	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	5/14/1999	11/15/2000, 65 FR 68898	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	2/1/2000	11/15/2000, 65 FR 68898	
Letter from the MassDEP submitting a revision to the SIP.	Statewide	3/15/2000	11/15/2000, 65 FR 68898	
Test Procedures and Equipment Specifications.	Statewide	2/1/2000	11/15/2000, 65 FR 68898	
Acceptance Test Protocol	Statewide	3/15/2000	11/15/2000, 65 FR 68898	
Letter from the Commonwealth of Massachusetts, Executive Office of Environmental Affairs, Department of Environmental Protection submitting an amendment to SIP.	Statewide	11/19/1999	12/27/2000, 65 FR 81743	
Background Document and Technical Support for Public Hearings on the Proposed Revisions to the SIP for Ozone, July, 1999.	Statewide	7/1/1999	12/27/2000, 65 FR 81743	
Supplemental Background Document and Technical Support for Public Hearings on Modifications to the July 1999 Proposal to Revise the SIP for Ozone, September, 1999.	Statewide	9/1/1999	12/27/2000, 65 FR 81743	
Table of Unit Allocations	Statewide	9/1/1999	12/27/2000, 65 FR 81743	
Letter from the MassDEP	Statewide	4/10/2002	6/20/2003, 68 FR 36921	
The SIP narrative "Technical Support Document for Public Hearings on Revisions to the State Implementation Plan for Ozone for Massachusetts, Amendments to Statewide Projected Inventory for Nitrogen Oxides," dated March 2002.	Statewide	3/21/2002	6/20/2003, 68 FR 36921	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	7/15/1994	10/27/2000, 65 FR 64360	
Letter from the MassDEP submitting revisions to the SIP.	Statewide	3/29/1995	10/27/2000, 65 FR 64360	
Plan Approval issued by the MassDEP to the Gillette Company Andover Manufacturing Plant.	Statewide	6/17/1999	10/4/2002, 67 FR 62179	
Letter from the MassDEP submitting negative declarations for certain VOC source categories.	Statewide	4/16/1999	10/4/2002, 67 FR 62179	
Letter from the MassDEP discussing wood furniture manufacturing and aerospace coating requirements in Massachusetts.	Statewide	7/24/2002	10/4/2002, 67 FR 62179	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	12/8/2000	3/12/2001, 66 FR 14318	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Letter from the MassDEP submitting the final state certified copies of State regulations 310 CMR 7.30 ''Massport/Logan Airport Parking Freeze'' and 310 CMR 7.31 ''City of Boston/East Boston Parking Freeze.''.	Metropolitan Boston	12/26/2000	3/12/2001, 66 FR 14318	
Letter from the MassDEP, in which it submitted the Low Emission Vehicle Program adopted on December 24, 1999.	Statewide	8/9/2002	12/23/2002, 67 FR 78179	
Letter from the MassDEP which clarified the August 9, 2002 submittal to exclude certain sections of the Low Emission Vehicle Program from consideration.	Statewide	8/26/2002	12/23/2002, 67 FR 78179	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	7/12/2006	2/15/2008, 73 FR 8818	
Massachusetts Regulation Filing amending 310 CMR 7.38 entitled ''Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District.''.	Metropolitan Boston	12/13/2005	2/15/2008, 73 FR 8818	
Massachusetts Regulation Filing amending 310 CMR 7.28 entitled ''NOx Allowance Trading Program,'' and adopting 310 CMR 7.32 entitled ''Massachusetts Clean Air Interstate Rule (Mass CAIR).''.	Statewide	4/19/2007	12/3/2007, 72 FR 67854	
Massachusetts Regulation Filing substantiating December 1, 2006, State effective date for amended 310 CMR 7.00 entitled ''Definition,'' (addition of term ''Boston Metropolitan Planning Organization,'' which appears on the replaced page 173 of the State's Code of Massachusetts Regulations,) and 310 CMR 7.36 entitled ''Transit System Improvements.''.	Metropolitan Boston	11/16/2006	7/31/2008, 73 FR 44654	
Letter from the MassDEP dated December 13, 2006 submitting a revision to the SIP.	Metropolitan Boston	12/13/2006	7/31/2008, 73 FR 44654	
Letter from the MassDEP submitting a revision to the SIP.	Metropolitan Boston	6/1/2007	7/31/2008, 73 FR 44654	
Letter from the Massachusetts Executive Office of Transportation identifying its commitment to the Green Line extension and to make every effort to accelerate the planning, design and environmental review and permitting of the project in order to work towards the 2014 completion date.	Metropolitan Boston	9/4/2007	7/31/2008, 73 FR 44654	
Letter from the Chair of the Boston Region Metropolitan Planning Organization concurring in the finding that the transit system improvements projects will achieve emission benefits equivalent to or greater than the benefits from the original transit system improvements projects being replaced.	Metropolitan Boston	5/1/2008	7/31/2008, 73 FR 44654	
Letter from EPA New England Regional Administrator concurring in the finding that the transit system improvements projects will achieve emission benefits equivalent to or greater than the benefits from the original transit system improvements projects being replaced.	Metropolitan Boston	7/5/2008	7/31/2008, 73 FR 44654	
Letter from the MassDEP, dated June 1, 2009, submitting a revision to the SIP.	Statewide	6/1/2009	01/25/2013, 78 FR 5292	
Letter from the MassDEP, dated November 30, 2009, amending the June 1, 2009 SIP submittal.	Statewide	11/30/2009	01/25/2013, 78 FR 5292	

MASSACHUSETTS NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [3]	Explanations
Massachusetts June 1, 2009 SIP Revision Table of Contents Item 7, ''Documentation of IM SIP Revision consistent with 42 USC Section 7511a and Section 182(c)(3)(A) of the Clean Air Act.''.	Statewide	6/1/2009	01/25/2013, 78 FR 5292	
''Massachusetts Regional Haze State Implementation Plan'' dated August 9, 2012.	Statewide	8/9/2012	9/19/2013, 78 FR 57487	
A letter from the MassDEP dated August 9, 2001 submitting a revision to the SIP.	Statewide	8/9/2001	4/24/2014, 79 FR 22774	
A letter from the MassDEP dated September 14, 2006 submitting a revision to the SIP.	Statewide	9/14/2006	4/24/2014, 79 FR 22774	
A letter from the MassDEP dated February 13, 2008 submitting a revision to the SIP.	Statewide	2/13/2008	4/24/2014, 79 FR 22774	
A letter from the MassDEP dated January 18, 2013 withdrawing certain outdated and obsolete regulation submittals and replacing them with currently effective versions of the regulation for approval and inclusion into the SIP.	Statewide	1/18/2013	4/24/2014, 79 FR 22774	
A letter from the MassDEP dated November 6, 2013 submitting a revision to the SIP.	Statewide	11/6/2013	12/8/2015, 80 FR 76225	
A letter from the MassDEP dated May 5, 2015 submitting a revision to the SIP.	Statewide	5/5/2015	11/29/2016, 81 FR 85897	

[3] To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0398; FRL–9973–37—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. The revision is in response to EPA's February 3, 2017 Findings of Failure to Submit for various requirements relating to the 2008 8-hour ozone national ambient air quality standards (NAAQS). This SIP revision is specific to nonattainment new source review (NNSR) requirements. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on February 28, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R03–OAR–2017–0398. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mr. David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 8, 2017, the Maryland Department of the Environment (MDE) submitted on behalf of the State of Maryland a formal revision, requesting EPA's approval for the SIP of its NNSR Certification for the 2008 Ozone Standard (Revision 17–01). The SIP revision is in response to EPA's final 2008 8-hour ozone NAAQS Findings of Failure to Submit for NNSR requirements. *See* 82 FR 9158 (February 3, 2017). Specifically, Maryland is certifying that its existing NNSR program, covering the Baltimore Nonattainment Area (which includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Philadelphia-Wilmington-Atlantic City Nonattainment Area (which includes Cecil County in Maryland), and the Washington, DC Nonattainment Area (which includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland) for the 2008 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165, as amended by the final rule titled ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' (SIP Requirements Rule), for ozone and its precursors.[1] *See* 80 FR 12264 (March 6, 2015).

[1] The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

A. 2008 8-Hour Ozone NAAQS

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR 50.15, the 2008 8-hour ozone NAAQS is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Philadelphia-Wilmington-Atlantic City Area and the Washington, DC Area were classified as marginal nonattainment areas, and the Baltimore Area was classified as a moderate nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012) using 2008–2010 ambient air quality data. *See* 77 FR 30088. On March 6, 2015, EPA issued the final SIP Requirements Rule, which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS. *See* 80 FR 12264. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. *See* 40 CFR 51.1103. The Philadelphia-Wilmington-Atlantic City Area and the Washington, DC Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015; however, these areas did meet the CAA section 181(a)(5) criteria, as interpreted in 40 CFR 51.1107, for a one-year attainment date extension. *See* 81 FR 26697 (May 4, 2016). Therefore, on April 11, 2016, the EPA Administrator signed a final rule extending the Philadelphia-Wilmington-Atlantic City Area and the Washington, DC Area 2008 8-hour ozone NAAQS attainment date from July 20, 2015 to July 20, 2016. *Id.*[2]

Moderate areas, such as the Baltimore Area, are required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, six years after the effective date of the initial nonattainment designations.[3] *See* 40 CFR 51.1103. The statutorily required determination of attainment (DOA), for the Baltimore Area, which is due prior to the attainment date for the Area, has not passed and will be addressed in a future rulemaking action.

Based on initial nonattainment designations for the 2008 8-hour ozone standard, as well as the March 6, 2015 final SIP Requirements Rule, Maryland was required to develop a SIP revision addressing certain CAA requirements for the Philadelphia-Wilmington-Atlantic City, Washington, DC, and Baltimore Areas, and submit to EPA a NNSR Certification SIP or SIP revision no later than 36 months after the effective date of area designations for the 2008 8-hour ozone NAAQS (*i.e.,* July 20, 2015). *See* 80 FR 12264 (March 6, 2015). EPA is taking action on Maryland's May 8, 2017 NNSR Certification SIP revision. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS is provided in Section II below.

B. 2017 Findings of Failure To Submit SIP for the 2008 8-Hour Ozone NAAQS

Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment area planning requirements of CAA section 172 and also to the ozone-specific planning requirements of CAA section 182.[4] States in the ozone transport region (OTR), such as Maryland, are additionally subject to the requirements outlined in CAA section 184.

Ozone nonattainment areas in the lower classification levels have fewer and/or less stringent mandatory air quality planning and control requirements than those in higher classifications. For a marginal area, such as the Philadelphia-Wilmington-Atlantic City Area and the Washington, DC Area, a state is required to submit a baseline emissions inventory, adopt a SIP requiring emissions statements from stationary sources, and implement a NNSR program for the relevant ozone standard. *See* CAA section 182(a). For a moderate area such as the Baltimore Area, a state needs to comply with the marginal area requirements, plus additional requirements, including the requirement to submit a demonstration that the area will attain in six years, the requirement to adopt and implement certain emissions controls, such as reasonably available control technology (RACT), and the requirement for greater emissions offsets for new or modified major stationary sources under the state's NNSR program. For each higher ozone nonattainment classification, a state needs to comply with all lower area classification requirements, plus additional emissions controls and more expansive NNSR offset requirements.

The CAA sets out specific requirements for states in the OTR.[5] Upon promulgation of the 2008 8-hour ozone NAAQS, states in the OTR were required to submit a SIP revision for RACT. *See* 40 CFR 51.1116. This requirement is the only recurring obligation for an OTR state upon revision of a NAAQS, unless that state also contains some portion of a nonattainment area for the revised NAAQS.[6] In that case, the nonattainment requirements described previously also apply to those portions of that state.

In the March 6, 2015 SIP Requirements Rule, EPA detailed the requirements applicable to ozone nonattainment areas, as well as requirements that apply in the OTR, and provided specific deadlines for SIP submittals. *See* 80 FR 12264.

On February 3, 2017, EPA found that 15 states and the District of Columbia

[2] EPA proposed approval of a Determination of Attainment (DOA) for the 2008 8-hour ozone NAAQS for the Philadelphia-Wilmington-Atlantic City Area and the Washington, DC Area on April 18, 2017, and April 25, 2017, respectively. These proposed actions were based on complete, certified, and quality assured ambient air quality monitoring data for the 2013–2015 monitoring period. *See* 82 FR 18268 (April 18, 2017) and 82 FR 19011 (April 25, 2017). It should be noted that a DOA does not alleviate the need for Maryland to certify that their existing SIP approved NNSR program is as stringent as the requirements at 40 CFR 51.165, as NNSR applies in nonattainment areas until an area has been redesignated to attainment. Subsequently, EPA issued final rulemaking actions on both of these DOAs. *See* 82 FR 50814 (November 2, 2017) (Philadelphia Area) and 82 FR 52651 (November 14, 2017) (Washington, DC area).

[3] On June 1, 2015, EPA finalized a clean data determination (CDD) for the Baltimore Nonattainment Area. This determination was based upon complete, quality-assured, and certified ambient air quality monitoring data that shows the Baltimore Area has monitored attainment of the 2008 8-hour ozone NAAQS for the 2012–2014 monitoring period. As a result of this determination, the requirement for the Baltimore Area to submit an attainment demonstration and associated reasonably available control measures (RACM), reasonable further progress plans (RFP), contingency measures, and other SIP revisions related to attainment of the standard are suspended for as long as the area continues to attain the 2008 8-hour ozone standard. *See* 80 FR 30941 (June 2, 2015). This action did not alleviate the need for Maryland to submit a NNSR Certification SIP revision, which is the subject of this rulemaking action.

[4] Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area's ''design value,'' which represents air quality in the area for the most recent three years). The possible classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme. *See* CAA section 181(a)(1).

[5] CAA section 184 details specific requirements for a group of states (and the District of Columbia) that make up the OTR. States in the OTR are required to submit RACT SIP revisions and mandate a certain level of emissions control for the pollutants that form ozone, even if the areas in the state meet the ozone standards.

[6] NNSR requirements continue to apply in the OTR. *See* CAA section 184(b).

failed to submit SIP revisions in a timely manner to satisfy certain requirements for the 2008 8-hour ozone NAAQS that apply to nonattainment areas and/or states in the OTR. *See* 82 FR 9158. As explained in that rulemaking action, consistent with the CAA and EPA regulations, these Findings of Failure to Submit established certain deadlines for the imposition of sanctions if a state does not submit a timely SIP revision addressing the requirements for which the finding is being made, and for the EPA to promulgate a federal implementation plan (FIP) to address any outstanding SIP requirements.

EPA found that the State of Maryland failed to submit SIP revisions in a timely matter to satisfy NNSR requirements for its marginal and moderate nonattainment areas, specifically the Philadelphia-Wilmington-Atlantic City Area, the Washington, DC Area, and the Baltimore Area.[7] Maryland submitted its May 8, 2017 SIP revision to address the specific NNSR requirements for the 2008 8-hour ozone NAAQS, located in 40 CFR 51.160–165, as well as its obligations under EPA's February 3, 2017 Findings of Failure to Submit. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS and the Findings of Failure to Submit is provided in Section II below.

On September 29, 2017 (82 FR 45475), EPA published a direct final rulemaking notice (DFRN) for the State of Maryland. In the DFRN, EPA approved the Maryland submittal pertaining to NNSR requirements for the 2008 8-hour ozone NAAQS. On the same date (82 FR 45547), EPA published a notice of proposed rulemaking (NPR) for the action. EPA published the DFRN without prior proposal because the Agency viewed the submittals as noncontroversial and anticipated no adverse comments. EPA explained that if adverse comments were received during the comment period, the DFRN would be withdrawn and all public comments received would be addressed in a subsequent final rule based on the September 29, 2017 proposed rule. EPA received an adverse comment, and on November 22, 2017 (82 FR 55510) withdrew the DFRN.

[7] The EPA found that the State of Maryland also failed to submit SIP revisions for inspection and maintenance (I/M) basic and nitrogen oxide RACT for major sources. These SIP requirements will be addressed in separate rulemaking actions and will not be discussed here. *See* 82 FR 9158 (February 3, 2017).

II. Summary of SIP Revision and EPA Analysis

This rulemaking action is specific to Maryland's NNSR requirements. NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area.[8] The specific NNSR requirements for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.160–165. The SIP Requirements Rule explained that, for each nonattainment area, a NNSR plan or plan revision was due no later than 36 months after the July 20, 2012 effective date of area designations for the 2008 8-hour ozone standard (*i.e.,* July 20, 2015).[9]

The minimum SIP requirements for NNSR permitting programs for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.165. *See* 40 CFR 51.1114. These NNSR program requirements include those promulgated in the ''Phase 2 Rule'' implementing the 1997 8-hour ozone NAAQS (75 FR 71018 (November 29, 2005)) and the SIP Requirements Rule implementing the 2008 8-hour ozone NAAQS. Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that: Set major source thresholds for oxides of nitrogen (NO_X) and volatile organic compounds (VOC) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*i*)–(*iv*) and (2); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*3*); consider any significant net emissions increase of NO_X as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOC and NO_X as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(*1*)–(*2*); provide that the requirements applicable to VOC also apply to NO_X pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO_X pursuant to 40 CFR 51.165(a)(9)(i)–(iii) (renumbered as (a)(9)(ii)–(iv) under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS). Under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015, must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. *See* 40 CFR 51.165(a)(12).

Maryland's longstanding SIP approved NNSR program, established in Code of Maryland Regulations (COMAR) Air Quality Rule COMAR 26.11.17—*Nonattainment Provisions for Major New Sources and Major Modifications,* applies to the construction and modification of major stationary sources in nonattainment areas. In its May 8, 2017 SIP revision, Maryland certifies that the version of the Air Quality Rule COMAR 26.11.17 in the SIP is at least as stringent as the federal NNSR requirements for the Philadelphia-Wilmington-Atlantic City Area, the Washington, DC Area, and the Baltimore Area. EPA last approved revisions to the SIP approved version of Maryland's NNSR rule in 2012 addressing, among other things, NSR Reform and NO_X as a precursor to ozone. *See* 77 FR 45949 (August 2, 2012).[10]

EPA notes that neither COMAR 26.11.17 nor Maryland's approved SIP contain a regulatory provision pertaining to any emissions change of VOC in extreme nonattainment areas, as specified in 40 CFR 51.165(a)(1)(v)(F). However, Maryland has never had an area designated extreme nonattainment for any of the ozone NAAQS, and, thus, the Maryland SIP is not required to contain this provision until such a time. Additionally, the anti-backsliding provisions in 40 CFR 51.165(a)(12) are not found in either COMAR 26.11.17 or the Maryland SIP. Maryland's major stationary source thresholds were established for the 1997 8-hour ozone NAAQS nonattainment designations and remain unchanged in Maryland's federally-approved SIP.[11] Therefore, all of the sources located in the 2008 8-hour ozone nonattainment areas in Maryland are required to meet a major stationary source threshold of 25 tons or

[8] *See* CAA sections 172(c)(5), 173 and 182.

[9] With respect to states with nonattainment areas subject to a finding of failure to submit NNSR SIP revisions, such revisions would no longer be required if the area were redesignated to attainment. The CAA's prevention of significant deterioration (PSD) program requirements apply in lieu of NNSR after an area is redesignated to attainment. For areas outside the OTR, NNSR requirements do not apply in areas designated as attainment.

[10] On August 30, 2012, EPA published a rulemaking correcting minor errors in their August 2, 2012 final rule. The correction of these errors did not change EPA's final action to approve the Maryland regulations. *See* 77 FR 52605.

[11] Under the 1997 8-hour ozone NAAQS, the Baltimore Area was classified as serious nonattainment and the Philadelphia-Wilmington-Atlantic City and Washington, DC Areas were classified as moderate nonattainment.

more per year of VOC or NO_X. This requirement continues to be more stringent than the 2008 8-hour ozone standards at issue in this action, and, thus, the above mentioned anti-backsliding requirements are not required.

The version of COMAR 26.11.17 that is contained in the current SIP has not changed since the 2012 rulemaking where EPA last approved Maryland's NNSR provisions. This version of the rule covers the Philadelphia-Wilmington-Atlantic City, Washington, DC, and Baltimore Nonattainment Areas and remains adequate to meet all applicable NNSR requirements for the 2008 8-hour ozone NAAQS in 40 CFR 51.165, the Phase 2 Rule and the SIP Requirements Rule. A 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 EPA Regional Office listed in the **ADDRESSES** section of this document or is also available electronically within the Docket for this rulemaking action.

III. Public Comments and EPA Responses

EPA received one comment on the proposed approval of MDE's May 8, 2017 submittal requesting EPA's approval for the SIP of its NNSR Certification for the 2008 Ozone Standard (Revision 17–01).

Comment: The commenter stated that it is unclear to them how Maryland met the requirements for a NNSR SIP for the OTR, but did not meet the requirements for the NNSR SIP for the Baltimore and Philadelphia areas. The commenter stated that if Maryland submitted a SIP for the OTR that met the NNSR requirements, then how is it possible Maryland did not meet the requirements for Philadelphia and Baltimore. The commenter then asserted that if Maryland did not submit a NNSR SIP for the OTR, then EPA needs to make a Finding of Failure to Submit for Maryland to submit a NNSR SIP for OTR requirements. The commenter further asserts that EPA should consider this comment a notice of intent to sue EPA for failing to perform its nondiscretionary duty to issue a Finding of Failure to Submit for Maryland's non-submission of a NNSR SIP for OTR requirements.

EPA Response: EPA's September 29, 2017 DFRN would have approved Maryland's submittal of a SIP revision which specifically addressed the NNSR permitting requirements in CAA sections 172(c) and 182(b) for the 2008 8-hour ozone NAAQS for the Baltimore and Philadelphia-Wilmington-Atlantic City Nonattainment Areas. *See* 82 FR 45475.[12] As explained in EPA's September 29, 2017 DFRN and in this present action, the Maryland submittal satisfies Maryland's requirement to submit a NNSR SIP revision for the Baltimore and Philadelphia-Wilmington-Atlantic City Nonattainment Areas in response to EPA's February 3, 2017 final 2008 8-hour ozone NAAQS Findings of Failure to Submit for NNSR requirements. *See* 82 FR 9158. Maryland's obligations as a member of the OTR are not the subject of this rulemaking. Pursuant to CAA sections 182(f) and 184(b)(2), major stationary sources of VOC and NO_X in the OTR are subject to requirements applicable to major stationary sources in moderate nonattainment with ozone NAAQS which includes NNSR permitting requirements. The specific requirements for Maryland as an OTR state were discussed in EPA's February 3, 2017 Findings of Failure to Submit and will not be restated here. However, because EPA did not propose any action related to Maryland's NNSR requirements for the OTR, the commenter's statements related to Maryland's NNSR requirements for the OTR are not germane to this rulemaking. As discussed in EPA's DFRN, Maryland's NNSR provisions at COMAR 26.11.17 are in the Maryland SIP and meet the NNSR requirements for the 2008 8-hour ozone NAAQS for the Baltimore and Philadelphia-Wilmington-Atlantic City Nonattainment Areas as identified in the SIP Requirements Rule, for ozone and its precursors, as well as EPA's February 3, 2017 Findings of Failure to Submit, as noted previously. *See* 80 FR 12264 (March 6, 2015) and 82 FR 9158, respectively.

Regarding the assertion that EPA should consider this comment to be the commenter's ''notice of intent'' to sue EPA for failing to perform its nondiscretionary duty to make a Finding of Failure to Submit for a NNSR SIP for the OTR requirements, EPA notes that requirements for serving upon EPA a notice of intent to sue are in CAA section 304 and in 40 CFR part 54, specifically in 40 CFR 54.2. Commenting within an unrelated rulemaking is not appropriate service of a notice of intent to sue pursuant to 40 CFR 54.2 and CAA section 304.

[12] While not addressed by the commenter, in addition to the Baltimore and Philadelphia-Wilmington-Atlantic City Nonattainment Areas, Maryland's submittal also addresses the Washington, DC Nonattainment Area.

IV. Final Action

EPA is approving Maryland's May 8, 2017 SIP revision addressing the NNSR requirements for the 2008 ozone NAAQS for the Philadelphia-Wilmington-Atlantic City, Washington, DC, and Baltimore Nonattainment Areas. EPA has concluded that the State's submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165, as well as its obligations under EPA's February 3, 2017 Findings of Failure to Submit. *See* 82 FR 9158.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 March 30, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Maryland's 2008 8-hour ozone NAAQS Certification SIP revision for NNSR 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 11, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entry ''2008 8-Hour Ozone NAAQS Nonattainment New Source Review Requirements'' at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	* * *	*	*	*
2008 8-Hour Ozone NAAQS Nonattainment New Source Review Requirements.	The Baltimore Area (includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Philadelphia-Wilmington-Atlantic City Area (includes Cecil County in Maryland), and the Washington, DC Area (includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland).	5/8/2017	1/29/2018, [insert **Federal Register** citation].	

[FR Doc. 2018–01518 Filed 1–26–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2012–0360; FRL–9972–89–OAR]

RIN 2060–AT48

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notification of final action on reconsideration.

SUMMARY: This action finalizes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO). The final amendments address continuous monitoring on pressure relief devices (PRDs) on containers. This issue was raised in a petition for reconsideration of the 2015 amendments to the OSWRO NESHAP, which were based on the residual risk and technology review (RTR). Among other things, the 2015 amendments established additional monitoring requirements for all PRDs, including PRDs on containers. For PRDs on containers, these monitoring requirements were in addition to the inspection and monitoring requirements for containers and their closure devices already required by the OSWRO NESHAP. This final action removes the additional monitoring requirements for PRDs on containers that resulted from the 2015 amendments because we have determined that they are not necessary. This action does not substantially change the level of environmental protection provided under the OSWRO NESHAP, but reduces burden to this industry compared to the current rule by $28 million in capital costs related to compliance, and $4.2 million per year in total annualized costs under a 7 percent interest rate. Over 15 years at a 7-percent discount rate, this constitutes an estimated reduction of $39 million in

the present value, or $4.3 million per year in equivalent annualized cost savings.

DATES: This final action is effective on January 29, 2018.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0360. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet, and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov,* or in hard copy at the EPA Docket Center, (EPA/DC), EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, please contact Ms. Angie Carey, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2187; fax number: (919) 541–0246; email address: *carey.angela@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building, Mail Code 2227A, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7042; fax number: (202) 564–0050; and email address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. A number of acronyms and abbreviations are used in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined:

ACC American Chemistry Council
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
DOT Department of Transportation
EPA Environmental Protection Agency
ETC Environmental Technology Council
FR Federal Register
HAP Hazardous air pollutants
NESHAP National emission standards for hazardous air pollutants
OMB Office of Management and Budget
OSWRO Off-site waste and recovery operations
PRD Pressure relief device
RCRA Resource Conservation and Recovery Act
RTR Residual risk and technology review
TSDF Treatment, storage and disposal facilities

Organization of this Document. The information in this preamble is organized as follows:

I. General Information
A. What is the source of authority for the reconsideration action?
B. Does this action apply to me?
C. Where can I get a copy of this document and other related information?
D. Judicial Review and Administrative Reconsideration
II. Background Information
III. Summary of Final Action on Issues Reconsidered
A. What is the history of OSWRO monitoring requirements for PRDs on containers?
B. How does this final rule differ from the August 7, 2017, proposal?
C. What comments were received on the August 7, 2017, proposed revised container PRD monitoring requirements?
D. What is the rationale for our final decisions regarding the container PRD monitoring requirements?
IV. Summary of Cost, Environmental and Economic Impacts, and Additional Analyses Conducted
A. What are the affected sources?
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C. What are the cost impacts?
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E. What are the benefits?
V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. What is the source of authority for the reconsideration action?

The statutory authority for this action is provided by sections 112, 301 and 307(d)(7)(B) of the Clean Air Act (CAA) (42 U.S.C. 7412, 7601 and 7607(d)(7)(B)).

B. Does this action apply to me?

Categories and entities potentially regulated by this action include, but are not limited to, businesses or government agencies that operate any of the following: Hazardous waste treatment, treatment storage and disposal facilities (TSDF); Resource Conservation and Recovery Act (RCRA) exempt hazardous wastewater treatment facilities; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery plants; RCRA exempt hazardous waste recycling operations; and used oil re-refineries.

To determine whether your facility is affected, you should examine the applicability criteria in 40 Code of Federal Regulations (CFR) 63.680 of subpart DD. If you have any questions regarding the applicability of any aspect of these NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. Where can I get a copy of this document and other related information?

The docket number for this final action regarding the NESHAP for the OSWRO source category is Docket ID No. EPA–HQ–OAR–2012–0360.

In addition to being available in the docket, an electronic copy of this document will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *https://www.epa.gov/stationary-sources-air-pollution/site-waste-and-recovery-operations-oswro-national-emission.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents on this same website.

D. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by March 30, 2018. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with

reasonable specificity during the period for public comment can be raised during judicial review. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

This section also provides a mechanism for the EPA to reconsider the rule ''[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC West Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background Information

On March 18, 2015, the EPA promulgated a final rule amending the OSWRO NESHAP based on the RTR conducted for the OSWRO source category (80 FR 14248). In that final rule, the EPA also amended the OSWRO NESHAP to revise provisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting of performance testing; to add monitoring requirements for PRDs; to revise routine maintenance provisions; to clarify provisions for open-ended valves and lines and for some performance test methods and procedures; and to make several minor clarifications and corrections. After publication of the final rule, the EPA received a petition for reconsideration submitted jointly by Eastman Chemical Company and the American Chemical Council (ACC) (dated May 18, 2015). This petition sought reconsideration of two of the amended provisions of the OSWRO NESHAP: (1) The equipment leak provisions for connectors, and (2) the requirement to continuously monitor PRDs on containers.

The EPA considered the petition and granted reconsideration of the PRD monitoring requirement in letters to the petitioners dated February 8, 2016. In separate letters to the petitioners dated May 5, 2016, the Administrator denied reconsideration of the equipment leak provisions for connectors and explained the reasons for the denial in these letters. These letters are available in the OSWRO NESHAP amendment rulemaking docket. The EPA also published a **Federal Register** notice on May 16, 2016 (81 FR 30182), informing the public of these responses to the petition.

On May 18, 2015, ACC filed a petition for judicial review of the OSWRO NESHAP RTR challenging numerous provisions in the final rule, including the issues identified in the petition for administrative reconsideration. *American Chemistry Council* v. *EPA,* U.S. Court of Appeals for the DC Circuit, Case No. 15–1146. In 2016, the EPA and ACC reached an agreement to resolve that case. Specifically, the parties agreed to a settlement under which ACC agrees it will dismiss its petition for review of the 2015 final rule if the EPA reconsiders certain PRD provisions and signs a proposed and final rule in accordance with an agreed-upon schedule. The settlement agreement was finalized on June 15, 2017.

As a result of our reconsideration, the Agency proposed and requested comment on revised monitoring requirements for PRDs on containers in a notice of proposed rule reconsideration published in the **Federal Register** on August 7, 2017 (82 FR 36713). We received public comments from seven parties. Copies of all comments submitted are available at the EPA Docket Center Public Reading Room. Comments are also available electronically through *http://www.regulations.gov* by searching Docket ID No. EPA–HQ–OAR–2012–0360.

In this document, the EPA is finalizing the revised monitoring requirements, as proposed in the August 7, 2017 (82 FR 36713), document. In addition, in this document we are making one clerical correction and we are clarifying the information needed to meet the reporting requirements in the event a PRD on a container releases hazardous air pollutants (HAP) to the atmosphere. Section III of this preamble summarizes the history of OSWRO monitoring requirements for PRDs on containers, explains how the proposed and final regulatory language differs, summarizes key public comments received on the proposed notice of reconsideration, presents the EPA's responses to these comments, and explains our rationale for the rule revisions published here. Additional comments and EPA's responses to those comments are included in the Summary of Public Comments and Responses on Proposed Rule, in the docket for this rulemaking (Docket No. EPA–HQ–OAR–2012–0360).

III. Summary of Final Action on Issues Reconsidered

This action finalizes the EPA's reconsideration and amendment of the continuous monitoring requirements that apply to PRDs on containers. This issue is discussed in detail in the following sections of this preamble.

A. What is the history of OSWRO monitoring requirements for PRDs on containers?

In the March 18, 2015, amendments to 40 CFR part 63, subpart DD, the EPA changed the compliance monitoring requirement for PRDs. Since the rule does not distinguish between PRDs on stationary process equipment and those on containers, the monitoring requirements applied to all PRDs. These revised compliance monitoring provisions included requirements to conduct additional PRD monitoring continuously to identify a pressure release, to record the time and duration of each pressure release and to notify operators immediately when a pressure release occurs. The EPA received a petition objecting to these additional continuous monitoring requirements for PRDs on containers and requesting reconsideration. In 40 CFR part 63, subpart DD, containers are, by definition, portable units that hold material. The petitioners' concern was that because containers are portable, frequently moved around OSWRO facilities, and are received from many different off-site locations, it would be difficult, if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements. When the OSWRO NESHAP were finalized in 2015, the EPA was not aware of equipment meeting the definition of a PRD on containers in the OSWRO industry, and any potential issues associated with the PRD monitoring requirements were not considered for this equipment.

In response to the petition, the EPA reevaluated the PRD monitoring requirements in the 2015 rule as they pertain to containers, considering the other requirements that apply to containers and their PRDs, and the PRD data submitted to the EPA by ACC and the Environmental Technology Council (ETC). Following this evaluation, on August 7, 2017, we proposed to revise the monitoring requirements to exclude PRDs on OSWRO containers from the

continuous monitoring and related requirements of 40 CFR 63.691(c)(3)(i). This proposed revision was based on our determination that the PRD inspection and monitoring requirements already included in the OSWRO NESHAP are effective and sufficient. Our review of information provided by ACC and ETC showed that the emissions potential from PRDs on containers at OSWRO facilities is low. Additionally, continuous monitoring of these PRDs, as contemplated by 40 CFR 63.691(c)(3)(i), would be both costly and difficult.

B. How does this final rule differ from the August 7, 2017, proposal?

In this action, the EPA is finalizing the revised container PRD monitoring requirements as proposed on August 7, 2017. We are also correcting a clerical error in the proposed regulatory text of 40 CFR 63.691(c)(3) to refer to § 63.680(e)(1)(i) through (iii). In addition, we are revising the regulatory text in CFR 63.691(c)(3)(ii) to clarify that monitoring data are not required to be used in the calculation of HAP emitted during a pressure release event for containers.

The proposed language of 40 CFR 63.691(c)(3)(ii) states that if there is a PRD release to the atmosphere, the owner or operator must calculate and report the HAP emitted, and the calculation may be based on ''data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.'' We acknowledged at proposal that it would be difficult, if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements (82 FR at 36715). In recognition of this, we examined whether it would be appropriate to require calculating and reporting of HAP emitted during a PRD pressure release event, and we determined that facility owners/operators would still be able to provide this information through knowledge of the container contents and the weight or volume of the contents before and after the event. It was not our intention to require monitoring data in addition to such process knowledge. Therefore, we have revised the regulatory language of 40 CFR 63.691(c)(3)(ii) accordingly to clarify that monitoring data are not required to be used in the calculation of HAP emitted during a pressure release event for containers.

C. What comments were received on the August 7, 2017, proposed revised container PRD monitoring requirements?

The following is a summary of the key comments received in response to our August 2017 proposal and our responses to these comments. Additional comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

Comment: Three commenters expressed support for the proposed removal of the continuous monitoring requirements added to the OSWRO NESHAP in 2015 for PRDs on containers. These commenters noted that data in the record indicate container releases are extremely rare and do not justify imposing additional regulatory burdens. Two of these commenters also stated that with the additional container data gathered by the Agency, the EPA has correctly concluded that it would be ''difficult if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements.'' One of the commenters added that the significant cost burdens associated with the monitoring requirements to address the small likelihood of a container PRD release is unsupportable.

In contrast, one commenter stated that the EPA cannot remove monitoring requirements (*i.e.,* the continuous monitoring requirements of the 2015 rule) that are needed to assure compliance with the prohibition on releases from container PRDs. The commenter stated that the proposed monitoring exemption is equivalent to an unlawful malfunction exemption from the standards. The commenter also stated that the EPA has not shown, or supported with evidence, that visual inspections will catch problems with PRDs on containers. The commenter further stated that the EPA did not provide evidence that it is not possible to design a monitoring system for container PRDs and suggests that some other continuous monitoring, such as fenceline monitoring, could be done if monitoring is not possible for individual PRDs.

Response: We are finalizing, as proposed, provisions providing that PRDs on containers are not subject to the continuous monitoring requirements at 40 CFR 63.691(c)(3)(i), and we have not added any other container inspection or monitoring requirements. We have determined that the PRD inspection and monitoring requirements in 40 CFR part 63, subpart PP that apply to containers at OSWRO facilities and are already incorporated into the requirements of the OSWRO NESHAP are effective and sufficient. Depending on the size of the container, the vapor pressure of the container contents, and how the container is used (*i.e.,* temporary storage and/or transport of the material versus waste stabilization), the rule requires the OSWRO owners or operators to follow the requirements for either Container Level 1, 2, or 3 control requirements, as specified in the Container NESHAP at 40 CFR part 63, subpart pp. Each control level specifies requirements to ensure the integrity of the container and its ability to contain its contents (*e.g.,* requirements, to meet U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation, or vapor tightness as determined by EPA Method 21, or no detectable leaks as determined by EPA Method 27); requirements for covers and closure devices (which include pressure relief valves as that term is defined in the Container NESHAP at 40 CFR 63.921); and inspection and monitoring requirements for containers and their covers and closure devices pursuant to the Container NESHAP at 40 CFR 63.926. The inspection and monitoring requirements for containers at 40 CFR 63.926, which are already incorporated into the OSWRO NESHAP by 40 CFR 63.688, require that unless the container is emptied within 24 hours of its receipt at the OSWRO facility, the OSWRO owner/operator is required on or before they sign the shipping manifest accepting a container to visually inspect the container and its cover and closure devices (which include PRDs). If a defect of the container, cover, or closure device is identified, the Container NESHAP specify the time period within which the container must be either emptied or repaired. The Container NESHAP require subsequent annual inspections of the container, its cover, and closure devices in the case where a container remains at the facility and has been unopened for a period of 1 year or more. Therefore, the PRD continuous monitoring requirements in the 2015 OSWRO NESHAP at 40 CFR 63.691(c)(3)(i) are in addition to the requirements to inspect and monitor container PRDs (as closure devices) already in the OSWRO NESHAP per the requirements of the subpart PP Container NESHAP at 40 CFR 63.688.

In addition to the NESHAP requirements, nearly all OSWRO containers are subject to DOT regulatory requirements to ensure their safe design,

construction, and operation while in transport, and which also limit the potential for air emissions due to leaks, spills, explosions, etc. The DOT regulations at 49 CFR part 178, Specifications for Packagings or 49 CFR part 179, Specifications for Tank Cars, prescribe specific design, manufacturing, and testing requirements for containers that will be transported by motor vehicles. Additionally, 49 CFR part 180, Continuing Qualification and Maintenance of Packagings, includes requirements for periodic inspections, testing, and repair of containers, which would minimize the chance of an atmospheric release from a PRD. All containers that bring RCRA hazardous waste on-site are subject to these DOT requirements, and any PRDs on those containers would similarly be subject to these requirements. Most OSWRO facilities are also subject to weekly RCRA inspection requirements in § 264.15(b)(4) and § 265.15(b)(4), as well as daily RCRA inspection requirements in § 264.174 and § 265.174. These RCRA inspection requirements apply to owners or operators of all hazardous waste facilities. Therefore, including comparable requirements in the OSWRO NESHAP would substantially overlap with existing requirements.

The data provided by ACC and ETC indicated that almost every facility reported that they unload their containers daily, so if a release from such a PRD on a container were to occur, the facility would likely detect it during the unloading that happens on a daily basis. We understand, based on our review of PRD data provided by ACC and ETC, that PRD releases from containers are rare, the emissions potential from these container PRDs is low, and the additional monitoring requirements for PRDs on the containers that would be required under the 2015 OSWRO NESHAP would be difficult and costly relative to the low emissions potential. In addition, alternative forms of continuous monitoring for container PRDs, such as fenceline monitoring or similar static systems, would not be appropriate for measuring emissions specifically from PRDs on containers, because the inventory of container units at the facilities is dynamic and the units are moved around the facilities' property.

Removing the continuous monitoring requirements from PRDs on containers is not equivalent to an unlawful malfunction exemption. This action does not alter the OSWRO NESHAP's prohibition on releases to the atmosphere from all PRDs at 40 CFR 63.691(c)(3). Therefore, malfunctions that cause PRD releases are not exempt from regulation. Additionally, the EPA determined that the monitoring is sufficient after considering the monitoring and inspection requirements already applicable to these containers, including the inspection requirements in 40 CFR part 63, subpart PP, as described above, while also evaluating other monitoring options and the low risk of release from these units.

Comment: Several commenters provided responses to the EPA's requests for comments related to imposing additional inspection requirements for containers. These requests included whether the EPA should impose more frequent inspections for any filled or partially-filled OSWRO container that remains on-site longer than 60 days; whether any additional inspection requirements should apply to all containers or only apply to larger containers; and whether to also incorporate into the OSWRO NESHAP the inspection requirements of Air Emission Standards for Equipment Leaks in 40 CFR part 264, subpart BB, and 40 CFR part 265, subpart BB, and RCRA and Air Emission Standards for Tanks, Surface Impoundments, and Containers in 40 CFR part 264, subpart CC, and 40 CFR part 265, subpart CC. Three commenters stated that they do not believe additional inspections of container PRDs are necessary for any containers. The commenters noted that facilities are already required to meet the inspection and monitoring requirements of 40 CFR part 63, subpart PP, and most are also subject to the inspection requirements of 40 CFR parts 264 and 265, subparts BB and CC. For larger containers, such as tank cars and rail cars, one of these commenters pointed out that DOT or Federal Railroad Administration inspection, testing and repair requirements would apply. These commenters also noted that most facilities subject to the OSWRO NESHAP are already subject to the RCRA subparts BB and CC inspections requirements. The commenters stated that any of the additional inspection requirements contemplated by the EPA would only overlap with the requirements of existing rules and would not provide any additional benefits.

Response: Considering the responses to our requests for comment regarding including additional inspection requirements for containers, we are not adding any other container inspection or monitoring requirements to the OSWRO NESHAP. As noted above, in the proposal we explained the basis for our proposed conclusion that the container PRD inspection and monitoring requirements already incorporated into the OSWRO NESHAP would be effective and sufficient to ensure compliance with the proposed container PRD requirements. No new information has been provided to suggest that additional inspection or monitoring requirements are needed.

D. What is the rationale for our final decisions regarding the container PRD monitoring requirements?

For the reasons provided above, as well as in the preamble for the proposed rule and in the comment summary and response document available in the docket, we are finalizing our proposal that PRDs on OSWRO containers will not be subject to the continuous monitoring requirements at 40 CFR 63.691(c)(3)(i). For the reasons provided above, we are making the correction and clarification noted in section III.B in the final rule.

IV. Summary of Cost, Environmental and Economic Impacts, and Additional Analyses Conducted

A. What are the affected sources?

We estimate that 49 existing sources will be affected by the revised monitoring requirements being finalized in this action.

B. What are the air quality impacts?

We are finalizing revised requirements for PRD monitoring on containers on the basis that the inspection and monitoring requirements in 40 CFR part 63, subpart PP incorporated into the OSWRO NESHAP are effective and sufficient. We project that the final standard will not result in any change in emissions compared to the 2015 OSWRO NESHAP.

C. What are the cost impacts?

When the OSWRO NESHAP were finalized in 2015, the EPA was not aware of equipment meeting the definition of a PRD on containers in the OSWRO industry, and costs associated with the PRD release event prohibition and continuous monitoring requirements were not estimated for this equipment. Therefore, the capital and annualized costs in the 2015 final rule were underestimated, as these costs were not included. To determine the impacts of the 2015 final rule, considering the continuous monitoring requirements for PRDs on containers based on the data now available to the EPA from ACC and ETC, we estimated costs and potential emission reductions associated with wireless PRD monitors for containers. Using vendor estimates for wireless PRD monitor costs, we estimate the average per facility capital costs of continuous wireless container

PRDs monitoring to be approximately $570,000, and the estimated industry (49 facilities) capital costs of continuous wireless container PRD monitoring would be approximately $28 million. The total annualized costs of continuous wireless container PRD monitoring per facility (assuming a 15-year equipment life and a 7-percent interest rate) are estimated to be approximately $85,000 and approximately $4.2 million for the industry. Therefore, by removing the requirement to monitor PRDs on containers continuously, we estimate the impact of this final rule to be an annual reduction of $4.2 million. Cost information, including wireless PRD monitor costs, is available in the docket for this action.

D. What are the economic impacts?

We performed a national economic impact analysis for the 49 OSWRO facilities affected by this revised rule. The national costs under this final rule, accounting for the data provided by ACC and the ETC, are $1.3 million in capital costs in 2018, or $200,000 in total annualized costs.[1] Over 15 years, this is an estimated present value of total costs of $1.9 million, or equivalent annualized costs of $200,000 per year.[2] These costs constitute a $28 million reduction in the capital cost or a $4.2 million reduction in total annualized costs compared to the revised baseline costs of the requirements as written in the 2015 rule, which include costs of continuous PRD monitoring.[3] Over 15 years, the present value of cost savings are estimated at $39 million, or $4.3 million per year in equivalent annualized cost savings, compared to the revised baseline.[4] More information and details of this analysis are provided in the technical document, ''Final Economic Impact Analysis for the Reconsideration of the 2015 NESHAP: Off-Site Waste and Recovery Operations,'' which is available in the docket for this action.

[1] We assume affected facilities will start incurring costs in 2018. This total annualized cost assumes an interest rate of 7-percent. Total annualized costs under a 3-percent interest rate are $170,000 per year.

[2] These costs assume a 7-percent discount rate. Under a 3-percent discount rate, the present value of costs is estimated to be $2.0 million, and the equivalent annualized costs are estimated to be $170,000 per year.

[3] This reduction in total annualized costs assumes a 7-percent interest rate. Annualized cost reductions are $3.4 million assuming a 3-percent interest rate.

[4] These cost savings assume a 7-percent discount rate. Under a 3-percent discount rate, the present value of cost savings is $42 million, and the equivalent annualized value of cost savings is $3.5 million per year.

E. What are the benefits?

We project that this final standard will not result in any change in emissions compared to the existing OSWRO NESHAP.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 63, subpart DD, under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 1717.11. The final amendments removed continuous monitoring requirements for PRDs on containers, and these final amendments do not affect the estimated information collection burden of the existing rule. You can find a copy of the Information Collection Request in the docket at Docket ID No. EPA–HQ–OAR–2012–0360 for this rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This rule relieves regulatory burden by reducing compliance costs associated with monitoring PRDs on containers. The Agency has determined that of the 28 firms that own the 49 facilities in the OSWRO source category, two firms, or 7 percent, can be classified as small firms. The cost to sales ratio of the reconsidered cost of the monitoring requirements for these two firms is significantly less than 1 percent. In addition, this action constitutes a burden reduction compared to the re-estimated costs of the 2015 rule as promulgated. We have, therefore, concluded that this action does not have a significant impact on a substantial number of small entities. For more information, see the ''Final Economic Impact Analysis for the Reconsideration of the 2015 NESHAP: Off-Site Waste and Recovery Operations'' which is available in the rulemaking docket.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments, or on the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. This action will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this

action present a disproportionate risk to children. The EPA's risk assessments for the 2015 final rule (Docket ID No. EPA–HQ–OAR–2012–0360) demonstrate that the current regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects. This final action does not alter those conclusions.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). In the 2015 final rule, the EPA determined that the current health risks posed by emissions from this source category are acceptable and provide an ample margin of safety to protect public health and prevent adverse environmental effects. To gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis for OSWRO facilities prior to proposal in 2014 to identify any overrepresentation of minority, low income, or indigenous populations. This analysis gave an indication of the prevalence of subpopulations that might be exposed to air pollution from the sources. We revised this analysis to include four additional OSWRO facilities that the EPA learned about after proposal for the 2015 rule. The EPA determined that the final rule would not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations. The revised proximity analysis results and the details concerning its development are presented in the memorandum titled, Updated Environmental Justice Review: Off-Site Waste and Recovery Operations RTR, available in the docket for this action (Docket Document ID No. EPA–HQ–OAR–2012–0360–0109). This final action does not alter the conclusions made in the 2015 final rule regarding this analysis.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 18, 2018.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) is amending title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations

■ 2. Section 63.691 is amended by revising paragraph (c)(3) introductory text and paragraph (c)(3)(ii) to read as follows:

§ 63.691 Standards: Equipment leaks.

* * * * *

(c) * * *

(3) *Pressure release management.* Except as provided in paragraph (c)(4) of this section, emissions of HAP listed in Table 1 of this subpart may not be discharged directly to the atmosphere from pressure relief devices in off-site material service, and according to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(1)(i) through (iii), the owner or operator must comply with the requirements specified in paragraphs (c)(3)(i) and (ii) of this section for all pressure relief devices in off-site material service, except that containers are not subject to the obligations in paragraph (c)(3)(i) of this section.

* * * * *

(ii) If any pressure relief device in off-site material service releases directly to the atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release event and report this quantity as required in § 63.697(b)(5). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge. For containers, the calculations may be based on process knowledge and information alone.

* * * * *

[FR Doc. 2018–01512 Filed 1–26–18; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[LLWO310000 L13100000 PP0000 18X]

RIN 1004–AE51

Onshore Oil and Gas Operations—Annual Civil Penalties Inflation Adjustments

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule adjusts the level of civil monetary penalties contained in the Bureau of Land Management's (BLM) regulations governing onshore oil and gas operations as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and consistent with applicable Office of Management and Budget (OMB) guidance. The adjustments made by this final rule constitute the 2018 annual inflation adjustments, accounting for one year of inflation spanning the period from October 2016 through October 2017.

DATES: This rule is effective on January 29, 2018.

FOR FURTHER INFORMATION CONTACT: Steven Wells, Division Chief, Fluid Minerals Division, 202–912–7143, for information regarding the BLM's Fluid Minerals Program. For questions relating to regulatory process issues, please contact Jennifer Noe, Division of Regulatory Affairs, at 202–912–7442. Persons who use a telecommunications

device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Background
II. Calculation of 2018 Adjustments
III. Procedural Requirements
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B. Regulatory Planning and Review (E.O. 12866, E.O. 13563, and E.O. 13771)
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K. National Environmental Policy Act
L. Effects on the Energy Supply (E.O. 13211)

I. Background

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (the 2015 Act) became law.

The 2015 Act requires agencies to:

1. Adjust the level of civil monetary penalties for inflation with an initial ''catch-up'' adjustment through an interim final rulemaking in 2016;
2. Make subsequent annual adjustments for inflation beginning in 2017; and
3. Report annually in Agency Financial Reports on these inflation adjustments.

The purpose of these adjustments is to further the policy goals of the underlying statutes.

As required by the 2015 Act, the BLM issued an interim final rule that adjusted the level of civil monetary penalties in BLM regulations with the initial ''catch-up'' adjustment (RIN 1004–AE46, 81 FR 41,860), which was published on June 28, 2016, and became effective on July 28, 2016. On January 19, 2017, the BLM published a final rule (RIN 1004–AE49, 82 FR 6,307) updating the civil penalty amounts to the 2017 annual adjustment levels.

OMB issued Memorandum M–18–03 on December 15, 2017 (Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the 2015 Act) explaining agency responsibilities for identifying applicable penalties and calculating the annual adjustment for 2018 in accordance with the 2015 Act.

II. Calculation of 2018 Adjustment

In accordance with the 2015 Act and OMB Memorandum M–18–03, the BLM has identified applicable civil monetary penalties in its regulations and calculated the annual adjustment. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, nor does it include fees for services, licenses, permits, or other regulatory review. The calculated annual inflation adjustments are based on the percentage change between the Consumer Price Index for all Urban Consumers (CPI–U) for the October preceding the date of the adjustment, and the prior year's October CPI–U. Consistent with guidance in OMB Memorandum M–18–03, the BLM divided the October 2017 CPI–U by the October 2016 CPI–U to calculate the multiplier. In this case, October 2017 CPI–U (246.663)/October 2016 CPI–U (241.729) = 1.02041. OMB Memorandum M–18–03 confirms that this is the proper multiplier. (OMB Memorandum M–18–03 at 1 and n.4.)

The 2015 Act requires the BLM to adjust the civil penalty amounts in 43 CFR 3163.2. To accomplish this, BLM multiplied the current penalty amounts in 43 CFR 3163.2 subparagraph (b)(2) and paragraphs (d), (e), and (f) by the multiplier set forth in OMB Memorandum M–18–03 (1.02041) to obtain the adjusted penalty amounts. The 2015 Act requires that the resulting amounts be rounded to the nearest $1.00 at the end of the calculation process.

Due to an error, the current penalty amount in 43 CFR 3163.2(b)(1) of $1,031 reflects the initial ''catch-up'' adjustment published on June 28, 2016, rather than the 2017 annual adjusted amount of $1,048. The correct adjusted penalty amount in 43 CFR 3163(b)(1) of $1,069 was calculated by multiplying the 2017 annual adjusted amount ($1,048) by the multiplier set forth in OMB Memorandum M–18–03 (1.02041).

The adjusted penalty amounts will take effect immediately upon publication of this rule. Pursuant to the 2015 Act, the adjusted civil penalty amounts apply to civil penalties assessed after the date the increase takes effect, even if the associated violation predates such increase. This final rule adjusts the following civil penalties:

CFR citation	Description of the penalty	Current penalty	Adjusted penalty
43 CFR 3163.2(b)(1)	Failure to comply	$1,031	$1,069
43 CFR 3163.2(b)(2)	If corrective action is not taken	10,483	10,697
43 CFR 3163.2(d)	If transporter fails to permit inspection for documentation	1,048	1,069
43 CFR 3163.2(e)	Failure to permit inspection, failure to notify	20,965	21,393
43 CFR 3163.2(f)	False or inaccurate documents; unlawful transfer or purchase	52,414	53,484

III. Procedural Requirements

A. Administrative Procedure Act

In accordance with the 2015 Act, agencies must adjust civil monetary penalties ''notwithstanding Section 553 of the Administrative Procedure Act'' (2015 Act at § 4(b)(2)). The BLM is promulgating this 2018 inflation adjustment for civil penalties as a final rule pursuant to the provisions of the 2015 Act and OMB guidance. A proposed rule is not required because the 2015 Act expressly exempts the annual inflation adjustments from the notice and comment requirements of the Administrative Procedure Act. In addition, since the 2015 Act does not give the BLM any discretion to vary the amount of the annual inflation adjustment for any given penalty to reflect any views or suggestions provided by commenters, it would serve no purpose to provide an opportunity for public comment on this rule.

B. Regulatory Planning and Review (Executive Orders 12866, 13563, and 13771)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the OMB will review all significant rules. OIRA has determined that this rule is not significant. (*See* OMB Memorandum M–18–03 at 3).

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability and to

reduce uncertainty and the use of the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science, and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements to the extent permitted by the 2015 Act.

E.O. 13771 of January 30, 2017, directs federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. E.O. 13771, however, applies only to significant regulatory actions, as defined in Section 3(f) of E.O. 12866. OIRA has determined that agency regulations exclusively implementing the annual adjustment are not significant regulatory actions under E.O. 12866, provided they are consistent with OMB Memorandum M–18–03 (*See* OMB Memorandum M–18–03 at 3). Therefore, E.O. 13771 does not apply to this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). The 2015 Act expressly exempts these annual inflation adjustments from the requirement to publish a proposed rule for notice and comment (*see* 2015 Act at § 4 (b)(2)). Because the final rule in this case does not include publication of a proposed rule, the RFA does not apply to this final rule.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Will not have an annual effect on the economy of $100 million or more;

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This rule will potentially affect individuals and companies who conduct operations on oil and gas leases on Federal or Indian lands. The BLM believes that the vast majority of potentially affected entities will be small businesses as defined by the Small Business Administration (SBA). However, the BLM does not believe the rule will pose a significant economic impact on the industry, including any small entities, for two reasons. First, any lessee can avoid being assessed civil penalties by operating in compliance with BLM rules and regulations. Second, even though most of the entities potentially affected are small businesses as defined by the SBA, the adjusted penalties and potential increase in penalty receipts are small in comparison to the $16 billion value of oil, natural gas and natural gas liquids produced from Federal and Indian leases in FY 2016.

E. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

F. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, a takings implication assessment is not required.

G. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Therefore, a federalism summary impact statement is not required.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

J. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because, as a regulation of an administrative nature, the rule is covered by a categorical exclusion (*see* 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

List of Subjects 43 CFR Part 3160

Administrative practice and procedure; Government contracts; Indians—lands; Mineral royalties; Oil and gas exploration; Penalties; Public lands—mineral resources; Reporting and recordkeeping requirements.

For the reasons given in the preamble, the BLM amends Chapter II of Title 43 of the Code of Federal Regulations as follows:

PART 3160—ONSHORE OIL AND GAS OPERATIONS

■ 1. The authority citation for part 3160 continues to read as follows:

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; 43 U.S.C. 1732(b), 1733, 1740; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

Subpart 3163—Noncompliance, Assessments, and Penalties

§ 3163.2 [Amended]

■ 2. In § 3163.2:

■ a. In paragraph (b)(1), remove ''$1,031'' and add in its place ''$1,069''.

■ b. In paragraph (b)(2), remove ''$10,483'' and add in its place ''$10,697''.

■ c. In paragraph (d), remove ''$1,048'' and add in its place ''$1,069''.

■ d. In paragraph (e) introductory text, remove ''$20,965'' and add in its place ''$21,393''.

■ e. In paragraph (f) introductory text, remove ''$52,414'' and add in its place ''$53,484''.

Joseph Balash,

Assistant Secretary—Land and Minerals Management, U.S. Department of the Interior.

[FR Doc. 2018–01628 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–84–P

Proposed Rules

Federal Register
Vol. 83, No. 19
Monday, January 29, 2018

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.

FEDERAL ELECTION COMMISSION

11 CFR Parts 102, 104, and 109

[Notice 2018–01]

Independent Expenditures by Authorized Committees; Reporting Multistate Independent Expenditures and Electioneering Communications

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed changes to its regulations concerning independent expenditures by candidates. The Commission also requests comments on proposed changes to its regulations to address reporting of independent expenditures and electioneering communications that relate to presidential primary elections and that are publicly distributed in multiple states but that do not refer to any particular state's primary election. The Commission has made no final decision on the issues and proposals presented in this rulemaking.

DATES: Comments must be received on or before March 30, 2018.

ADDRESSES: All comments must be in writing. Comments may be submitted electronically via the Commission's website at *http://sers.fec.gov/fosers,* reference REG 2014–02. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel. Comments submitted before the Commission's relocation on March 5, 2018 must be sent to 999 E Street NW, Washington, DC 20463; comments submitted after the Commission's relocation must be sent to 1050 First Street NE, Washington, DC 20463. *See* Change of Address; Technical Amendments, 82 FR 60852 (Dec. 26, 2017). Each commenter must provide, at a minimum, his or her first name, last name, city, state, and zip code. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records room. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

The Commission may hold a public hearing on this notice of proposed rulemaking. Commenters wishing to testify at a hearing must so indicate in their comments. If a hearing is to be held, the Commission will publish a notification of hearing in the **Federal Register** announcing the date and time of the hearing.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, Ms. Esther D. Gyory, or Ms. Joanna S. Waldstreicher, Attorneys, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is considering revising some of its regulations concerning independent expenditures and electioneering communications, and it seeks comment on the proposed changes.

The Commission is proposing revisions to its regulations concerning whether authorized committees may make independent expenditures. The Federal Election Campaign Act, 52 U.S.C. 30101–46 (the ''Act'') and Commission regulations state that no political committee that ''supports'' more than one candidate may be designated as an authorized campaign committee. 52 U.S.C. 30102(e)(3); 11 CFR 102.12(c), 102.13(c). The statute and regulations do not define ''support'' for the purposes of these two provisions, except to state that the term ''does not include contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate.'' 52 U.S.C. 30102(e)(3)(B); 11 CFR 102.12(c)(2), 102.13(c)(2). The Commission is considering revising its regulations to specifically state that for the purposes of these provisions, ''support'' includes making independent expenditures, or, in the alternative, that ''support,'' in this context, does not include independent expenditures. The Commission is seeking comment on the following proposed revisions to its regulations, which would clarify the meaning of ''support'' as it is used in 11 CFR 102.12(c)(2) and 102.13(c)(2). In the event that the Commission promulgates final rules that exclude independent expenditures from the definition of support, the Commission is also proposing changes to its reporting regulations at 11 CFR 104.3 and 104.4 to provide for authorized committees to report independent expenditures.

The Commission is also seeking comment on proposed revisions to its regulations concerning independent expenditures and electioneering communications as they apply to communications that relate to presidential primary elections and that are publicly distributed in multiple states but that do not refer to any particular state's primary election. The Act and Commission regulations require persons who make independent expenditures and electioneering communications to report certain information to the Commission within specified periods of time. *See* 52 U.S.C. 30104(b)–(c), (g); 11 CFR 104.3, 104.4, 104.20, 109.10. The Commission is considering revising its regulations to specifically address how these reporting requirements apply to an independent expenditure or electioneering communication that relates to a presidential primary election and is distributed in multiple states but does not refer to any particular state's primary election (a ''multistate independent expenditure'' or ''multistate electioneering communication''). The Commission is seeking comment on the following proposed revisions to its regulations, which would clarify when and how multistate independent expenditures and multistate electioneering communications must be reported.

I. Background

The Act and Commission regulations require that political committees report all disbursements. 52 U.S.C. 30104(b)(4); 11 CFR 104.3(b). Political committees must also itemize their

disbursements according to specific categories. 52 U.S.C. 30104(b)(4); 11 CFR 104.3(b)(1)–(2).

An ''independent expenditure'' is an expenditure that expressly advocates the election or defeat of a clearly identified federal candidate and is not coordinated with such candidate (or his or her opponent) or political party. 52 U.S.C. 30101(17); *see also* 11 CFR 100.16(a). Under existing regulations, a political committee (other than an authorized committee) that makes independent expenditures must itemize those expenditures on its regular periodic reports, stating, among other things, the name of the candidate whom the expenditure supports or opposes and the office sought by that candidate. 52 U.S.C. 30104(b)(4)(H)(iii), (6)(B)(iii); 11 CFR 104.4(a). Any person other than a political committee that makes independent expenditures aggregating in excess of $250 during a calendar year must disclose the same information in a statement filed with the Commission.[1] 52 U.S.C. 30104(c); 11 CFR 109.10(b).

In addition, any person that makes independent expenditures aggregating $10,000 or more for an election in any calendar year, up to and including the 20th day before an election, must report the expenditures within 48 hours. 52 U.S.C. 30104(g)(2)(A); 11 CFR 104.4(b)(2), 109.10(c). Additional reports must be filed within 48 hours each time the person makes further independent expenditures aggregating $10,000 or more with respect to the same election. 52 U.S.C. 30104(g)(2)(B); 11 CFR 104.4(b)(2), 109.10(c).

Any person that makes independent expenditures aggregating $1,000 or more less than 20 days, but more than 24 hours, before the date of an election must report the expenditures within 24 hours. 52 U.S.C. 30104(g)(1)(A); 11 CFR 104.4(c), 109.10(d). Additional reports must be filed within 24 hours each time the person makes further independent expenditures aggregating $1,000 or more with respect to the same election. 52 U.S.C. 30104(g)(1)(B); 11 CFR 104.4(c), 109.10(d).

A. Independent Expenditures by Authorized Committees

The Act requires that every candidate for federal office (other than the nominee for Vice President) designate a political committee ''to serve as the principal campaign committee'' for that candidate. 52 U.S.C. 30102(e)(1); 11 CFR 102.12(a). The principal campaign committee of a candidate is ''authorized'' by the candidate to receive contributions or to make expenditures on behalf of that candidate. *See* 11 CFR 102.13(a)(1); 52 U.S.C. 30102(e)(1), (3). A candidate may also designate additional political committees to serve as authorized committees of that candidate. 52 U.S.C. 30102(e)(1); 11 CFR 102.13(a)(1). The Act and Commission regulations state that no political committee that ''supports'' more than one candidate may be designated as an authorized committee. 52 U.S.C. 30102(e)(3); 11 CFR 102.12(c), 102.13(c). The Act and regulations further state that for the purposes of these provisions, ''the term *support* does not include contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate,'' but the term is not otherwise defined. 11 CFR 102.12(c)(2), 102.13(c)(2); 52 U.S.C. 30102(e)(3)(B).[2]

Until recently, the Commission had not definitively addressed whether the term ''support'' in section 30102(e)(3) includes independent expenditures.[3] In Matter Under Review (''MUR'') 6405 (Friends of John McCain Inc., *et al.*), the Commission dismissed an allegation that an authorized committee violated 52 U.S.C. 30102(e)(3) by running ads that expressly advocated the election of another candidate. Factual and Legal Analysis at 2–3, MUR 6405 (Friends of John McCain Inc., *et al.*) (Feb. 25, 2015), *http://eqs.fec.gov/eqsdocsMUR/15044371159.pdf* (''McCain''). In its analysis, the Commission cited the Supreme Court's decisions in *Buckley* v. *Valeo,* 424 U.S. 1 (1976) (striking down limits on independent expenditures for most individuals and groups), *Colorado Republican Federal Campaign Committee* v. *FEC,* 518 U.S. 604 (1996) (striking down limit on independent expenditures by political party committees on grounds that independent expenditures do not pose a risk of corruption or the appearance of corruption), and *Citizens United* v. *FEC,* 558 U.S. 310 (2010) (striking down prohibition on independent expenditures by corporations). McCain at 9–10. The Commission concluded that ''it is unlikely that independent spending by authorized committees would be deemed more potentially corrupting than independent expenditures by individuals, political parties, or corporations, each of which has been found [by the Supreme Court] to have a constitutional right to make unlimited independent expenditures.'' McCain at 10.

Currently, neither the regulations nor the Commission's reporting forms provide a mechanism for authorized committees to report independent expenditures. Section 104.3(b)(2), which covers reporting by authorized committees, does not include independent expenditures made by the reporting committee among the categories of disbursements that must be itemized. Similarly, § 104.3(b)(4) sets out the categories of information that authorized committees must report about itemized disbursements and does not contain a provision for independent expenditures. Finally, section 104.4 specifies that political committees that make independent expenditures must report them on Schedule E of FEC Form

[1] Further, Commission regulations provide that persons other than political committees ''shall [also] file a report or statement for any quarterly period during which any such independent expenditures that aggregate in excess of $250 are made and in any quarterly reporting period thereafter in which additional independent expenditures are made.'' 11 CFR 109.19(b).

[2] ''Support'' appears in other places in the regulations but is not defined in most of those other instances. *See, e.g.,* 11 CFR 100.24(b)(3) (defining ''federal election activity'' as public communication that refers to clearly identified candidate for federal office and that ''promotes or supports, or attacks or opposes any candidate for Federal office''), 104.5(d) (requiring treasurer of political committee ''supporting'' candidate for Vice President to file reports on same basis as principal campaign committee of presidential candidate), 110.1(h) (addressing circumstances in which person may contribute to more than one committee ''supporting'' the same candidate), 114.4(d)(1) (stating that corporation or labor organization may ''support or conduct'' voter registration and get-out-the-vote drives), 114.4(d)(2) (specifying that voter registration and get-out-the-vote drives are not expenditures when they meet certain criteria, including that individuals conducting drive are not paid on basis of number of individuals registered or transported ''who support one or more particular candidates''), 300.2(m) (stating that definition of ''solicitation'' does not include ''mere statements of political support''), 300.37(a)(3)(iv) (excluding from prohibition on fundraising for certain tax-exempt organizations a ''political committee under [s]tate law, that 'supports' only [s]tate or local candidates . . . .''). Section 100.6, which defines ''connected organization,'' states that, for the purposes of that provision, the term ''financially supports'' does not include contributions to a political committee, but does include payments of establishment, administration, and solicitation costs of a political committee.

[3] In MUR 2841 (Jenkins), the Commission stated that 2 U.S.C. 432(e) (now 52 U.S.C. 30102(e)) precluded a principal campaign committee from ''making expenditures on behalf of another candidate, thus supporting more than one candidate,'' but ultimately decided the matter on other grounds. *See* Conciliation Agreement ¶ IV.13 (Dec. 11, 1992), *http://www.fec.gov/disclosure_data/mur/2841.pdf.* In a subsequent MUR, the Office of the General Counsel, relying on the Commission's reasoning in MUR 2841 (Jenkins), recommended finding reason to believe that an authorized committee violated 2 U.S.C. 432(e). *See* First General Counsel's Report at 11, MUR 3676 (Stupak) (Jan. 11, 1995), all documents for MUR 3676 available at *http://www.fec.gov/disclosure_data/mur/3676.pdf.* The Commission rejected OGC's recommendation, though the four Commissioners did not agree on the reasoning for that decision. *See* Thomas Statement of Reasons; Aikens *et al.* Statement of Reasons, MUR 3676 (Stupak).

3X, but authorized committees file Form 3 (for House and Senate candidates) or Form 3P (for presidential candidates), neither of which contains Schedule E.

B. Multistate Independent Expenditures and Electioneering Communications

As described above, the Act and Commission regulations require any person who makes independent expenditures aggregating at or above certain threshold amounts and within certain periods prior to an election to report those independent expenditures within 48 or 24 hours. 52 U.S.C. 30104(g)(1)(A), (2)(A); 11 CFR 104.4(b)(2), (c), 109.10(c)–(d). The 48- and 24-hour filing requirements begin to run when the independent expenditures aggregating at least $10,000 or $1,000, respectively, are ''publicly distributed or otherwise publicly disseminated'' 11 CFR 104.4(b)(2), (c), (f), 109.10(c)–(d). For purposes of calculating these expenditures and determining if a communication is ''publicly distributed'' within an applicable 24-hour pre-election filing window, each state's presidential primary election is considered a separate election. *See* Advisory Opinion 2003–40 (U.S. Navy Veterans' Good Government Fund) at 3–4 (noting that ''publicly distributed'' in section 104.4 has same meaning as the term in 11 CFR 100.29(b)(3)(ii)(A), under which each state's presidential primary election is a separate election) (citing Bipartisan Campaign Reform Act of 2002 Reporting, 68 FR 404, 407 (Jan. 3, 2003); Electioneering Communications, 67 FR 65190, 65194 (Oct. 23, 2002)).

An ''electioneering communication,'' in the context of a presidential election, is a broadcast, cable, or satellite communication that refers to a clearly identified candidate for President or Vice President and is ''publicly distributed'' within sixty days before a general election or thirty days before a primary election or nominating convention. 52 U.S.C. 30104(f)(3)(A)(i); 11 CFR 100.29(a). If the candidate identified in the communication is seeking a party's nomination for the presidential or vice presidential election, ''publicly distributed'' means the communication can be received by at least 50,000 people in a state where a primary election is being held within 30 days, or that it can be received by at least 50,000 people anywhere in the United States within the period between 30 days before the first day of the national nominating convention and the conclusion of the convention. 11 CFR 100.29(b)(3). A person who makes electioneering communications that aggregate in excess of $10,000 in a calendar year must file a statement with the Commission disclosing certain information about the electioneering communication, including the election to which the electioneering communication pertains. 52 U.S.C. 30104(f); 11 CFR 104.20(b)–(c). As with independent expenditures, each state's presidential primary election is considered a separate election for purposes of determining whether an electioneering communication is ''publicly distributed'' within the pre-election reporting window. *See* Advisory Opinion 2003–40 (U.S. Navy Veterans' Good Government Fund) at 3–4.

The Commission's current regulations do not specifically address how the public distribution criteria and other reporting requirements apply to independent expenditures or electioneering communications that are made in the context of a presidential primary election and that are distributed in multiple states. In particular, the regulations do not specify which state's primary election date is relevant for determining whether the communication falls within the 24-hour reporting window (for independent expenditures) or the 30-day definitional window (for electioneering communications).

In a 2012 advisory opinion, the Commission considered how the independent expenditure reporting requirements applied to independent expenditures that supported or opposed a presidential primary candidate and were distributed nationwide without referring to any specific state's primary election. *See* Advisory Opinion 2011–28 (Western Representation PAC). In that advisory opinion, the Commission concluded that a political committee making such an independent expenditure should divide the cost of the independent expenditure by the number of states that had not yet held their primary elections, and should use the resulting amounts to determine whether the committee must file 24- and 48-hour reports and for which states. *Id.*

In 2014, the Commission made available for public comment three alternative draft interpretive rules on this topic. Draft Notices of Interpretive Rule Regarding Reporting Nationwide Independent Expenditures in Presidential Primary Elections (Jan. 17, 2014) (''Draft Interpretive Rules''), *www.fec.gov/law/policy/nationwideiereporting/draftnationwideiereporting.pdf.*[4] Draft A would have followed the approach set forth in Advisory Opinion 2011–28 (Western Representation PAC), instructing persons making a nationwide independent expenditure to divide the cost of the nationwide independent expenditure by the number of states with upcoming presidential primary elections. Draft B would have instructed persons making a nationwide independent expenditure to report it as a single expenditure without indicating a state where the expenditure was made, instead using ''memo text''[5] to indicate that the independent expenditure was made nationwide. Draft B also would have instructed filers to use the first day of the candidate's national nominating convention as the election date for determining whether they must file 24- and 48-hour reports. Finally, Draft C would have provided the same reporting guidance as Draft B, except that Draft C would have instructed filers to use the date of the next presidential primary election (rather than the beginning of the national nominating convention) as the election date.

The Commission received two comments on the Draft Interpretive Rules.[6] Both comments generally supported Draft B. Both comments also argued that the approach in Draft A was unnecessarily complex and would not provide clear information to the public about the reported independent expenditures.

After reviewing the comments and engaging in further deliberation, the Commission has determined that this issue would be better addressed through regulatory amendments than through an interpretive rule. Accordingly, the Commission is now seeking comment on proposed revisions to its regulations regarding reporting of independent expenditures and electioneering communications.

[4] The Draft Interpretive Rules referred to the type of independent expenditures that are the subject of this proposed rulemaking as ''nationwide independent expenditures.'' As discussed below, however, the Commission has not yet determined the number of states in which an independent expenditure or electioneering communication must be distributed to fall under the proposed rules. Accordingly, such communications are referred to in this Notice as ''multistate''—rather than ''nationwide''—independent expenditures and electioneering communications.

[5] ''Memo text'' refers to a means of including additional information or explanation about a receipt or disbursement on a Commission form. *See* FEC, Campaign Guide for Nonconnected Committees (2008), *https://www.fec.gov/resources/cms-content/documents/nongui.pdf.*

[6] These comments are available on the Commission's website at *http://www.fec.gov/law/policy.shtml.*

II. Proposed Revisions to 11 CFR Parts 102 and 104—Independent Expenditures by Authorized Committees of a Candidate

As set forth below, the Commission proposes revisions to section 102.12, concerning principal campaign committees, and section 102.13, concerning authorized committees. The Commission also proposes revisions to sections 104.3 and 104.4 regarding authorized committees' reporting of independent expenditures. The Commission seeks comment on these revisions, which are intended to clarify the type of activity that an authorized committee may engage in without ''supporting'' another candidate, as well as to require disclosure of independent expenditures by authorized committees if such expenditures are determined to be permissible.

A. Proposed New 11 CFR 102.12(c)(2)(i) and 102.13(c)(2)(i)—Definition of ''Support''

In both sections 102.12 and 102.13, the Commission is proposing to redesignate current paragraph (c)(2) as paragraph (c)(2)(ii) and to add new paragraph (c)(2)(i), which would define the term ''support.'' The Commission is proposing two alternative provisions for new 11 CFR 102.12(c)(2)(i) and 102.13(c)(2)(i) and seeks comment on whether either alternative is preferable.

Under either alternative, the regulations would continue to exclude from the definition of support contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate. Under both alternatives, current §§ 102.12(c)(2) and 102.13(c)(2) would be redesignated as §§ 102.12(c)(2)(ii) and 102.13(c)(2)(ii), respectively.

Under Alternative A, new §§ 102.12(c)(2)(i) and 102.13(c)(2)(i) would state that for the purposes of the regulation, the term ''support'' includes an independent expenditure by an authorized committee. (The proposed regulations would clarify that this does not affect the ability of a national committee of a political party that has been designated as the principal campaign committee of that party's presidential candidate to make independent expenditures supporting or opposing other candidates. *See* 11 CFR 109.36.[7]) Under Alternative B, new §§ 102.12(c)(2)(i) and 102.13(c)(2)(i) would state that for the purposes of the regulation, the term ''support'' does *not* include independent expenditures by an authorized committee.

The Commission seeks comment on the two alternatives. Is either alternative preferable as a matter of statutory interpretation, taking into account the applicable case law? If both alternatives are statutorily permissible, is either alternative preferable as a matter of policy?

For the purposes of sections 102.12 and 102.13, the term ''support'' does not include contributions aggregating $2,000 or less. Thus, Alternative A would prohibit authorized committees from making independent expenditures in any amount, while not prohibiting those committees from making contributions (including coordinated expenditures and coordinated communications, *see* 52 U.S.C. 30116(a)(7)(B)(i); 11 CFR 109.20) of up to $2,000 to other candidates. If the Commission adopts Alternative A, should the Commission also exclude independent expenditures aggregating $2,000 or less per election from the definition of support? If the Commission adopts Alternative B, authorized committees would be allowed to make independent expenditures in any amount. What are the implications of authorized committees' potentially using substantial portions of their resources on independent expenditures?

B. Proposed Revisions to 11 CFR 104.3—Contents of Reports and 11 CFR 104.4—Independent Expenditures by Political Committees

Currently, all political committees—including authorized committees—must report the name and address of any person who has received any disbursement in an aggregate amount exceeding $200 within a certain period, along with the date, amount, and purpose of such disbursement. 52 U.S.C. 30104(b)(5), (6); 11 CFR 104.3(b)(3), (4). Additionally, political committees—other than authorized committees—must provide for each reported disbursement in connection with an independent expenditure the date, amount, and purpose of the independent expenditure, a statement indicating whether the independent expenditure was in support of, or in opposition to, a candidate, the name and office sought by that candidate, and a certification that the expenditure was, in fact, independent. 52 U.S.C. 30104(b)(6)(B); 11 CFR 104.3(b)(3)(vii).

If the Commission adopts Alternative B above, the Commission also proposes to revise 11 CFR 104.3 and 104.4 to provide a mechanism for authorized committees to report independent expenditures. Specifically, the Commission proposes revising § 104.3(b)(2) to add independent expenditures to the categories of itemized disbursements for authorized committees, and adding new § 104.3(b)(4)(iv) to require authorized committees to report the same information about independent expenditures that other political committees must report. Proposed § 104.3(b)(4)(iv) would bring authorized and non-authorized committees into parity by requiring that authorized committees report the same information about independent expenditures that non-authorized committees are required to report, using the same form (Schedule E).[8]

The Commission seeks comment on these proposed changes to § 104.3(b)(2) and (4), which are intended to require authorized committees that make independent expenditures to report the same information, in the same manner, as all other political committees. If authorized committees make independent expenditures, should they report more or less detailed information about those disbursements than other political committees? Is there another method that the Commission should use to allow for authorized committees to report independent expenditures?

The Commission also proposes revisions to 11 CFR 104.4 to refer to the new paragraphs that it proposes to add to section 104.3, described above. In § 104.4(a), (b), (c), and (d), the Commission proposes adding cross-references to 11 CFR 104.3(b)(4)(iv) to reflect the independent expenditure reporting requirements for authorized committees, described above. The Commission also proposes revising § 104.4(b)(1) and (2) to omit the specific references to FEC Form 3X because, as discussed above, authorized committees do not file that form. These proposed regulatory changes would be in conjunction with changes to Schedule E and to Forms 3 and 3P. The Commission

[7] Currently, both sections 102.12 and 102.13 state that the national party committee of a political party that has been designated as the principal campaign committee of that party's presidential candidate may contribute to another candidate in accordance with certain regulations. Section 102.13 states that such contributions must be made in accordance with 11 CFR part 109, subpart D (coordinated party expenditures) and part 110 (contribution limits and prohibitions); section 102.12, however, states only that such contributions must be made in accordance with 11 CFR part 110. Under both alternatives A and B, proposed paragraph 102.12(c)(2) would be revised to include a reference to 11 CFR part 109, subpart D, tracking the existing language in 11 CFR 102.13(c)(2).

[8] Because Schedule E is not currently included in the forms used by authorized committees, the Commission would add that schedule to Form 3 (for House and Senate candidates) and Form 3P (for presidential candidates).

seeks comment on these proposed changes.

III. Proposed Revisions to 11 CFR 104.3 and 104.4—Reporting Multistate Independent Expenditures by Political Committees

As set forth below, the Commission proposes revisions to section 104.3, concerning the content of independent expenditure reports by political committees, and section 104.4, concerning the timing of independent expenditure reports by political committees. The Commission seeks comment on these revisions, which are intended to clarify the reporting obligations of a political committee when it makes a multistate independent expenditure. The Commission is considering three alternative proposals and seeks comment on which alternative would be preferable.

A. Alternative A

1. Proposed New 11 CFR 104.3(b)(3)(vii)(C)—Content of Reports

In section 104.3, the Commission proposes adding new paragraph (b)(3)(vii)(C), which would require that when a political committee makes an independent expenditure in support of or in opposition to a candidate in a presidential primary election, and the communication is publicly distributed or otherwise disseminated in more than a specified number of states but does not refer to any particular state, the political committee must report the independent expenditure as a single expenditure and use memo text to indicate the states where the communication is distributed. The Commission would also redesignate current paragraph (b)(3)(vii)(C) as paragraph (b)(3)(vii)(D).

The Commission seeks comment on the proposed new provision. Would the proposed paragraph provide sufficient guidance to political committees reporting multistate independent expenditures? Is the proposed provision necessary or desirable to provide full, accurate, and timely disclosure to the public regarding multistate independent expenditures that are made by political committees?

If the Commission amends section 104.3(b)(4) to account for independent expenditures by authorized committees as described above in Section II.B, the Commission would propose to include regulatory text in revised section 104.3(b)(4) providing that the reporting requirements for authorized committees that make independent expenditures would mirror the reporting requirements for all other political committees that make independent expenditures. The Commission seeks comment on whether these proposed requirements should apply to multistate independent expenditures made by authorized committees.

The Commission also seeks comment on the number of states that would be the threshold for a communication to fall within the new paragraph. Requiring an independent expenditure to be ''nationwide''—*i.e.,* disseminated in all fifty states plus the District of Columbia (and possibly Puerto Rico, Guam, and American Samoa)—would exclude some independent expenditures that are distributed in a large number of states (*e.g.,* the entire continental United States). This would significantly limit the benefits and application of the proposed reporting rule. Alternatively, applying the new provision to independent expenditures that are disseminated in only a handful of states might result in independent expenditures that are targeted to a specific state's primary—but partially distributed in neighboring states that share its media markets—being misleadingly reported as ''multistate'' communications. In how many states should an independent expenditure have to be distributed to fall within the proposed new reporting rule? Should the rule specify a particular number of states, or are there other ways to effectively delineate the communications that would be reported as multistate independent expenditures?

The proposed new paragraph would represent a change from the Commission's previous guidance on this issue. In Advisory Opinion 2011–28 (Western Representation PAC), the Commission instructed a political committee to allocate the cost of a multistate independent expenditure among all the states where the communication was distributed. None of the persons who commented on the Draft Interpretive Rules supported retaining that approach, and the Commission is not proposing it here. Nonetheless, are there advantages to that approach that the Commission should consider in crafting the new rule?

If the proposed new paragraph is adopted, the Commission recognizes that implementing it would likely require modifying the instructions for the Commission's Schedule E form. The Commission anticipates that these modified instructions would provide political committees flexibility on how to report the states where the multistate independent expenditure is distributed. For example, the instructions would permit the memo text for a multistate independent expenditure to indicate that the independent expenditure was distributed ''nationwide,'' in ''all fifty states,'' in ''IN, OH, WI, MI, MN, IL, PA, MO,'' or in ''all states except Alaska and Hawaii,'' etc. Would such instructions provide sufficient guidance and flexibility to filers? Should the Commission provide more specific guidelines on how political committees should indicate the states where multistate independent expenditures are distributed? Should the proposed new regulation address this issue specifically? If so, how?

2. Proposed New 11 CFR 104.4(f)(2)—Timing of Reports

In section 104.4, the Commission is proposing to redesignate current paragraph (f) as paragraph (f)(1) and add new paragraph (f)(2), concerning when a political committee must file a 24- or 48-hour report for a multistate independent expenditure.

Following the approach proposed in Draft Interpretive Rule B, a political committee that makes a multistate independent expenditure would report it as a single expenditure, as discussed above, and the political committee would use the date of the national nominating convention for the clearly identified candidate's party as the date of the election to determine whether the independent expenditure is within the 20 days before the election and is therefore subject to the 24-hour reporting requirement under 52 U.S.C. 30104(g)(1).

The Commission seeks comment on this proposal. Does it provide sufficient guidance to political committees as to how to determine whether they must file 24-hour or 48-hour reports for multistate independent expenditures? Is this proposal preferable to the Commission's existing guidance under Advisory Opinion 2011–28 (Western Representation PAC)? Would this proposal enhance the public's access to full, accurate, and timely information about multistate independent expenditures?

B. Alternative B

1. Proposed New 11 CFR 104.3(b)(3)(vii)(C)—Content of Reports

In section 104.3, the Commission proposes making the same changes as described above under Alternative A, adding new paragraph (b)(3)(vii)(C) and redesignating current paragraph (b)(3)(vii)(C) as paragraph (b)(3)(vii)(D).

2. Proposed New 11 CFR 104.4(f)(2)—Timing of Reports

Similar to Alternative A, in section 104.4, the Commission is proposing to

redesignate current paragraph (f) as paragraph (f)(1) and add new paragraph (f)(2), concerning when a political committee must file a 24- or 48-hour report for a multistate independent expenditure. However, under Alternative B, which follows the approach proposed in Draft Interpretive Rule C, the political committee would determine whether the independent expenditure is within the 20 days before the election and is therefore subject to the 24-hour reporting requirement under 52 U.S.C. 30104(g)(1) by using as the date of the election the date of the next upcoming presidential primary among the presidential primaries to be held in the states in which the independent expenditure is distributed or disseminated.

The Commission seeks comment on this proposal. Does it provide sufficient guidance to political committees as to how to determine whether they must file 24-hour or 48-hour reports for multistate independent expenditures? Is this proposal preferable to the Commission's existing guidance under Advisory Opinion 2011–28 (Western Representation PAC)? Would this proposal enhance the public's access to full, accurate, and timely information about multistate independent expenditures?

C. Alternative C

1. Proposed New 11 CFR 104.3(b)(3)(vii)(C)—Multistate Independent Expenditures

As with Alternatives A and B, for Alternative C the Commission proposes to amend section 104.3 by adding new paragraph (b)(3)(vii)(C). For Alternative C, however, the new paragraph would provide that for any independent expenditure in support of or in opposition to a candidate in a presidential primary election, where the communication is publicly distributed or otherwise disseminated in more than a specified number of states but does not refer to any particular state, the political committee must report the independent expenditure according to new section 104.4(f)(2), discussed below. The Commission would also redesignate current paragraph (b)(3)(vii)(C) as paragraph (b)(3)(vii)(D).

2. Proposed New 11 CFR 104.4(f)(2)—Reporting Multistate Independent Expenditures

As with Alternatives A and B, for Alternative C the Commission proposes to amend section 104.4 by redesignating current paragraph (f) as paragraph (f)(1) and adding new paragraph (f)(2). Under Alternative C, new paragraph (f)(2) would bring together all of the aggregation and reporting requirements for multistate independent expenditures in one paragraph. New section 104.4(f)(2) would set forth the requirements for determining whether and when a 24- or 48-hour report is required, along with the specific information to be included in such a report.

In contrast to Alternatives A and B, which would require a political committee to determine whether a 24-hour report is required based on the total amount of the independent expenditure, Alternative C would require political committees to allocate the amount of the expenditure among the states where it is distributed whose primary elections have yet to occur. Political committees who file electronically would be able to rely on the new electronic filing system that the Commission expects to introduce before the 2020 election cycle or third-party electronic filing software to do this calculation. If this alternative is adopted, the Commission also proposes to make a calculator available on its website to aid political committees that do not file electronically in making the necessary allocations.

Under Alternative C, a political committee would disregard any states where the communication was distributed but where the presidential primary election has already occurred, and would allocate the total amount of the independent expenditure among the remaining states, according to a ratio based on the number of U.S. House of Representatives districts apportioned to each state.

For purposes of determining whether the independent expenditure is within the 20 days before the election and is therefore subject to the 24-hour reporting requirement under 52 U.S.C. 30104(g)(1), the political committee would use the date of the next upcoming primary election among the states where the independent expenditure was distributed. If that date is more than 20 days away from the date of the expenditure and the amount allocated to that state causes the political committee's aggregate spending in that state to exceed $10,000, the committee would be required to file a 48-hour report. If that date is between 1 and 20 days away and the amount allocated to that state causes the political committee's aggregate spending in that state to exceed $1,000, the committee would be required to file a 24-hour report.

Information about the dates of the major-party presidential primary elections and the number of House districts apportioned to each state would be incorporated into the Commission's electronic filing system, so a political committee that filed electronically would be able to enter the date and amount of the independent expenditure and the states where it was distributed, and the software would do the calculation to determine whether any reports were required. The same information would be provided on the Commission's website for the benefit of any political committees that do not file electronically, in the form of a calculator that would perform the allocation calculation when a political committee enters the amount and date of a communication and the states in which it is publicly distributed.

Example: A political committee spent $40,000 on an independent expenditure broadcast in Texas, Arizona, New Mexico, and Oklahoma on March 15, where the next upcoming primary election was going to be in Oklahoma on March 20. There are a total of 53 House districts in those four states: 9 in Arizona, 3 in New Mexico, 5 in Oklahoma, and 36 in Texas. On the date the communication was distributed, all four states where it was distributed had yet to hold their presidential primary elections. Therefore the political committee would allocate the $40,000 according to each state's proportion of House districts out of the 53 total: $6,792 for Arizona (40,000 × (9/53)), $2,264 for New Mexico (40,000 × (3/53)), $3,773 for Oklahoma (40,000 × (5/53)), and $27,169 for Texas (40,000 × (36/53)). Because the next upcoming primary election where the communication was distributed would be within 20 days, in Oklahoma, and the political committee would have spent more than $1,000 in that state, a 24-hour report would be required.

The Commission acknowledges that the proposed allocation calculation may seem complex, but notes that this proposal would allow political committees to take advantage of advancing technology to relieve them of the burden of determining whether and when to report multistate independent expenditures. A political committee would need only enter the date and total amount of an independent expenditure and the states in which it was publicly distributed, and the electronic filing system or calculator would determine whether a 24- or 48-hour report was required and what amount to allocate to each state. The Commission would not implement Alternative C until the new electronic filing system and calculator were in place so as to avoid requiring any political committee to perform the allocation calculation manually.

Would Alternative C satisfy the Act's provisions for reporting independent expenditures? Would this approach enhance the public's access to full, accurate, and timely information about multistate independent expenditures? Would this proposal provide sufficient guidance to political committees as to how to determine whether they must file 24-hour or 48-hour reports for multistate independent expenditures and what information to include in such reports? Is this proposal preferable to the Commission's existing guidance under Advisory Opinion 2011–28 (Western Representation PAC)? Does the feasibility of this proposal depend on whether a political committee files electronically, and if so, is the number of political committees that make multistate independent expenditures but do not file electronically significant?

The Commission seeks comment on whether it is appropriate or desirable to use House representation, which is based on population, as a basis for allocation. Does the use of House districts assume that the entire population of a state receives the communication, and does that question make a difference in how independent expenditures should be reported? Does this proposed use of House districts to determine whether and when independent expenditures must be reported differ materially from proposed Alternatives A and B?

The Commission also seeks overall comment on which of the three alternatives (A, B or C) is preferable with respect to (1) the burden on the political committees that must report their multistate independent expenditures, and (2) the usefulness of the information disclosed to the public. Are there other approaches that might be preferable to any of these proposed alternatives?

IV. Proposed Revision to 11 CFR 109.10—Reporting Multistate Independent Expenditures by Persons Other Than Political Committees

In 11 CFR 109.10(e)—which addresses the content of independent expenditure reports filed by persons other than political committees—the Commission proposes to reference the requirements for reporting multistate independent expenditures that the Commission proposes to add to section 104.3(b)(3)(vii)(C) or in new section 104.4(f)(2). Specifically, revised section 109.10(e)(1)(iv) would provide that when a person other than a political committee makes an expenditure meeting the criteria set forth in section 104.3(b)(3)(vii)(C) (*i.e.,* an independent expenditure that supports or opposes a presidential primary candidate and that is distributed in more than the specified number of states but does not refer to any particular state), the person must report the expenditure pursuant to the provisions of section 104.3(b)(3)(vii)(C) or section 104.4(f)(2).

The Commission requests comments on this proposed revision to 11 CFR 109.10. Should the reporting requirements for multistate independent expenditures made by persons other than political committees parallel the reporting requirements for multistate independent expenditures made by political committees? Although Advisory Opinion 2011–28 (Western Representation PAC) and the Draft Interpretive Rules did not address how persons other than political committees should report multistate independent expenditures, is there any legal or policy reason that the reporting requirements for political committees and for other persons should differ in the context of multistate independent expenditures? Does the proposed revision to section 109.10 clarify the reporting obligations of persons who make multistate independent expenditures? Is the proposed revision to section 109.10 necessary or desirable to provide full, accurate, and timely disclosure to the public regarding multistate independent expenditures made by persons other than political committees? Would the proposed revision reduce or increase the administrative burden on such persons? If the proposed revision does increase the administrative burden on such persons, is that burden outweighed by the usefulness of the information disclosed to the public?

V. Proposed Revision to 11 CFR 104.20—Electioneering Communications

In section 104.20(c), which concerns the content of reports regarding electioneering communications, the Commission proposes to add a new paragraph (c)(6) and redesignate current paragraphs (c)(6)–(9) as paragraphs (c)(7)–(10). Proposed new paragraph (c)(6) would apply when the relevant election (which the reporting person is required to disclose pursuant to paragraph (c)(5)) is a presidential primary election and the electioneering communication is distributed in more than a specified number of states but does not refer to any particular state's primary election.

In such situations, this new paragraph would parallel the new reporting requirements for multistate independent expenditures as discussed above, either new section 104.3(b)(3)(vii)(C) if Alternative A or B is adopted, or new section 104.4(f)(2) if Alternative C is adopted. If Alternative A or B is adopted, new paragraph (c)(6) would provide that the reporting person must report the electioneering communication as a single communication and use a memo text to indicate the states in which the communication constitutes an electioneering communication (as defined in 11 CFR 100.29(a)).

If Alternative C is adopted, new paragraph (c)(6) would provide that the reporting person must allocate the cost of the communication among the states where it is publicly distributed and whose presidential primary elections have not yet occurred as set forth in new section 104.4(f)(2). The proposed revision would thus treat multistate electioneering communications similarly to multistate independent expenditures, as discussed above.

The Commission seeks comment on the proposed revision to section 104.20. Should multistate electioneering communications be treated similarly to multistate independent expenditures, or are there differences between the two types of communications or the persons that make them that would call for different reporting requirements? Should the same number of states constitute the threshold for multistate independent expenditures and multistate electioneering communications? Should the cost of an electioneering communication be allocated among the states where the communication is publicly distributed for reporting purposes?

Would the proposed new paragraph increase or decrease the administrative burden on persons reporting electioneering communications? If the proposed revision does increase the administrative burden on such persons, is that burden outweighed by the usefulness of the information disclosed to the public? Would the proposed revision provide sufficient information on how persons making multistate electioneering communications should disclose them? Is the proposed revision necessary or desirable to provide full, accurate, and timely disclosure of information about multistate electioneering communications to the public?

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached proposed rules, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rules would

clarify whether authorized committees may make independent expenditures and provide a mechanism for authorized committees to report independent expenditures. The proposed reporting requirements would only affect authorized committees that choose to make independent expenditures. Moreover, authorized committees are already required to report all disbursements, as well as the name and address of any person who has received any disbursement in an aggregate amount exceeding $200 within a certain period, along with the date, amount, and purpose of such disbursement. Thus, the proposed rules would not materially change the amount of information reported, but rather would change how disbursements for independent expenditures are identified on reports.

The proposed rules would also provide for consolidated reporting of certain independent expenditures and electioneering communications that the Commission's current reporting guidance indicates should be allocated among elections in multiple states. The Commission anticipates that the proposed consolidation of these reports would generally result in a modest reduction of the administrative burdens on reporting entities, and it would not impose any new reporting obligations. Thus, to the extent that any entities affected by these proposed rules might fall within the definition of ''small businesses'' or ''small organizations,'' the economic impact of complying with these rules would not be significant.

List of Subjects

11 CFR Part 102

Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 109

Elections, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend 11 CFR chapter 1, as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (52 U.S.C. 30103)

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 52 U.S.C. 30102, 30103, 30104(a)(11), 30111(a)(8), and 30120.

■ 2. Revise paragraph (c)(2) of § 102.12 to read as follows:

§ 102.12 Designation of principal campaign committee (52 U.S.C. 30102(e)(1) and (3)).

* * * * *

(c) * * *

Alternative A

(2)(i) For purposes of paragraph (c) of this section, the term *support* includes an independent expenditure by an authorized committee.

(ii) For purposes of paragraph (c) of this section, the term *support* does not include contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate.

(iii) Nothing in paragraph (c)(2) of this section affects the ability of a national committee of a political party that has been designated as the principal campaign committee of that party's presidential candidate to contribute to or make independent expenditures in support of another candidate in accordance with 11 CFR part 109, subpart D, and 11 CFR part 110.

Alternative B

(2) For purposes of paragraph (c) of this section, the term *support* does not include:

(i) Independent expenditures by an authorized committee in any amount; or

(ii) Contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's presidential candidate may contribute to another candidate in accordance with 11 CFR part 109, subpart D, and part 110.

■ 3. Revise paragraph (c)(2) of § 102.13 to read as follows:

§ 102.13 Authorization of political committees (52 U.S.C. 30102(e)(1) and (3)).

* * * * *

(c) * * *

Alternative A

(2)(i) For purposes of paragraph (c) of this section, the term *support* includes an independent expenditure by an authorized committee.

(ii) For purposes of paragraph (c) of this section, the term *support* does not include contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate.

(iii) Nothing in paragraph (c)(2) of this section affects the ability of a national committee of a political party that has been designated as the principal campaign committee of that party's presidential candidate to contribute to or make independent expenditures in support of another candidate in accordance with 11 CFR part 109, subpart D, and 11 CFR part 110.

Alternative B

(2) For purposes of paragraph (c) of this section, the term *support* does not include:

(i) Independent expenditures by an authorized committee in any amount; or

(ii) Contributions by an authorized committee in amounts aggregating $2,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's presidential candidate may contribute to another candidate in accordance with 11 CFR part 109, subpart D, and 11 CFR part 110.

PART 104—REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS (52 U.S.C. 30104)

■ 4. The authority citation for part 104 continues to read as follows:

Authority: 52 U.S.C. 30101(1), 30101(8), 30101(9), 30102(i), 30104, 30111(a)(8) and (b), 30114, 30116, 36 U.S.C. 510.

§ 104.3 [Amended]

■ 5. Redesignate paragraphs (b)(2)(vi) and (b)(2)(vii) as (b)(2)(vii) and (b)(2)(viii).

■ 6. Add new paragraph (b)(2)(vi) and revise paragraphs (b)(3)(vii)(C) and (D) and (b)(4)(vi) to read as follows:

§ 104.3 Contents of Reports.

Alternatives A and B

* * * * *

(b) * * *

(2) * * *

(vi) Independent expenditures made by the reporting committee;

* * * * *

(3) * * *

(vii) * * *

(C) For an independent expenditure that is made in support of or opposition to a presidential primary candidate and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the political committee must report the independent

expenditure as a single expenditure—*i.e.,* without allocating it among states—and must use memo text to indicate the states in which the communication is distributed.

(D) The information required by 11 CFR 104.3(b)(3)(vii)(A) through (C) shall be reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed $200 per calendar year. Schedule E shall also include the total of all such expenditures of $200 or less made during the reporting period.

(4) * * *

(iv)(A) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure(s);

(B) For each independent expenditure reported, the committee must also provide a statement which indicates whether such independent expenditure is in support of, or in opposition to a particular candidate, as well as the name of the candidate and office sought by such candidate (including State and Congressional district, when applicable), and a certification, under penalty of perjury, as to whether such independent expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any other candidate or any other authorized committee or agent of such committee;

(C) For an independent expenditure that is made in support of or opposition to a presidential primary candidate and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the political committee must report the independent expenditure as a single expenditure—*i.e.,* without allocating it among states—and must use memo text to indicate the states in which the communication is distributed.

(D) The information required by 11 CFR 104.3(b)(4)(iv)(A) through (C) shall be reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed $200 per calendar year. Schedule E shall also include the total of all such expenditures of $200 or less made during the reporting period.

* * * * *

Alternative C

* * * * *

(b) * * *

(2) * * *

(vi) Independent expenditures made by the reporting committee;

* * * * *

(3) * * *

(vii) * * *

(C) For an independent expenditure that is made in support of or opposition to a presidential primary candidate and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the political committee must report the independent expenditure according to 11 CFR 104.4(f)(2).

(D) The information required by 11 CFR 104.3(b)(3)(vii)(A) through (C) shall be reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed $200 per calendar year. Schedule E shall also include the total of all such expenditures of $200 or less made during the reporting period.

(4) * * *

(iv)(A) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure(s);

(B) For each independent expenditure reported, the committee must also provide a statement which indicates whether such independent expenditure is in support of, or in opposition to a particular candidate, as well as the name of the candidate and office sought by such candidate (including State and Congressional district, when applicable), and a certification, under penalty of perjury, as to whether such independent expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any other candidate or any other authorized committee or agent of such committee;

(C) For an independent expenditure that is made in support of or opposition to a presidential primary candidate and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the political committee must report the independent expenditure according to 11 CFR 104.4(f)(2).

(D) The information required by 11 CFR 104.3(b)(4)(iv)(A) through (C) shall be reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed $200 per calendar year. Schedule E shall also include the total of all such expenditures of $200 or less made during the reporting period.

* * * * *

■ 6. Amend § 104.4 by

■ a. In paragraphs (a), (b), (c), and (d), adding ''and (b)(4)(vi)'' after ''11 CFR 104.3(b)(3)(iv)'';

■ b. In paragraph (b) removing ''FEC Form 3X'' and adding, in its place, the words ''the applicable FEC Form'';

■ c. Revising paragraph (f) as to read as follows:

§ 104.4 Independent expenditures by political committees.

* * * * *

(f) *Aggregating independent expenditures for reporting purposes.* (1) For purposes of determining whether 24-hour and 48-hour reports must be filed in accordance with paragraphs (b) and (c) of this section and 11 CFR 109.10(c) and (d), aggregations of independent expenditures must be calculated as of the first date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated, and as of the date that any such communication with respect to the same election is subsequently publicly distributed or otherwise publicly disseminated. Every person must include in the aggregate total all disbursements during the calendar year for independent expenditures, and all enforceable contracts, either oral or written, obligating funds for disbursements during the calendar year for independent expenditures, where those independent expenditures are made with respect to the same election for Federal office.

Alternative A

(2) For purposes of determining whether 24-hour or 48-hour reports must be filed in accordance with paragraphs (b) and (c) of this section and 11 CFR 109.10(c) and (d), if the independent expenditure is made in support of or opposition to a candidate in a presidential primary election and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the date of the election is the first day of the national nominating convention of the party whose nomination the candidate is seeking.

Alternative B

(2) For purposes of determining whether 24-hour or 48-hour reports

must be filed in accordance with paragraphs (b) and (c) of this section and 11 CFR 109.10(c) and (d), if the independent expenditure is made in support of or opposition to a candidate in a presidential primary election and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the date of the election is the date of the next upcoming presidential primary election among the presidential primary elections to be held in the states in which the independent expenditure is publicly distributed or disseminated.

Alternative C

(2) *Multistate independent expenditures.* (i) If an independent expenditure is made in support of or opposition to a candidate in a presidential primary election and is publicly distributed or otherwise publicly disseminated in more than __ states but does not refer to any particular state, the political committee must allocate the total amount of the expenditure among each of the states where it is publicly distributed or disseminated and where the presidential primary election has yet to occur, according to the number of Congressional districts apportioned to each such state relative to the total number of Congressional districts in all such states.

(ii) If the communication is publicly distributed or otherwise publicly disseminated up to and including the 20th day before the next upcoming presidential primary election in any of the states, and the amount calculated in paragraph (f)(2)(i) of this section aggregates to $10,000 or more with respect to any of the states in that calendar year, the political committee must file a 48-hour report in accordance with paragraph (b)(2) of this section.

(iii) If the communication is publicly distributed or otherwise publicly disseminated after the 20th day but more than 24 hours before 12:01 a.m. of the day of the next upcoming presidential primary election in any of the states, and the amount calculated in paragraph (f)(2)(i) of this section aggregates to $1,000 or more with respect to any of the states, the political committee must file a 24-hour report in accordance with paragraph (c) of this section.

(iv) For any report of an independent expenditure included on a political committee's regular report under paragraph (b)(1) of this section, or any 48- or 24-hour report of an independent expenditure, the political committee must indicate the date and amount of the expenditure, and list the states in which the communication is publicly disseminated or otherwise publicly distributed.

§ 104.20 [Amended]

■ 7. In § 104.20:

■ a. Redesignate paragraphs (c)(6) through (c)(9) as paragraphs (c)(7) through (c)(10).

■ b. Revise the heading and add new paragraph (c)(6) to read as follows:

§ 104.20 Reporting electioneering communications (52 U.S.C. 30104(f)).

* * * * *

(c) * * *

Alternatives A and B

(6) If the election identified pursuant to paragraph (c)(5) of this section is a presidential primary election and the electioneering communication is publicly distributed or otherwise disseminated in more than __ states but does not refer to any particular state, the electioneering communication shall be reported as a single communication, and the states in which it constitutes an electioneering communication (as defined in 11 CFR 100.29(a)) shall be indicated in memo text.

Alternative C

(6) If the election identified pursuant to paragraph (c)(5) of this section is a presidential primary election and the electioneering communication is publicly distributed or otherwise disseminated in more than __ states but does not refer to any particular state, the cost of the electioneering communication shall be allocated among the states where it is publicly distributed or otherwise disseminated in accordance with § 104.4(f)(2)(A).

* * * * *

PART 109—COORDINATED AND INDEPENDENT EXPENDITURES (52 U.S.C. 30101(17), 30116(A) AND (D), AND PUBLIC LAW 107–155 SEC. 214(C))

■ 8. The authority citation for part 109 continues to read as follows:

Authority: 52 U.S.C. 30101(17), 30104(c), 30111(a)(8), 30116, 30120; Sec. 214(c), Pub. L. 107–155, 116 Stat. 81.

■ 9. Revise paragraph (e)(1)(iv) of § 109.10 as follows:

§ 109.10 How do political committees and other persons report independent expenditures?

* * * * *

(e) * * *

(1) * * *

Alternatives A and B

(iv) A statement that indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought; if the expenditure meets the criteria set forth in § 104.3(b)(3)(vii)(C), memo text must be used to indicate the states in which the communication is distributed, as prescribed in that section;

Alternative C

(iv) A statement that indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought; if the expenditure meets the criteria set forth in § 104.3(b)(3)(vii)(C), the communication must be reported in accordance with § 104.4(f)(2);

* * * * *

On behalf of the Commission.

Dated: January 17, 2018.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2018–01074 Filed 1–26–18; 8:45 am]

BILLING CODE 6715–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

RIN 3245–AG85

Ownership and Control of Service-Disabled Veteran-Owned Small Business Concerns

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) proposes to amend its regulations to implement provisions of The National Defense Authorization Act for Fiscal Year 2017 (NDAA 2017). The NDAA 2017 placed the responsibility for issuing regulations relating to ownership and control for the Department of Veterans Affairs verification of Veteran-Owned (VO) and Service-Disabled Veteran-Owned (SDVO) Small Business Concern (SBC) with the SBA. Pursuant to NDAA 2017, there will be one definition of ownership and control for these concerns, which will apply to the Department of Veterans Affairs in its verification and Vets First Contracting Program procurements, and all other government acquisitions which require self-certification. The legislation also provides that in certain circumstances a

firm can qualify as VO or SDVO when there is a surviving spouse or an employee stock ownership plan (ESOP).

DATES: Comments must be received on or before March 30, 2018.

ADDRESSES: You may submit comments, identified by RIN 3245–AG85, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *For mail, paper, disk, or CD/ROM submissions:* Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW, 8th Floor, Washington, DC 20416.
- *Hand Delivery/Courier:* Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW, 8th Floor, Washington, DC 20416.

SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* please submit the information to Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW, 8th Floor, Washington, DC 20416, or send an email to *brenda.fernandez@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination on whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Brenda Fernandez, Office of Policy, Planning and Liaison, 409 Third Street SW, Washington, DC 20416; (202) 205–7337; *brenda.fernandez@sba.gov.*

SUPPLEMENTARY INFORMATION: The Vets First Contracting Program within the Department of Veterans Affairs (VA) was created under the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law, P.L. 109–461). This contracting program was created for Veteran-Owned Small Businesses and expanded the Service-Disabled Veteran-Owned contracting program for VA procurements. Approved firms are eligible to participate in Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business (SDVOSB) set-asides issued by VA. More information regarding the Vets First Contracting Program can be found on the Department of Veterans Affairs website at *https://www.va.gov/osdbu/faqs/109461.asp.*

The National Defense Authorization Act of 2017 (Pub. L. 114–328), section 1832, amended section 3(q) of the Small Business Act (15 U.S.C. 632(q)) and section 8127 of title 38, United States Code, to standardize definitions for VOSBs and SDVOSBs. This section also requires the Secretary of Veterans Affairs to use the regulations established by the Small Business Administration (SBA) for establishing ownership and control of VOSBs and SDVOSBs. The Secretary would continue to determine whether individuals are veterans or service-disabled veterans and would be responsible for verification of applicant firms. Challenges to the status of a VOSB or SDVOSB based upon issues of ownership or control would be decided by the administrative judges at the SBA's Office of Hearings and Appeals (OHA).

In drafting this proposed rule, SBA consulted with VA in order to properly understand VA's positions and implement the statutory requirements in a way that is consistent with both SBA's and VA's interpretations.

Section-by-Section Analysis

Section 125.11

In response to the NDAA 2017 changes, SBA is proposing to amend the definitions in § 125.11 by incorporating language from VA's regulations and also from SBA's 8(a) Business Development (BD) program regulations. SBA is proposing to define a surviving spouse and the requirements for a surviving spouse-owned SDVO SBC to maintain program eligibility. Further, SBA is proposing to add definitions for Daily Business Operations, Negative Control, Participant, and Unconditional Ownership. The added definitions are being adopted from SBA's 8(a) BD regulations found in part 124. SBA is adding a definition for Employee Stock Ownership Plan (ESOP). This definition is adopted from § 1832(a)(6). SBA is also proposing to replace the definitions of permanent caregiver, service-disabled veteran (SDV), and surviving spouse. SBA is adding a new definition for service-disabled veteran with a permanent and severe disability. These definitions are being updated in consultation with VA in an effort to ensure consistency across programs at both Agencies. SBA is also adding a definition for small business concerns. Concerns will need to meet all the requirements of part 121, including § 121.105(a)(1), which requires that the firm be organized for profit, ''with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.'' This definition will address how to generally determine the size of a concern. VO and SDVO SBCs will still be required to meet size standards corresponding to the NAICS code assigned to each contract pursuant to §§ 125.14 and 125.15.

In addition, SBA is proposing to add a definition for ''extraordinary circumstances'' under which a service disabled veteran owner would not have full control over a firm's decision-making process, but would not render the firm ineligible as a firm owned and controlled by one or more service disabled veterans. This definition will be used to identify discrete circumstances that SBA views as rare. The new definition will be used to allow minority equity holders to have negative control over these enumerated instances. SBA proposes five limited circumstances in which a service-disabled veteran owner will not have full control over the decision making process. Under the proposed rule, these five circumstances would be exclusive, and SBA would not recognize any other facts or circumstances that would allow negative control by individuals that are not service-disabled.

Section 125.12

SBA is proposing to amend § 125.12(b), which pertains to the requirement for ownership of a partnership. SBA's current regulation requires service-disabled veterans to own at least 51% of each type of partnership interest. Therefore, if a partnership had general partners and limited partners it was required that the service disabled veteran be both a general and limited partner. SBA is proposing to change the requirement so that service-disabled veterans will need to own at least 51% of the aggregate voting interest in the partnership.

SBA is proposing to add § 125.12(d). This proposed paragraph incorporates the new statutory language with regard to public companies and ownership. Specifically, it should be noted that this language does not include any equity held by an ESOP when determining ownership for a publicly owned business.

SBA is proposing to add a new § 125.12(g). This new paragraph and its subparagraphs would provide clarity with regard to requirements for dividends and distributions. SBA's existing regulations require that ownership must also entail all the privileges and benefits of ownership. This new paragraph is adopted from SBA's 8(a) BD regulations in part 124. In general, one's right to receive

benefits, compensation, and the ultimate value of one's equity should be consistent with the purported amount of equity. For example, it is not consistent with SBA's regulations for a firm to state that a service-disabled veteran owns 60 percent of the equity but records show that he or she is entitled only to a smaller amount of the firm's profit, or that the residual value of that equity is less than 60 percent if the firm is sold.

SBA is proposing to add new §§ 125.12(h) and (i). Pursuant to proposed § 125.12(h), ownership decisions would be decided without regard to community property laws. This provision is similar to SBA's ownership regulations for women owned businesses. *See* 13 CFR 127.201. SBA is also adopting regulations to allow firms owned by surviving spouses of service-disabled veterans to remain eligible for the program, and § 125.12(i) provides the guidelines for this continued eligibility. Basically, this provision would allow the transfer of ownership in a SDVO SBC from a serviced-disabled veteran to his or her spouse upon the death of the service-disabled veteran without adversely affecting the firm's status as a SDVO SBC.

Section 125.13

SBA is proposing to add several new paragraphs to § 125.13. These proposed paragraphs incorporate provisions from SBA's 8(a) BD program and VA's former ownership and control regulations. SBA has always used 8(a) BD program regulations for guidance on eligibility issues for SDVO SBCs, and SBA will continue to do so. SBA proposing to adopt some but not all of its 8(a) BD regulations should not be interpreted as SBA abandoning this position. SBA is adding these specific regulations to add clarity and consistency, but SBA will continue to rely on part 124 for guidance. Many of the newly incorporated regulations deal with control by non-service-disabled veterans. These changes are intended to provide more clarity about the roles that non-service-disabled veterans can serve without creating control issues that may affect the concern's eligibility.

SBA is proposing to add language to describe how to determine if an SDV controls the Board of Directors in § 125.13(e). This language is adopted from SBA's 8(a) BD regulations and is being added to provide more clarity.

SBA is proposing language that will require firms to provide notification of supermajority voting requirements in § 125.13(f). This regulation will simplify the procedures for reviewing eligibility criteria related to super majority requirements.

Proposed §§ 125.13(h), (i), and (j) adopt policies and language from SBA's 8(a) BD program and VA's regulations. These provisions provide guidance on when SBA may find that a non-service-disabled veteran controls the firm. These regulations add more clarity and detail to specific issues such as quorum requirements and loan arrangements with non-service-disabled veterans.

SBA is proposing to add rebuttable presumptions § 125.13(k) and (l). Proposed § 125.13(k) would add a rebuttable presumption that a person not working for a firm regularly during normal working hours does not control the firm. This is not a full time devotion requirement. It just makes clear that this is a factor that SBA will consider, but is clearly rebuttable by providing evidence of control. Similarly, proposed § 125.13(l) would add a rebuttable presumption regarding place of work. In this case, it deals with an SDV owner who does not live or work nears the firm's headquarters or its worksites. SBA will assume that this indicates a lack of control. The main issue in these instances is over delegation of authority to non-SDV individuals who do work at the office and who are at the work sites. SBA's regulations require control over day to day operations and remote observation and over delegation is not the same as control. As noted in this proposed rule, this is a rebuttable presumption.

SBA is proposing to add § 125.13(m), an exception to the control requirements in ''extraordinary circumstances.'' As noted above, SBA is proposing a new definition for extraordinary circumstances that includes a limited and exhaustive list of five circumstances. This proposed rule will allow an exception to the general requirement that SDVs control long term decision making.

SBA is proposing to add § 125.13(n), an exception to the control requirements when an individual in the reserves is recalled to active duty. SBA and VA do not think a firm owned by an SDV should lose its status due to the necessary military commitments of its owner when serving the nation.

Sections 125.22 and 125.23

SBA is proposing to make changes to §§ 125.22 and 125.23 to correct cross citations that were not updated when SBA renumbered its regulations. SBA is also proposing to update the values for sole source awards contained in § 125.23 in order to be consistent with the inflationary adjustments made to those amounts in the Federal Acquisition Regulation (FAR).

Compliance With Executive Orders 12866, 12988, 13132, and 13771, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

OMB has determined that this rule does not constitute a ''significant regulatory action'' under Executive Order 12866. This rule is also not a major rule under the Congressional Review Act, 5 U.S.C. 800. This proposed rule would amend the rules concerning ownership and control of VO and SDVO SBCs. As such, the rule has no effect on the amount or dollar value of any Federal contract requirements or of any financial assistance provided through SBA or VA. Therefore, the rule is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy. In addition, this rule does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, loan programs or the rights and obligations of such recipients, nor raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule is part of a joint effort by the VA and SBA to reduce the regulatory burden on the veteran business community. This rule will consolidate ownership and control requirements in one regulation thus eliminating duplicate functions. Prior to the enactment of this regulation business owners had the burden of complying with both regulations. This regulation will eliminate that burden. The single rule will help streamline the verification and certification processes which will save business owners time and money. This will also lead to less confusion.

Executive Order 12988

This action meets applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

This rule does not have Federalism implications as defined in Executive Order 13132. It will not have substantial

direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As such it does not warrant the preparation of a Federalism Assessment.

Executive Order 13771

This proposed rule is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis. This rule is part of a joint effort by the VA and SBA to reduce the regulatory burden on the veteran business community. This rule will consolidate ownership and control requirements in one regulation thus eliminating duplicate functions. Prior to the enactment of this regulation business owners had the burden of complying with both regulations. This regulation will eliminate that burden. The single rule will help streamline the verification and certification processes which will save business owners time and money. This will also lead to less confusion.

Paperwork Reduction Act

The SBA has determined that this rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35. However, this rule does include an information collection for the VA and the OMB approval number for this collection is 2900–0675.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. Small entities include small businesses, small not-for-profit organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule will merge SBA and VA regulations concerning ownership and control of VO and SDVO SBCs as directed by Congress. The proposed regulation is not attempting new regulation, but to streamline two already existing regulations into a single regulatory framework. While SBA does not anticipate that this proposed rule would have a significant economic impact on any small business, we do welcome comments from any small business setting out how and to what degree this proposed rule would affect it economically.

There are approximately 21,000 firms registered as SDVO SBCs in SAM and approximately 13,000 firms that have been certified by the VA. To a large extent SBA's and the VA's ownership and control rules were substantially similar in terms of the regulatory language, and in many instances identical. Thus the vast majority of these firms will not be impacted by this rule. For example, this rule will not impact firms that are 100% owned and control by an SDV. To the extent there are differences in SBA's and the VA's ownership and control rules, this rule will reduce cost and positively impact all SDVO firms, because there will be one set of criteria to measure SDV ownership and control throughout the Federal government. Further, SBA's current rules do not ignore ESOPs when determining ownership, which means firms that are majority owned by ESOPs are not eligible for SDVO set-asides or sole source awards. We have no data on the number of firms that this rule will be impact, but the number is very small. After consulting with industry representatives, many firms owned by ESOPs are entirely owned by the ESOP, especially those that operate in industries with employee based size standards. Those firms will still not qualify if this rule is finalized because there is still a 51% SDV ownership requirement of the remaining ownership interest, not including ESOPs. However, some firms that intend to institute an ESOP may do so in way that allows the firm to qualify under this rule, once it is finalized. With respect to surviving spouse, SBA's current rules do not recognize ownership or control by a surviving spouse. Although the VA does allow firms owned and controlled by surviving spouses to qualify under its certification program, the number of firms that qualify under the exception is extremely small. To the extent firms qualify under the surviving spouse exception the benefit will be positive, not negative. Firms that were previously not eligible to continue as SDVO firms will be able to continue for a period of time, when and if this rule is finalized.

Therefore, the Administrator of SBA determines, under 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance, Veterans.

Accordingly, for the reasons stated in the preamble, SBA proposes to amend 13 CFR part 125 as follows:

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 1. The authority citation for part 125 is revised to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657(f), 657q; and 657s; 38 U.S.C. 501 and 8127.

■ 2. Revise § 125.11 to read as follows:

§ 125.11 What definitions are important in the Service-Disabled Veteran-Owned (SDVO) Small Business Concern (SBC) program?

Contracting officer has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

Daily business operations include, but are not limited to, the marketing, production, sales, and administrative functions of the firm, as well as the supervision of the executive team, the implementation of policies and the setting of the strategic direction of the firm.

ESOP has the meaning given the term ''employee stock ownership plan'' in section 4975(e)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 4975(e)(7)).

Extraordinary circumstances. For purposes of this part, extraordinary circumstances are only the following:

(1) Adding a new equity stakeholder;
(2) Dissolution of the company;
(3) Sale of the company;
(4) The merger of the company; and
(5) Company declaring bankruptcy.

Negative control has the same meaning as that set forth in § 121.103(a)(3) of this chapter.

Participant means a veteran-owned small business concern that has verified status in the Vendor Information Pages database, available at *https://www.vip.vetbiz.gov/.*

Permanent caregiver, for purposes of this part, is the spouse, or an individual, 18 years of age or older, who is legally designated, in writing, to undertake responsibility for managing the well-being of the service-disabled veteran with a permanent and severe disability, as determined by Department of Veterans Affairs' Veterans Benefits Administration, to include housing, health and safety. A permanent caregiver may, but does not need to, reside in the same household as the service-disabled veteran with a permanent and severe disability. In the case of a service-disabled veteran with a permanent and severe disability lacking legal capacity, the permanent

caregiver shall be a parent, guardian, or person having legal custody. There may be no more than one permanent caregiver per service-disabled veteran with a permanent and severe disability.

(1) A permanent caregiver may be appointed, in a number of ways, including:

(i) By a court of competent jurisdiction;

(ii) By the Department of Veterans Affairs, National Caregiver Support Program, as the Primary Family Caregiver of a Veteran participating in the Program of Comprehensive Assistance for Family Caregivers (this designation is subject to the Veteran and the caregiver meeting other specific criteria as established by law and the Secretary and may be revoked if the eligibility criteria do not continue to be met); or

(iii) By a legal designation.

(2) Any appointment of a permanent caregiver must in all cases be accompanied by a written determination from the Department of Veterans Affairs that the veteran has a permanent and total service-connected disability as set forth in 38 CFR 3.340 for purposes of receiving disability compensation or a disability pension. The appointment must also delineate why the permanent caregiver is given the appointment, must include the consent of the veteran to the appointment and how the appointment would contribute to managing the veteran's well-being.

Small business concern owned and controlled by service-disabled veterans (also known as a Service-Disabled Veteran-Owned SBC) means any of the following:

(1) A small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock (not including any stock owned by an ESOP) of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran;

(2) A small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans with a disability that is rated by the Secretary of Veterans Affairs as a permanent and total disability who are unable to manage the daily business operations of such concern; or

(ii) In the case of a publicly owned business, not less than 51 percent of the stock (not including any stock owned by an ESOP) of which is owned by one or more such veterans.

Service-connected has the meaning given that term in 38 U.S.C. 101(16).

Service-disabled veteran is a veteran who possesses either a valid disability rating letter issued by the Department of Veterans Affairs, establishing a service-connected rating between 0 and 100 percent, or a valid disability determination from the Department of Defense or is registered in the Beneficiary Identification and Records Locator Subsystem maintained by Department of Veterans Affairs' Veterans Benefits Administration as a service-disabled veteran. Reservists or members of the National Guard disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify.

Service-disabled veteran with a permanent and severe disability means a veteran with a service-connected disability that has been determined by the Department of Veterans Affairs, in writing, to have a permanent and total service-connected disability as set forth in 38 CFR 3.340 for purposes of receiving disability compensation or a disability pension.

Small business concern means a concern that, with its affiliates, meets the size standard corresponding to the NAICS code for its primary industry, pursuant to part 121 of this chapter.

Surviving spouse has the meaning given the term in 38 U.S.C. 101(3).

Unconditional ownership means ownership that is not subject to conditions precedent, conditions subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights, or other arrangements causing or potentially causing ownership benefits to go to another (other than after death or incapacity). The pledge or encumbrance of stock or other ownership interest as collateral, including seller-financed transactions, does not affect the unconditional nature of ownership if the terms follow normal commercial practices and the owner retains control absent violations of the terms.

Veteran has the meaning given the term in 38 U.S.C. 101(2). Reservists or members of the National Guard called to Federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as a veteran.

Veteran owned small business concern means a small business concern:

(1) Not less than 51 percent of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans. All of the provisions of Subpart B apply for purposes of determining ownership and control.

■ 3. Amend § 125.12 by:

■ a. Revising the introductory text;

■ b. Revising the first sentence in paragraph (b);

■ c. Adding a sentence at the end of paragraph (d); and

■ d. Adding paragraphs (g) through (i).

The revisions and additions read as follows:

§ 125.12 Who does SBA consider to own an SDVO SBC?

Generally, a concern must be at least 51% unconditionally and directly owned by one or more service-disabled veterans. More specifically:

* * * * *

(b) * * * In the case of a concern which is a partnership, at least 51% of aggregate voting interest must be unconditionally owned by one or more service-disabled veterans. * * *

* * * * *

(d) * * * In the case of a publicly owned business, not less than 51 percent of the stock (not including any stock owned by an ESOP) must be unconditionally owned by one or more veterans.

* * * * *

(g) *Dividends and distributions.* One or more service-disabled veterans must be entitled to receive:

(1) At least 51 percent of the annual distribution of profits paid to the owners of a corporation, partnership, or limited liability company concern;

(2) 100 percent of the value of each share of stock owned by them in the event that the stock or member interest is sold; and

(3) At least 51 percent of the retained earnings of the concern and 100 percent of the unencumbered value of each share of stock or member interest owned in the event of dissolution of the corporation, partnership, or limited liability company.

(4) An eligible individual's ability to share in the profits of the concern must be commensurate with the extent of his/her ownership interest in that concern.

(h) *Community property.* Ownership will be determined without regard to community property laws.

(i) *Surviving spouse.* (1) A small business concern owned and controlled

by one or more service-disabled veterans immediately prior to the death of a service-disabled veteran who was the owner of the concern, the death of whom causes the concern to be less than 51 percent owned by one or more service-disabled veterans, will continue to qualify as a small business concern owned and controlled by service-disabled veterans during the time period if:

(i) The surviving spouse of the deceased veteran acquires such veteran's ownership interest in such concern;

(ii) Such veteran had a service-connected disability (as defined in 38 U.S.C. 101(16)) rated as 100 percent disabling under the laws administered by the Secretary of Veterans Affairs or such veteran died as a result of a service-connected disability; and

(iii) For a participant, immediately prior to the death of such veteran, and during the period described in paragraph (i)(2) of this section, the small business concern is included in the database described in 38 U.S.C. 8127(f).

(2) The time period described in paragraph (i)(1)(iii) of this section is the time period beginning on the date of the veteran's death and ending on the earlier of—

(i) The date on which the surviving spouse remarries;

(ii) The date on which the surviving spouse relinquishes an ownership interest in the small business concern; or

(iii) The date that is 10 years after the date of the death of the veteran.

■ 4. Amend § 125.13 by revising paragraph (e) and adding paragraphs (f) through (n) to read as follows:

§ 125.13 Who does SBA consider to control an SDVO SBC?

* * * * *

(e) *Control over a corporation.* One or more service-disabled veterans (or in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran) must control the Board of Directors of the concern.

(1) SBA will deem service-disabled veteran individuals to control the Board of Directors where:

(i) A single service-disabled veteran individual owns 100% of all voting stock of an applicant or concern;

(ii) A single service-disabled veteran individual owns at least 51% of all voting stock of an applicant or concern, the individual is on the Board of Directors and no super majority voting requirements exist for shareholders to approve corporation actions. Where super majority voting requirements are provided for in the concern's articles of incorporation, its by-laws, or by state law, the service-disabled veteran individual must own at least the percent of the voting stock needed to overcome any such super majority voting requirements; or

(iii) More than one service-disabled veteran shareholder seeks to qualify the concern (*i.e.,* no one individual owns 51%), each such individual is on the Board of Directors, together they own at least 51% of all voting stock of the concern, no super majority voting requirements exist, and the service-disabled veteran shareholders can demonstrate that they have made enforceable arrangements to permit one of them to vote the stock of all as a block without a shareholder meeting. Where the concern has super majority voting requirements, the service-disabled veteran shareholders must own at least that percentage of voting stock needed to overcome any such super majority ownership requirements. In the case of super majority ownership requirements, the service-disabled veteran shareholders can demonstrate that they have made enforceable arrangements to permit one of them to vote the stock of all as a block without a shareholder meeting.

(2) Where an applicant or concern does not meet the requirements set forth in paragraph (e)(1) of this section, the service-disabled veteran individual(s) upon whom eligibility is based must control the Board of Directors through actual numbers of voting directors or, where permitted by state law, through weighted voting (*e.g.,* in a concern having a two-person Board of Directors where one individual on the Board is service-disabled veteran and one is not, the service-disabled veteran vote must be weighted—worth more than one vote—in order for the concern to be eligible). Where a concern seeks to comply with this paragraph:

(i) Provisions for the establishment of a quorum cannot permit non-service-disabled veteran Directors to control the Board of Directors, directly or indirectly;

(ii) Any Executive Committee of Directors must be controlled by service-disabled veteran directors unless the Executive Committee can only make recommendations to and cannot independently exercise the authority of the Board of Directors.

(3) Non-voting, advisory, or honorary Directors may be appointed without affecting service-disabled veteran individuals' control of the Board of Directors.

(4) Arrangements regarding the structure and voting rights of the Board of Directors must comply with applicable state law.

(f) *Super majority requirements.* One or more service-disabled veterans must meet all super majority voting requirements. An applicant must inform the Department of Veterans Affairs, when applicable, of any super majority voting requirements provided for in its articles of incorporation, its by-laws, by state law, or otherwise. Similarly, after being verified, a participant must inform the Department of Veterans Affairs of changes regarding super majority voting requirements.

(g) *Licenses.* A firm must obtain and keep current any and all required permits, licenses, and charters, required to operate the business.

(h) *Unexercised rights.* A service-disabled veteran owner's unexercised right to cause a change in the control or management of the applicant concern does not in itself constitute control and management, regardless of how quickly or easily the right could be exercised.

(i) *Control by non-service-disabled veterans.* Non-service-disabled veteran individuals or entities may not control the firm. Non-service-disabled veteran individuals or entities may be found to control or have the power to control a firm in any of the following circumstances, which are illustrative only and not inclusive:

(1) Be a former employer or a principal of a former employer, unless it is determined that the relationship between the former employer or principal and the eligible individual or concern does not give the former employer actual control over the concern and such relationship is in the best interests of the concern

(2) In circumstances where non-service-disabled veterans receive compensation from the firm in any form as directors, officers or employees, including dividends, that exceeds the compensation to be received by the highest officer (usually CEO or President). The highest ranking officer may elect to take a lower amount than the total compensation and distribution of profits that are received by a non-veteran only upon demonstrating that it helps the concern.

(3) In circumstances where the concern is co-located with another firm in the same or similar line of business, and that firm or an owner, director, officer, or manager, or a direct relative of an owner, director, officer, or manager of that firm owns an equity interest in the firm.

(4) In circumstances where the concern shares employees, resources, equipment, or any type of services, whether by oral or written agreement

with another firm in the same or similar line of business, and that firm or an owner, director, officer, or manager, or a direct relative of an owner, director, officer, or manager of that firm owns an equity interest in the concern.

(5) A non-service-disabled veteran individual or entity, having an equity interest in the concern, provides critical financial or bonding support.

(6) In circumstances where a critical license is held by a non-service-disabled individual, or other entity, the non-service-disabled individual or entity may be found to control the firm. A critical license is considered any license that would normally be required of firms operating in the same field or industry, regardless of whether a specific license is required on a specific contract.

(7) Business relationships exist with non-service-disabled veteran individuals or entities which cause such dependence that the applicant or concern cannot exercise independent business judgment without great economic risk.

(j) *Critical financing.* A non-service-disabled veteran individual or entity may be found to control the concern through loan arrangements with the concern or the service-disabled veteran(s). Providing a loan or a loan guaranty on commercially reasonable terms does not, by itself, give a non-service-disabled veteran individual or entity the power to control a firm, but when taken into consideration with other factors may be used to find that a non-service-disabled firm or individual controls the concern.

(k) *Normal business hours.* There is a rebuttable presumption that a service-disabled veteran does not control the firm when the service-disabled veteran is not able to work for the firm during the normal working hours that businesses in that industry normally work. This may include, but is not limited to, other full-time or part-time employment, being a full-time or part-time student, or any other activity or obligation that prevents the service-disabled veteran from actively working for the firm during normal business operating hours.

(l) *Close proximity.* There is rebuttable presumption that a service-disabled veteran does not control the firm if that individual is not located within a reasonable commute to firm's headquarters and/or job-sites locations, regardless of the firm's industry. The service-disabled veteran's ability to answer emails, communicate by telephone, or to communicate at a distance by other technological means, while delegating the responsibility of managing the concern to others is not by itself a reasonable rebuttal.

(m) *Exception for ''extraordinary circumstances.''* SBA will not find that a lack of control exists where a service-disabled veteran does not have the unilateral power and authority to make decisions in ''extraordinary circumstances.'' The only circumstances in which this exception applies are those articulated in the definition.

(n) *Exception for reservists recalled to active duty.* Notwithstanding the provisions of this section requiring a service-disabled veteran to control the daily business operations and long-term strategic planning of a concern, where a service-disabled veteran individual upon whom eligibility is based is a reserve component member in the United States military who has been recalled to active duty, the concern may elect to designate in writing one or more individuals to control the concern on behalf of the service-disabled veteran during the period of active duty. The concern will not be considered ineligible based on the absence of the service-disabled veteran during the period of active duty. The concern must keep records evidencing the active duty and the written designation of control, and provide those documents to VA, and if requested to SBA.

■ 5. Amend § 125.22 by revising paragraph (a) to read as follows:

§ 125.22 When may a contracting officer set-aside a procurement for SDVO SBCs?

(a) The contracting officer first must review a requirement to determine whether it is excluded from SDVO contracting pursuant to § 125.21.

* * * * *

■ 6. Amend § 125.23 by revising paragraphs (a) and (b) to read as follows:

§ 125.23 When may a contracting officer award sole source contracts to SDVO SBCs?

* * * * *

(a) None of the provisions of § 125.21 or § 125.22 apply;

(b) The anticipated award price of the contract (including options) will not exceed $6,500,000 in the case of a contract assigned a NAICS code for manufacturing, or $4,000,000 in the case of any other contract opportunity;

* * * * *

Dated: January 18, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–01392 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Parts 101 and 102

RIN 3142–AA12

Representation-Case Procedures

AGENCY: National Labor Relations Board.

ACTION: Request for information; extension of time to submit responses.

SUMMARY: The National Labor Relations Board (the Board) published a Request for Information in the **Federal Register** on December 14, 2017, seeking information from the public regarding its representation election regulations, with a specific focus on amendments to the Board's representation case procedures adopted by the Board's final rule published on December 15, 2014. The date to submit responses to the request for information is extended for three days as a result of the lapse in appropriations for the Federal government. The Board is also granting an additional 30 days to file responses to the request for information.

DATES: Responses to the request for information must be received by the Board on or before March 19, 2018. No late responses will be accepted. Responses are limited to 25 pages.

ADDRESSES: Electronic responses may be submitted by going to *www.nlrb.gov* and following the link to submit responses to this request for information. The Board encourages electronic filing. If you do not have the ability to submit your response electronically, responses may be submitted by mail to: Roxanne Rothschild, Deputy Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570.

Dated: January 24, 2018.

Roxanne Rothschild,

Deputy Executive Secretary.

[FR Doc. 2018–01622 Filed 1–26–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SATS No. AL–081–FOR; Docket ID: OSM–2017–0006; S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

Alabama Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposes revisions to its program to allow the Alabama Surface Mining Commission (ASMC) to revise its current permit fee collection procedures from the term of the mine permit to enable the collection of permit fees over the entire life of the mine. The revision also defines the life of the mine to be from the issuance of the permit through the full release of the performance bond.

This document gives the locations and times where the Alabama program documents and proposed amendment to that program are available for your inspection, establishes the comment period during which you may submit written comments on the amendment, and describes the procedures we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., CST, February 28, 2018. If requested, we will hold a public hearing about the amendment on February 23, 2018. We will accept requests to speak at a hearing until 4:00 p.m., CST on February 13, 2018.

ADDRESSES: You may submit comments, identified by SATS No. AL–081–FOR by any of the following methods:

- *Mail/Hand Delivery:* William Joseph, Acting Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209.
- *Fax:* (205) 290–7280.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM–2017–0006. If you would like to submit comments go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Alabama program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE's Birmingham Field Office or the full text of the program amendment is available for you to review at *www.regulations.gov.*

William Joseph, Acting Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282, Email: *bjoseph@osmre.gov.*

In addition, you may review a copy of the amendment during regular business hours at the following location: Alabama Surface Mining Commission, 1811 Second Ave., P.O. Box 2390, Jasper, Alabama 35502–2390, Telephone: (205) 221–4130.

FOR FURTHER INFORMATION CONTACT: William Joseph, Acting Director, Birmingham Field Office. Telephone: (205) 290–7282. Email: *bjoseph@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Alabama Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, state laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Alabama program effective May 20, 1982. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Alabama program in the May 20, 1982, **Federal Register** (47 FR 22030). You can also find later actions concerning the Alabama program and program amendments at 30 CFR 901.10, 901.15 and 901.16.

II. Description of the Proposed Amendment

By email dated June 21, 2017 (Administrative Record No. AL–0671), Alabama sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. Below is a summary of the changes proposed by Alabama. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Code of Alabama Section 9–16–83 Permits—Contents of application; reclamation plan; copy of application filed for public inspections; insurance; blasting plan.

Alabama proposes revisions to its program to allow the ASMC to revise its current permit fee collection procedures from the term of the mine permit to enable the collection of permit fees over the entire life of the mine. The revision also defines the life of the mine to be from the issuance of the permit through the full release of the performance bond.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State plan.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final program will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., CST on *February 13, 2018.* If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

Pursuant to Office of Management and Budget (OMB) Guidance dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to hold a public hearing on a program amendment if it changes the objectives, scope or major policies followed, or make a finding that the State provided adequate notice and opportunity for public comment. Alabama has elected to have OSMRE publish a notice in the **Federal Register** indicating receipt of the proposed amendment and soliciting comments. We will conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 1, 2017.

Alfred L. Clayborne,

Regional Director, Mid-Continent Region.

Editorial Note: The Office of the Federal Register received this document on January 24, 2018.

[FR Doc. 2018–01646 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR 165

[Docket Number USCG–2017–1068]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for all navigable waters on the Lower Mississippi River above Head of Passes between Mile Marker (MM) 95.0 and MM 96.0. This safety zone is necessary to protect persons and vessels from potential safety hazards associated with a fireworks display on April 14, 2018. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector New Orleans or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before February 28, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2017–1068 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander (LCDR) Howard Vacco, Sector New Orleans, US Coast Guard at (504) 365–2281 or *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AHP Above Head of Passes
BNM Broadcast Notice of Mariners
CFR Code of Federal Regulations
COTP Captain of the Port Sector New Orleans
DHS Department of Homeland Security
FR Federal Register
LMR Lower Mississippi River
MM Mile Marker
MSIB Marine Safety Information Bulletin
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On March 14, 2017, the 2018 NOLA Foundation notified the Coast Guard that it would be conducting a fireworks display from 8 p.m. to 8:20 p.m. on April 14, 2018, to commemorate the tri-centennial anniversary of the French Quarter Fest. The fireworks are to be launched from a barge in the Mississippi River approximately located at mile marker (MM) 95.5 Above Head of Passes (AHP). Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector New Orleans (COTP) has determined that potential hazards associated with the fireworks would be a safety concern for anyone within a one-mile length of the river.

The purpose of this rulemaking is to ensure the safety of vessels on the navigable waters within a one-mile range of the fireworks barge before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 7:30 p.m. to 9 p.m. on April 14, 2018. The safety zone would cover all navigable waters of the Lower Mississippi River between MM 95 and 96AHP. The duration of the 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 would be permitted to enter the safety

zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans. They may be contacted on VHF–FM Channel 16 or 67. Persons and vessels permitted to enter these safety zones must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed 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 NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM 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 and short duration of the waterway closure, which will remain in effect for one and one half hours on a one mile section of the waterway. In addition, vessel traffic seeking to transit the area may seek permission from the COTP or his designated representative to do so.

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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting an hour and a half that would prohibit entry within a one mile section of the Lower Mississippi River. Normally such actions are categorically excluded from further review under paragraph L60(a) and L63(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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.

V. 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 NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website'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.

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 proposes to amend 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.T08–1068 to read as follows:

§ 165.T08–1068 Safety Zones; Lower Mississippi River, New Orleans, LA.

(a) *Safety zones.* The following area is a safety zone:

(1) *NOLA Tricentennial French Quarter Fest, New Orleans, LA*—(i) *Location.* All navigable waters of the Lower Mississippi River between mile marker (MM) 95 and MM 96, above Head of Passes.

(ii) *Effective period.* This section is effective from 7:30 p.m. through 9 p.m. on April 14, 2018.

(2) [Reserved]

(b) *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 New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

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

(c) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: January 22, 2018.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2018–01631 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2017–0656; FRL–9972–67–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Wyoming; Sheridan PM_{10} Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to fully approve the Limited Maintenance Plan (LMP), submitted by the State of Wyoming to the EPA on June 2, 2017, for the Sheridan moderate PM_{10} nonattainment area (Sheridan NAA) and concurrently redesignate the Sheridan NAA to attainment of the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). In order to approve the LMP and redesignation, the EPA is proposing to determine that the Sheridan NAA has attained the 1987 24-hour PM_{10} NAAQS of 150 μg/m^3. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2014–2016. Additionally, the EPA is proposing to approve the Sheridan LMP as meeting the appropriate transportation conformity requirements found in 40 CFR 93, subpart A.

DATES: Written comments must be received on or before February 28, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2017–0656 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* 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 the 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: James Hou, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6210, *hou.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

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

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is

claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions 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; and,
- Make sure to submit your comments by the comment period deadline identified.

II. Background of the Sheridan PM_{10} Nonattainment Area (Sheridan NAA)

A. Description of the Sheridan Nonattainment Area

The Sheridan NAA encompasses the City of Sheridan, Wyoming, and was designated nonattainment for the 1987 24-hour PM_{10} NAAQS and classified as moderate under sections 107(d)(4)(B), following enactment of the Clean Air Act (CAA) Amendments of 1990. *See* 56 FR 56694 (November 6, 1991). States containing initial moderate PM_{10} nonattainment areas were required to submit, by November 15, 1991, a moderate nonattainment area State Implementation Plan (SIP) that, among other requirements, implemented Reasonably Available Control Measures (RACM) by December 10, 1993, and demonstrated whether it was practicable to attain the PM_{10} NAAQS by December 31, 1994. *See generally* 57 FR 13498 (April 16, 1992); *see also* 57 FR 18070 (April 28, 1992).

The State of Wyoming submitted an initial PM_{10} SIP to the EPA on August 28, 1989, and subsequently submitted eight additional submittals between 1989 and 1991. The State of Wyoming's SIP for the Sheridan moderate nonattainment area included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM_{10} NAAQS would be achieved in Sheridan by December 31, 1994; Reasonable Further Progress (RFP) requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA.

III. Requirements for Redesignation

A. CAA Requirements for Redesignation of Nonattainment Areas

Nonattainment areas can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation. *See* 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' [1] The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

B. The LMP Option for PM_{10} Nonattainment Areas

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} nonattainment areas seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas,'' (hereafter the LMP Option memo)).[2] The LMP Option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the 1987 24-hour PM_{10} NAAQS, the average annual PM_{10} design value for the area, based upon the most recent five years of air quality data at all monitors in the area, should be at or below 40 $\mu g/m^3$, and the 24-hour design value should be at or below 98 $\mu g/m^3$. The annual PM_{10} standard was effectively revoked on December 18, 2006 (71 FR 61143), and as such will not be discussed as a requirement for qualifying for the LMP option. In addition, the area should expect only limited growth in on-road motor vehicle PM_{10} emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

C. Conformity Under the LMP Option

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While the EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience

[1] The ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni memo) outlines the criteria for redesignation. The Calcagni memo can be found at *https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf.*

so much growth in that period that a violation of the PM_{10} NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period; and therefore, a regional emissions analysis would not be required. Similarly, federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered not limited.

IV. Review of the Wyoming State Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plans

A. Has the Sheridan NAA attained the applicable NAAQS?

States must demonstrate that an area has attained the 24-hour PM_{10} NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM_{10} concentrations. The data should be stored in the EPA Air Quality System (AQS) database. The EPA is proposing to determine that the Sheridan NAA has attained the PM_{10} NAAQS based on monitoring data from calendar years 2014–2016. The 24-hour standard is attained when the expected number of days with levels above 150 μg/m³ (averaged over a three-year period) is less than or equal to one. 40 CFR 50.6(a). Three consecutive years of air quality data are generally necessary to show attainment of the 24-hour and annual standards for PM_{10}. *See* 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

The Sheridan NAA has two State and Local Air Monitoring Stations (SLAMS) monitors operated by the Wyoming Department of Environmental Quality (WDEQ). Table 1 summarizes the PM_{10} data collected from 2012–2016. The EPA deems the data collected from these monitors valid, and the data has been submitted by the WDEQ to be included in AQS.

TABLE 1—SUMMARY OF MAXIMUM 24-HOUR PM_{10} CONCENTRATIONS μg/m³ FOR SHERIDAN 2012–2016

[Based on data from Sheridan Police Station, AQS Identification Number 56–033–0002]

Year	Maximum concentration (μg/m³)	2nd Maximum concentration (μg/m³)	Number of exceedances	Monitoring site
2012	75	73	0	Police Station.
2013	57	52	0	Police Station.
2014	47	45	0	Police Station.
2015	73	73	0	Police Station.
2016	54	48	0	Police Station.

The PM_{10} concentrations reported at the Sheridan monitoring sites showed no measured exceedances of the 24-hour PM_{10} NAAQS, and as such, the EPA proposes to determine that the Sheridan Moderate NAA has attained the standard for the 24-hour PM_{10} NAAQS.

B. Does the Sheridan NAA have a fully approved SIP under CAA section 110(k)?

In order to qualify for redesignation, the SIP for the area must be fully approved under CAA section 110(k), and must satisfy all requirements that apply to the area. Section 107(d)(4)(B) of the CAA contains requirements and milestones for all initial moderate nonattainment area SIPs including: (1) Provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of Reasonably Available Control Technology—RACT) shall be implemented no later than December 10, 1993; (2) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994, or, where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A)); (3) Quantitative milestones which are to be achieved every three years and which demonstrate RFP toward attainment by December 31, 1994, (CAA sections 172(c)(2) and 189(c)); and (4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the State or the EPA. (CAA section 172(c)(9)).

As stated above, on June 23, 1994, the EPA approved Sheridan's moderate area plan including RACM, an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency measure requirements. As such, the area has a fully approved nonattainment area SIP under section 110(k) of the CAA.

C. Has the State met all applicable requirements under section 110 and Part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that a state containing a nonattainment area must meet all applicable requirements under section 110 and Part D of the CAA for an area to be redesignated to attainment. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Wyoming meets these requirements.

(1) CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for nonattainment plans. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the state after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling; and provisions for public and local agency

participation. See the General Preamble for further explanation of these requirements. 57 FR 13498 (April 16, 1992).

For purposes of redesignation, the EPA's review of the Wyoming SIP shows that the State has satisfied all requirements under section 110(a)(2) of the CAA. Further, in 40 CFR 52.2622, the EPA has approved Wyoming's plan for the attainment and maintenance of the national standards under section 110.

(2) Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM_{10} nonattainment areas must meet the general provisions of Subpart 1 and the specific PM_{10} provisions in Subpart 4, ''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Sheridan NAA.

(3) Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for nonattainment area plans. A thorough discussion of these requirements may be found in the General Preamble. *See* 57 FR 13538 (April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for RFP. Section 171(1) of the CAA defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' Wyoming submitted their first quantitative milestone report on March 29, 1995. Since the EPA is proposing to determine that the Sheridan NAA is in attainment of the PM_{10} NAAQS, we believe that no further showing of RFP or quantitative milestones is necessary.

(4) Section 172(c)(3)—Emissions Inventory Section

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Sheridan PM_{10} nonattainment area. Wyoming included an emissions inventory for the calendar year 2014 with its DATE? submittal of the LMP for the Sheridan NAA. Based on the inventory preparation plan for the PM_{10} 2014 base year emissions inventory, which includes windblown dust sources, the 2014 base year emissions inventory is current, accurate and comprehensive; and therefore, meets the requirements of Section 172(c)(3) of the CAA.

(5) Section 172(c)(5)—NSR

The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in nonattainment areas. The CAA requires states to amend their SIPS to reflect these revisions, but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (Section 189 of the CAA). In lieu of instituting NSR regulations for construction in the Sheridan NAA, the State of Wyoming chose to institute a construction ban on major sources for the Sheridan NAA, which was deemed to have satisfied the NSR requirements, and was approved into the Wyoming SIP on November 29, 1994 (59 FR 60931).

(6) Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accord with 40 CFR part 58 to verify attainment status of the area. The State of Wyoming and the City of Sheridan operate two PM_{10} SLAMS in the Sheridan NAA. Both monitoring sites meet EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. The Police Station monitor has been in continuous operation since 1985, while the second monitoring station has been moved several times since 1998, but is currently sited at the Meadowlark Elementary School. In Section 6.6 of the LMP that we are proposing to approve, the State commits to continued operation of the monitoring network.

(7) Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if the area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. Since the Sheridan NAA attained the 1987 24-hour PM_{10} NAAQS by the applicable attainment date of December 31, 1994, contingency measures are no longer required under Section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under Section 175(a)(d). We describe the contingency provisions Wyoming provided in the Sheridan LMP below.

(8) Part D Subpart 4

Part D Subpart 4, Section 189(a), (c) and (e) requirements apply to any moderate nonattainment area before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include: (a) Provisions to assure that RACM was implemented by December 10, 1993; (b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable; (c) Quantitative milestones which were achieved every three years and which demonstrate RFP toward attainment by December 31, 1994; and (d) Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determined that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. These provisions were fully approved into the SIP upon the EPA's approval of the PM_{10} moderate area plan for the Sheridan NAA on June 23, 1994 (See 59 FR 32370), and the EPA is proposing to approve the attainment demonstration, based on the maintenance demonstration submitted with the LMP, in this action.

D. Has the state demonstrated that the air quality improvement is due to permanent and enforceable reductions?

The state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic. Permanent and enforceable control measures in the Sheridan NAA SIP include RACM. Emission sources in the Sheridan NAA have been implementing RACM for at least 10 years. In the EPA's approval of the Sheridan attainment plan on June 23, 1994, the EPA acknowledged that the primary source category

contributing to the PM_{10} nonattainment problem in Sheridan was fugitive road dust. The State demonstrated that, by applying the control measure, the ''Sanding Winter Maintenance Plan'' (SWMP), to designated streets during the Winter season, Sheridan would effectively control fugitive road dust; and thus, be in attainment by December 31, 1994. The State has noted that there have been updates to the SWMP, that are congruent with the original SWMP. However, in the intervening years since the approval of the Sheridan NAA attainment plan, many of the roads which were unpaved, have now been paved, allowing for plowing of the roads as opposed to frequent sanding. In the instances where sanding is still applied, it is applied consistent with the 1994 SWMP, as noted in section 3.3 of the Sheridan LMP.

Areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the LMP option, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the LMP, Wyoming has demonstrated that the air quality improvements in the Sheridan area are the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Sheridan area meets these criteria is provided in the following section.

E. Does the area have a fully approved maintenance plan pursuant to Section 175A of the CAA?

In this action, we are proposing to approve the Limited Maintenance Plan in accordance with the principles outlined in the LMP Option.

F. Has the state demonstrated that the Sheridan NAA qualifies for the LMP Option?

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in Section IV.A., the EPA has determined that the Sheridan NAA is attaining the PM_{10} NAAQS, based upon 2014–2016 data, and has had no exceedances between the years 2008–2016.

Second, the average design value (ADV) for the past five years of monitoring data (2012–2016) must be at or below the critical design value (CDV). The CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of qualifying for the LMP option. The first method is a comparison of a site's ADV with the CDV of 98 μg/m³ for the 24-hour PM_{10} NAAQS. A second method that applies to the 24-hour PM_{10} NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADV for the past five years of monitoring data. Table 2 outlines the design values for the years 2012–2016, and presents the ADV.

TABLE 2—SUMMARY OF 24-HOUR PM_{10} DESIGN VALUES (μG/m³) FOR SHERIDAN 2012–2016

[Based on data from Sheridan Police Station and Meadowlark Elementary, AQS Identification Number 56–033–0002 and 56–033–1003]

Design value years	Design value μg/m³)	Monitoring site
2012–2014	60	Police Station.
2013–2015	57	Police Station.
2014–2016	72	Police Station.
2012–2014	(*)	Meadowlark Elementary.
2013–2015	72	Meadowlark Elementary.
2014–2016	72	Meadowlark Elementary.
Average DV based on highest DVs		68 μg/m³.

* The Meadowlark School monitor was installed on July 2012, and therefore missing the first two quarters in 2012. The 2012–2014 DV from the Police Station monitor was used to calculate the ADV for the NAA.

The ADV for the 24-hour PM_{10} NAAQS for Sheridan, based on data from the collocated SLAMS monitors for the years 2012–2016, is 68 μg/m³. This value falls below the presumptive 24-hour CDV of 98 μg/m³. Therefore, Sheridan meets the design value criteria outlined in the LMP Option memo. For the 2012–2016 ADV calculations for PM_{10} in Sheridan, please see the supporting documents in the docket.[3]

Third, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, based on monitoring data for the period 2014–2016, the EPA has determined that the Sheridan NAA passes the motor vehicle regional emissions analysis test. For the calculations used to determine that Sheridan has passed the motor vehicle regional analysis test, see the supporting documents in the docket.[4]

The monitoring data for the period 2014–2016 shows that Sheridan has attained the NAAQS for PM_{10}, the 24-hour ADV for Sheridan is less than the 24-hour PM_{10} CDV. Finally, the area has met the regional vehicle emissions analysis test. Thus, the Sheridan NAA qualifies for the LMP Option described in the LMP Option memo. The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the state determines that the LMP criteria are not being met, it should take action to reduce PM_{10} concentrations enough to requalify for the LMP. One possible approach the state could take is to implement contingency measures. Please see Section 6.3. for a description of contingency provisions submitted as part of the State's submittal.

G. Does the state have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?

The state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same five-year period associated with air quality data used to determine whether the area meets the applicability

[3] See memo to file dated November 17, 2017 titled ''PM_{10} 24-hour Design Concentration for Sheridan Wyoming.''

[4] See memo to file dated December 4, 2017, title ''Sheridan Motor Vehicle Regional Emissions Analysis.''

requirements of the LMP Option. The state should review its inventory every three years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Wyoming completed an attainment year inventory for the attainment year 2014. The EPA has reviewed the 2014 emissions inventory and determined that it is current, accurate and complete. The EPA has also reviewed monitoring data for the years 2012–2016, and determined that the 2014 emissions inventory is representative of the attainment year inventory since the NAAQS was not violated during 2014. In addition, the emissions inventory submitted with the LMP for the calendar year 2014 is representative of the level of emissions during the time period used to calculate the average design value since 2014 is included in the five-year period used to calculate the design value (2012–2016). As stated above in Section IV.C.4., the 2014 emissions inventory meets the requirements of Section 172(c)(3) of the CAA, and the requirements for emissions inventory in Table 3.1 of the EPA document entitled PM_{10} Emission Inventory Requirements, Final Report.

H. Does the LMP include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR Part 58?

A PM_{10} monitoring network was established in the Sheridan NAA in 1984. Since that time, the Police Station monitor has been in continuous operation, while the neighborhood monitor has been moved several times since 1998. The neighborhood monitor is currently sited at the Meadowlark Elementary School. The monitoring network was developed and has been maintained in accordance with federal siting and design criteria in 40 CFR part 58, Appendices D and E and in consultation with EPA Region 8. Currently, there are two $PM_{10}/PM_{2.5}$ SLAMS/National Air Monitoring Stations (NAMS) monitors in the Sheridan NAA. In Section 6.6 of the Sheridan LMP, Wyoming states that it will continue to operate its monitoring network to meet EPA requirements.

I. Does the plan meet the CAA requirements for contingency provisions for maintenance plans?

Section 175A of the CAA states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation. As noted above, CAA section 175A requirements are distinct from CAA section 172(c)(9) contingency measures. Section 6.3 of the Sheridan Limited Maintenance Plan describes a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM_{10} NAAQS. Upon notification of a PM_{10} exceedance, the AQD and local government staff in the Sheridan area will develop appropriate contingency measure(s) intended to prevent or correct a violation of the PM_{10} standard. Information about historical exceedances of the standard, the meteorological conditions related to the recent exceedance(s), and the most recent estimates of growth and emissions will be reviewed. The possibility that an exceptional event occurred will also be evaluated. The AQD will notify the EPA Region 8 within 45 days of any exceedance. Usually, upon notification to the Region, the AQD will indicate whether it believes that the event could be exceptional. If the event is considered eligible for data exclusion by the AQD, the AQD then provides official notification per the CFR (40 CFR 50.14) by flagging the affected data and providing a description with the quarterly data uploaded to AQS (90 days after the end of the quarter in which the event took place). Additionally, under the 2016 revisions to the Treatment of Data Influenced by Exceptional Events Rule (81 FR 68216), the AQD would confer with EPA Region 8 regarding whether the flagged event would meet the criteria of a regulatory decision, and if so, a determination would be made on whether to move forward with producing a demonstration. This process will be completed within six months of the exceedance notification. If a violation of the PM_{10} NAAQS has occurred, a public hearing process at the State and local level will begin. Contingency measures will be adopted and fully implemented within one year of a PM_{10} NAAQS violation. Any State-enforceable measures will become part of the next revised maintenance plan, submitted to the EPA for approval.

Potential contingency provisions identified in the Sheridan LMP include the following:

- Re-implementing the voluntary wood burning curtailment program.
- Re-implementing the wood burning public information campaign.
- Mandatory wood burning curtailment.
- Bans on all wood burning.
- Implementing nonattainment new source review regulations for the City of Sheridan.
- Re-establishing the construction ban on major stationary sources that had been removed from Wyoming's State Implementation Plan.
- Paving the remaining unpaved roads within the City of Sheridan.
- Other restrictions/regulations/action plans involving stationary sources based on the consideration of cost-effectiveness, PM_{10} emission reduction potential, economic and social considerations, or other factors that the State deems appropriate.
- Coordination with the Wyoming Department of Transportation/local transit agency regarding roadwork and transportation control measures.

The current and proposed contingency provisions in Sheridan's LMP meet the requirements for contingency provisions as outlined in the LMP Option memo.

J. Has the state met transportation conformity requirements?

(1) Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA section 176(c)(1)(B)). The EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule requires a demonstration that emissions from the Regional Transportation Plan, if applicable, and the Transportation Improvement Program are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). The EPA notes that a MVEB is typically defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area.[5] MVEBs are, however, treated differently with respect to LMP areas.

We note that under our LMP Option memorandum, MVEBs are not required

[5] Further information concerning the EPA's interpretations regarding MVEBs can be found in the preamble to the EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193–62196).

to be identified in the maintenance plan. While the EPA's LMP Option memo does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate transportation conformity without identifying and submitting a MVEB. The basis for this provision in the LMP Option memorandum is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM_{10} NAAQS would result. Therefore, for transportation conformity purposes, the EPA has concluded that mobile source emissions in LMP areas need not be capped, with respect to a MVEB, for the maintenance period and a regional emissions analysis (40 CFR 93.118), for transportation conformity purposes, is also not required.

However, since LMP areas are still maintenance areas, certain aspects of the EPA's transportation conformity rule will continue to be required for transportation projects located within the Sheridan PM_{10} maintenance area. Specifically, for conformity determinations, projects will have to demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation and timely implementation (as applicable) of Transportation Control Measures (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects located within the Sheridan PM_{10} LMP area will be required to be evaluated for potential PM_{10} hot-spot issues in order to satisfy the ''project level'' conformity determination requirements. As appropriate, a project may then need to address the applicable criteria for a PM_{10} hot-spot analysis as provided in 40 CFR 93.116 and 40 CFR 93.123.

Finally, our proposed approval of the Sheridan PM_{10} LMP affects future PM_{10} project-level transportation conformity determinations as prepared by the Wyoming Department of Transportation in conjunction with the Federal Highway Administration and the Federal Transit Administration. *See* 40 CFR 93.100. As such, the EPA is proposing to approve the Sheridan LMP as meeting the appropriate transportation conformity requirements found in 40 CFR 93, subpart A.

(2) General Conformity

Federal actions, other than transportation conformity, that meet specific criteria need to be evaluated with respect to the requirements of Wyoming's general conformity rule.[6] Wyoming's general conformity rule requirements are designed to ensure that emissions from a federal action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. However, as noted in our LMP Option memorandum, and similar to the above discussed transportation conformity provisions, federal actions subject to Wyoming's general conformity rule would be considered to satisfy the ''budget test,'' as specified in WAQSR Chapter 8, Section 3(c)(vii)(C) of the rule. As discussed above, the basis for this provision in the LMP Option memorandum is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM_{10} NAAQS would result. Therefore, for purposes of general conformity, a general conformity PM_{10} emissions budget does not need to be identified in the maintenance plan, nor submitted, and the emissions from federal agency actions are essentially considered to not be limited.

V. The EPA's Proposed Action

For the reasons explained in Section IV, we are proposing to approve the LMP for the Sheridan NAA and the State's request to redesignate the Sheridan NAA from nonattainment to attainment for the 1987 24-hour PM_{10} NAAQS. Additionally, the EPA is proposing to determine that the Sheridan NAA has attained the NAAQS for PM_{10}. This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 2014–2016. Lastly, the EPA is proposing to approve the Sheridan LMP as meeting the appropriate transportation conformity requirements found in 40 CFR 93, subpart A.

VI. Statutory and Executive Orders Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, Oct. 4, 1993);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866; 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

[6] Wyoming Air Quality Standards and Regulations (WAQSR), Chapter 8, Section 3, General Conformity (as approved by the EPA; 78 FR 49685, August 15, 2013.)

List of Subjects in 40 CFR Part 52

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

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

January 22, 2018.

Douglas H. Benevento,

Regional Administrator, Region 8.

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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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0108]

Notice of Request for Reinstatement of Approval of an Information Collection; Foreign Quarantine Notices

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of approval of an information collection associated with the regulations to prevent the introduction or spread of foreign plants pests and diseases into or within the United States.

DATES: We will consider all comments that we receive on or before March 30, 2018.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2017-0108.*
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2017–0108, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0108* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call 202–799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the foreign quarantine notices, contact Mr. Marc Phillips, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2114. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Foreign Quarantine Notices.

OMB Control Number: 0579–0049.

Type of Request: Reinstatement of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests and diseases into the United States or their dissemination within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS), which administers regulations to implement the PPA. Regulations governing the importation of plants, fruits, vegetables, roots, bulbs, seeds, unmanufactured wood articles, and other plant products are contained in 7 CFR part 319, ''Foreign Quarantine Notices.'' Regulations governing the transit of certain products or articles that are classified as prohibited or restricted products or articles are contained in 7 CFR part 352, ''Plant Quarantine Safeguard Regulations.''

The movement of plants and plant products requires various information collection activities, such as operational workplans; cooperative service agreements; trust funds; production or processing site/facility registrations; foreign site certification of inspection and/or treatment; applications for permits; appeals of denial or revocation of permits; requests for additional mailing labels; compliance agreements; phytosanitary certificates; labeling; importer documents; agreements for post entry quarantine State screening notices; 30-day article notifications; requests for emergency transshipment or division; notices of arrival; emergency action notifications; and monitoring/recordkeeping from entities responsible for growing, packing, handling, transporting, and importing foreign plants parts (roots, bulbs, seeds, fruit, leaves, etc.), plant products, timber, and timber products. In addition, APHIS collects required information from national plant protection organizations (NPPOs) as part of the commodity import approval process.

For efficiency, we have consolidated current information collections and existing activities related to 7 CFR parts 319 and 352 into this information collection request. The information collected is vital to helping APHIS ensure that plants and plant products do not harbor plant pests or diseases that, if introduced into the United States, could cause millions of dollars in damage to U.S. agriculture.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.01 hours per response.

Respondents: Facilities; growers; producers; production, processing, and packing sites; importers; individuals; businesses; brokers; shippers; NPPOs; and foreign plant protection authorities.

Estimated annual number of respondents: 22,115.

Estimated annual number of responses per respondent: 2,326.

Estimated annual number of responses: 51,437,932.

Estimated total annual burden on respondents: 535,352 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of January 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–01575 Filed 1–26–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0001]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Virus-Serum-Toxin Act and Regulations

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the Virus-Serum-Toxin Act and regulations.

DATES: We will consider all comments that we receive on or before March 30, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2018-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0001, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0001* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations related to the Virus-Serum-Toxin Act and regulations, contact Dr. Donna Malloy, Section Leader, Operational Support, Center for Veterinary Biologics Policy, Evaluation, and Licensing, VS, APHIS,4700 River Road Unit 148, Riverdale, MD 20737–1236; (301) 851–3426. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Virus-Serum-Toxin Act and Regulations.

OMB Control Number: 0579–0013.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Virus-Serum-Toxin Act (21 U.S.C. 151–159), the Animal and Plant Health Inspection Service (APHIS) is authorized to promulgate regulations designed to prevent the importation, preparation, sale, or shipment of harmful veterinary biological products. These regulations are contained in 9 CFR parts 102 to 124.

Veterinary biological products include viruses, serums, toxins, and analogous products of natural or synthetic origin such as vaccines, antitoxins, or the immunizing components of microorganisms intended for the diagnosis, treatment, or prevention of diseases in domestic animals.

APHIS issues licenses to qualified establishments that produce veterinary biological products and issues permits to importers seeking to import such products into the United States. APHIS also enforces regulations concerning production, packaging, labeling, and shipping of these products, and sets standards for the testing of these products. These regulations ensure that veterinary biological products used in the United States are not worthless, contaminated, dangerous, or harmful.

To help ensure that veterinary biological products used in the United States are pure, safe, potent, and effective, APHIS requires certain information collection activities, including, among other things, establishment, personnel qualification, and product licenses; product permits; packaging and labeling; requests for materials; shipment authorizations; product and test reports; preparation and usage requests; development and field study summaries; stop distribution and sale notifications and inventories; due diligence petitions; and recordkeeping.

The information collection activities above are currently approved by the Office of Management and Budget (OMB) for the Virus-Serum-Toxin Act and regulations under OMB control numbers 0579–0013 and 0579–0460. After OMB approves this combined information collection package (0579–0013), APHIS will retire OMB control number 0579–0460.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.001 hours per response.

Respondents: Veterinary biological product developers and producers, foreign government officials, State government officials, and private individuals.

Estimated annual number of respondents: 405.

Estimated annual number of responses per respondent: 737,790.

Estimated annual number of responses: 298,804,802.

Estimated total annual burden on respondents: 91,000 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 24th day of January 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–01576 Filed 1–26–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program 2018 Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children. These adjustments address changes in the Consumer Price Index, as required under the Richard B. Russell National School Lunch Act. The 2018 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. The 2018 rates are also presented individually, as separate operating and administrative rates of reimbursement, to show the effect of the Consumer Price Index adjustment on each rate.

DATES: January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Jessica Saracino, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Suite 628, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program (SFSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR part 415 and final rule-related notice published at 48 FR 29114, June 24, 1983.)

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from formal review by the Office of Management and Budget under Executive Order 12866.

Definitions

The terms used in this notice have the meaning ascribed to them under 7 CFR part 225 of the SFSP regulations.

Background

This notice informs the public of the annual adjustments to the reimbursement rates for meals served in SFSP. In accordance with sections 12(f) and 13, 42 U.S.C. 1760(f) and 1761, of the Richard B. Russell National School Lunch Act (NSLA) and SFSP regulations under 7 CFR part 225, the United States Department of Agriculture announces the adjustments in SFSP payments for meals served to participating children during calendar year 2018.

The 2018 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. Reimbursement is based solely on a ''meals times rate'' calculation, without comparison to actual or budgeted costs.

Sponsors receive reimbursement that is determined by the number of reimbursable meals served, multiplied by the combined rates for food service operations and administration. However, the combined rate is based on separate operating and administrative rates of reimbursement, each of which is adjusted differently for inflation.

Calculation of Rates

The combined rates are constructed from individually authorized operating and administrative reimbursements. Simplified procedures provide flexibility, enabling sponsors to manage their reimbursements to pay for any allowable cost, regardless of the cost category. Sponsors remain responsible, however, for ensuring proper administration of the Program, while providing the best possible nutrition benefit to children.

The operating and administrative rates are calculated separately. However, the calculations of adjustments for both cost categories are based on the same set of changes in the *Food Away From Home* series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. They represent a 2.4 percent increase in this series for the 12-month period, from November 2016 through November 2017 (from 264.699 in November 2016 to 271.152 in November 2017).

Table of 2018 Reimbursement Rates

Presentation of the 2018 maximum per meal rates for meals served to children in SFSP combines the results from the calculations of operational and administrative payments, which are further explained in this notice. The total amount of payments to State agencies for disbursement to SFSP sponsors will be based upon these adjusted combined rates and the number of meals of each type served. These adjusted rates will be in effect from January 1, 2018 through December 31, 2018.

SUMMER FOOD SERVICE PROGRAM 2018 REIMBURSEMENT RATES

[Combined]

Per meal rates in whole or fractions of U.S. dollars	All states except Alaska and Hawaii		Alaska		Hawaii	
	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites
Breakfast	2.2325	2.1900	3.6275	3.5600	2.6175	2.5675
Lunch or Supper	3.9225	3.8575	6.3625	6.2600	4.5950	4.5200
Snack	0.9300	0.9100	1.5025	1.4700	1.0875	1.0625

Operating Rates

The portion of the SFSP rates for operating costs is based on payment amounts set in section 13(b)(1) of the NSLA, 42 U.S.C. 1761(b)(1). They are rounded down to the nearest whole cent, as required by section 11(a)(3)(B)(iii) of the NSLA, 42 U.S.C. 1759a(a)(3)(B)(iii).

SUMMER FOOD SERVICE PROGRAM OPERATING COMPONENT OF 2018 REIMBURSEMENT RATES

Operating rates in U.S. dollars, rounded down to the nearest whole cent	All states except Alaska and Hawaii	Alaska	Hawaii
Breakfast	2.03	3.30	2.38
Lunch or Supper	3.55	5.76	4.16
Snack	0.83	1.34	0.97

Administrative Rates

The administrative cost component of the reimbursement is authorized under section 13(b)(3) of the NSLA, 42 U.S.C. 1761(b)(3). Rates are higher for sponsors of sites located in rural areas and for ''self-prep'' sponsors that prepare their own meals at the SFSP site or at a central facility instead of purchasing them from vendors. The administrative portion of SFSP rates are adjusted, either up or down, to the nearest quarter-cent.

SUMMER FOOD SERVICE PROGRAM ADMINISTRATIVE COMPONENT OF 2018 REIMBURSEMENT RATES

Administrative rates in U.S. dollars, adjusted, up or down, to the nearest quarter-cent	All states except Alaska and Hawaii		Alaska		Hawaii	
	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites	Rural or self-prep sites	All other types of sites
Breakfast	0.2025	0.1600	0.3275	0.2600	0.2375	0.1875
Lunch or Supper	0.3725	0.3075	0.6025	0.5000	0.4350	0.3600
Snack	0.1000	0.0800	0.1625	0.1300	0.1175	0.0925

Authority: Sections 9, 13, and 14, Richard B. Russell National School Lunch Act, 42 U.S.C. 1758, 1761, and 1762a, respectively.

Dated: January 8, 2018.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2018–01618 Filed 1–26–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

[Docket No. NIFA–2018–001]

Notice of Public Meeting for the Interagency Working Group on Aquaculture

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice of public meeting for the Interagency Working Group on Aquaculture of the Committee on Science of the National Science and Technology Council.

SUMMARY: The U.S. Department of Agriculture (USDA) National Institute of Food and Agriculture (NIFA) is publishing this notice on behalf of the Interagency Working Group on Aquaculture (IWGA) of the Committee on Science of the National Science and Technology Council to announce a public meeting of this group. This public meeting provides an opportunity for the IWGA to discuss ongoing and planned activities in support of aquaculture development in the United States with stakeholders. In turn, this meeting provides an opportunity for the stakeholders to discuss issues of relevance to the IWGA members in attendance.

DATES: The meeting is scheduled for Tuesday, February 20, 2018 from 1:30 p.m. until 5:00 p.m. local time (Pacific Time).

ADDRESSES: The Aquaculture America 2018 Conference will take place at Paris Las Vegas Hotel, 3655 Las Vegas Boulevard South Las Vegas, NV 89109. See **SUPPLEMENTARY INFORMATION** for additional information.

FOR FURTHER INFORMATION CONTACT: IWGA Chair and Aquaculture National Program Leader Dr. Gene Kim, USDA NIFA; email *Gene.W.Kim@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION: The Interagency Working Group on Aquaculture (formerly known as the Joint Subcommittee on Aquaculture) was created by the National Aquaculture Act of 1980 (Pub. L. 96–362, 94 Stat. 198, 16 U.S.C. 2801, *et seq.*) and is chaired by the Department of Agriculture, with vice-chairs from the Department of Commerce and Department of the Interior. The IWGA reports to the Committee on Science of the National Science and Technology Council. The purpose of the coordinating group is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose, the coordinating group:

(1) Reviews the national needs for aquaculture research, technology transfer and technology assistance programs;

(2) Undertakes planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture;

(3) Collects, compiles, and disseminates information on aquaculture;

(4) Encourages joint programs among Federal agencies in areas of mutual interest relating to aquaculture; and

(5) Recommends specific actions on issues, problems, plans, and programs in aquaculture.

The IWGA addresses issues of national scope and importance and may form national task forces or special projects to facilitate a coordinated, systematic approach to addressing critical issues and needs. More information is available at *http://www.ars.usda.gov/iwga.*

This notice invites the public to participate in this IWGA meeting. The location is at the Aquaculture America 2018 Conference venue, which allows for stakeholder interaction at what likely is the largest gathering of U.S. aquaculture research, extension, and private sector representatives. Attendance or response to this notice is voluntary. We are not requesting information as part of an ongoing regulatory process. Although this will

be a discussion of stakeholder issues of concern, will not be considered formal public input on regulations, as the IWGA is not a regulatory body. Responses to this notice may be used by the government for program planning on a non-attribution basis. Information obtained from the discussions occurring during this meeting may be used for program planning and federal coordination among Federal agencies, and may guide future Federal agencies' activities that are national in scope. USDA requests that no business proprietary information or copyrighted information be submitted in response to this notice. No registration or fee is needed to attend this IWGA meeting. Please note that there will be no other method for interaction for this meeting, aside from in-person attendance. Participants are encouraged, but not required, to email their contact information to the email address below for planning purposes: Dr. Maxwell Mayeaux, Aquaculture Program Specialist, USDA NIFA at: *mmayeaux@nifa.usda.gov.*

The agenda for this meeting is as follows:

Agenda

I. Overview of Interagency Working Group on Aquaculture Activities
II. Reports on Federal Interagency Initiatives
  a. Agency updates on regulatory reform
  b. Overview of national aquaculture statistics reporting and the Census of Aquaculture
  c. Interagency collaboration on research, extension and outreach activities
  d. Other Agency Updates
III. Public questions and discussion on IWGA activities

Done at Washington, DC, on January 19, 2018.

Sonny Ramaswamy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2018–01577 Filed 1–26–18; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Quarterly Services Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before March 30, 2018.

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(s) and instructions should be directed to Aidan Smith, U.S. Census Bureau, 8K175, Washington, DC 20233–6500, 301–763–2972, or *Aidan.D.Smith@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request an extension of the current Office of Management and Budget (OMB) clearance of the Quarterly Services Survey (QSS). The QSS covers employer firms with establishments located in the United States and classified in select service industries as defined by the North American Industry Classification System (NAICS). The QSS coverage currently includes all or parts of the following NAICS sectors: Utilities (excluding government owned); transportation and warehousing (except rail transportation and postal); information; finance and insurance (except funds, trusts, and other financial vehicles); real estate and rental and leasing; professional, scientific, and technical services (except offices of notaries); administrative and support and waste management and remediation services; educational services (except elementary and secondary schools, junior colleges, and colleges, universities, and professional schools); health care and social assistance; arts, entertainment, and recreation; accommodation; and other services (except public administration). The primary estimates produced from the QSS are quarterly estimates of total operating revenue and the percentage of revenue by source. The survey also produces estimates of total operating expenses from tax-exempt firms in industries that have a large not-for-profit component. For hospitals, the survey produce estimates of the number of inpatient days and discharges, and for select industries in the arts, entertainment, and recreation sector, the survey produces estimates of admissions revenue.

Firms are selected for the QSS using a stratified design with strata defined by industry, tax status, and estimated size based on annual revenue. The sample is a subsample of firms from the larger Service Annual Survey (OMB# 0607–0422). Each quarter the QSS sample is updated to reflect the addition of new businesses and the removal of firms that have gone out-of-business.

The Bureau of Economic Analysis uses the survey results as input to its quarterly Gross Domestic Product (GDP) and GDP by industry estimates. The estimates provide the Federal Reserve Board and Council of Economic advisors with timely information to assess current economic performance. The Centers for Medicare and Medicaid Services use the QSS estimates to develop hospital-spending estimates for the National Accounts. Other government and private stakeholders also benefit from a better understanding of important cyclical components of the U.S. service economy.

We do not plan any changes to the forms.

II. Method of Collection

We will collect this information by internet, mail, facsimile, and telephone follow-up. Approximately half of the QSS respondents are mailed a full paper form that provides the option for submission by internet, mail, or facsimile. The remaining half of respondents are mailed only their username and password providing for submission by internet. Respondents that report via the internet in any given quarter are only mailed a username and password in subsequent quarters.

III. Data

OMB Control Number: 0607–0907.

Form Number(s): QSS–1A, QSS–1E, QSS–1PA, QSS–1PE, QSS–2A, QSS–2E, QSS–3A, QSS–3E, QSS–3SA, QSS–3SE, QSS–4A, QSS–4E, QSS–4FA, QSS–4FE, QSS–4SA, QSS–4SE, QSS–5A, QSS–5E.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, and government hospitals.

Estimated Number of Respondents: 22,150.

Estimated Time per Response: 15 minutes: QSS–1A, QSS–1E, QSS–1PA, QSS–1PE, QSS–2A, QSS–2E, QSS–3A, QSS–3E, QSS–3SA, QSS–3SE, QSS–5A, QSS–5E. 10 minutes: QSS–4A, QSS–4E, QSS–4FA, QSS–4FE, QSS–4SA, QSS–4SE.

Estimated Total Annual Burden Hours: 19,087.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 131 and 182.

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.

Sheleen Dumas,

Department Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–01511 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–874]

Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014–2016

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

SUMMARY: On August 7, 2017, the Department of Commerce (Commerce) published the preliminary results of the antidumping duty administrative review of certain steel nails (nails) from the Republic of Korea (Korea). The period of review (POR) is December 29, 2014, through June 30, 2016. As a result of our analysis of the comments and information received, these final results differ from the *Preliminary Results* with respect to Daejin Steel Co., (Daejin), but remain unchanged with respect to Korea Wire Co., Ltd. (Kowire). For the final weighted-average dumping margins, *see* the ''Final Results of Review'' section below.

DATES: Applicable January 29, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Galantucci or Trisha Tran, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2923 or (202) 482–4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2017, Commerce published the *Preliminary Results.*[1] In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.* On September 22, 2017, Mid Continent Steel & Wire, Inc. (the petitioner), Daejin and Kowire submitted their case briefs.[2] On September 27, 2017, the petitioner; Daejin and Kowire submitted their rebuttal briefs.[3]

Prior to the *Preliminary Determination,* on June 8, 2017, the petitioner alleged that a particular market situation (PMS) distorted production costs in the Korean steel nail industry.[4] In the *Preliminary Determination,* we noted that we did not have the opportunity to consider the petitioner's PMS allegation for the purposes of the preliminary results.[5] On October 23, 2017, we issued a post-preliminary determination regarding the petitioner's PMS allegation, and permitted parties to comment.[6] On October 30, 2017, the petitioner submitted a case brief regarding its PMS allegation.[7] On November 6, 2017, Daejin and Kowire submitted rebuttal briefs concerning the petitioner's PMS allegation.[8] On September 6, 2017, Kowire requested a hearing.[9] However, it subsequently withdrew its request for a hearing,[10] and no other interested parties requested a hearing.

Scope of the Order

The merchandise covered by this order is nails having a nominal shaft length not exceeding 12 inches.[11] Merchandise covered by the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to this order also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a complete

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[1] *See Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2014–2016,* 82 FR 36749 (August 7, 2017) and accompanying Preliminary Decision Memorandum (*Preliminary Results*).

[2] *See* Petitioner's Case Brief, ''Certain Steel Nails from the Republic of Korea: Case Brief,'' dated September 22, 2017 (Petitioner Case Brief); Daejin's Case Brief, ''Administrative Review of the Antidumping Order on Certain Steel Nails from Korea — Comments on Preliminary Determination,'' dated September 22, 2017 (Daejin Case Brief); Kowire's Case Brief, ''Steel Nails from the Republic of Korea,'' dated September 22, 2017 (Kowire Case Brief).

[3] *See* Petitioner's Rebuttal Brief, ''Certain Steel Nails from the Republic of Korea: Rebuttal Brief,'' dated September 27, 2017 (Petitioner Rebuttal Brief); Daejin's Rebuttal Brief, ''Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea—Rebuttal Brief of Daejin Steel Company,'' dated September 27, 2017 (Daejin Rebuttal Brief); Kowire's Rebuttal Brief, ''Steel Nails from the Republic of Korea—Rebuttal Brief,'' dated September 27, 2017 (Kowire Rebuttal Brief).

[4] *See* Letter from the petitioner, ''Certain Steel Nails from Korea: Particular Market Situation Allegation,'' dated June 8, 2017.

[5] *See Preliminary Determination,* at 36750.

[6] *See* Memorandum, ''2014–2016 Antidumping Duty Administrative Review of Certain Steel Nails from the Republic of Korea: Post-Preliminary Decision on Particular Market Situation Allegation,'' dated October 23, 2017.

[7] *See* Petitioner's PMS Brief, ''Certain Steel Nails from the Republic of Korea: Case Brief Regarding Particular Market Situation,'' dated October 30, 2017 (Petitioner PMS Brief).

[8] *See* Daejin's PMS Rebuttal Brief, ''First Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea—Brief of Daejin Steel Company in Response to Mid Continent's PMS Allegations,'' dated November 6, 2017 (Daejin PMS Rebuttal Brief); Kowire's Rebuttal Brief, ''Steel Nails from the Republic of Korea –Rebuttal Brief Regarding the Particular Market Situation Determination,'' dated November 6, 2017 (Kowire PMS Rebuttal Brief).

[9] *See* Letter from Kowire to Commerce, ''Steel Nails from the Republic of Korea—Request for a Public Hearing,'' dated September 6, 2017.

[10] *See* Letter from Kowire to Commerce, ''Steel Nails from the Republic of Korea—Withdrawal of Request for Public Hearing,'' dated December 1, 2017.

[11] The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

description of the scope of the order, *see* the IDM.[12]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the IDM. A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. The IDM 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 in the Central Records Unit (CRU), room B8024 of the main Department of Commerce building. In addition, a complete version of the IDM can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed IDM and the electronic versions of the IDM are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have recalculated Daejin's weighted-average dumping margin.[13] The dumping margin for Kowire remains 0.00 percent, as it was in the *Preliminary Results.*[14]

Final Results of the Review

As a result of this administrative review, Commerce calculated a weighted-average dumping margin that is above *de minimis* for Daejin and a dumping margin of 0.00 percent for Kowire for the period December 29, 2014, through June 30, 2016, as referenced below. Additionally, Je-il Wire Production Co., Ltd. (Je-il) remains subject to this review because neither it nor the petitioner withdrew a request for its review; however, it was not selected as a mandatory respondent in this review.[15] In accordance with our practice,[16] and consistent with the *Preliminary Results,* we have assigned to Je-il Daejin's calculated rate, *i.e.,* the only rate calculated for a mandatory respondent that is not zero, *de minimis,* or determined entirely on the basis of facts available.

Producer and/or exporter	Weighted-average dumping margin (percent)
Daejin Steel Co., Ltd.	2.76
Korea Wire Co., Ltd.	0.00
Je-il Wire Production Co., Ltd	2.76

Duty Assessment

Commerce shall determine and Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries.[17] For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each respondent for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.80 percent, the all-others rate established in the antidumping investigation.[18] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

[12] *See* Memorandum, ''Issues and Decision Memorandum for Final Results of the 2014–2016 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the Republic of Korea,'' (IDM) dated concurrently with, and hereby adopted by this notice.

[13] *See* IDM; *see also* Memorandum, ''Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Administrative Review of Certain Steel Nails from the Republic of Korea: Daejin Steel Company,'' dated concurrently with this notice.

[14] Although in the *Preliminary Results,* we calculated a dumping margin of 0.00 percent for Kowire, we inadvertently listed a dumping margin of 0.16 percent for the company in the **Federal Register** notice. This error is corrected for purposes of these final results. For further details, see the ''Final Results of the Review'' section of this notice; *see also* IDM at Comment 9; Memorandum, ''Certain Nails from the Republic of Korea: Calculation Memorandum for the Final Results of the 2014–2016 Administrative Review—Korea Wire Co., Ltd.,'' dated concurrently with this notice.

[15] *See Preliminary Results.*

[16] *See, e.g., Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 82 FR 49179 (October 24, 2017).

[17] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[18] *See Certain Steel Nails from the Republic of Korea: Final Determination of Sales at Less Than Fair Value,* 80 FR 28955 (May 20, 2015).

Administrative Protective Order

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

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: January 19, 2018.

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 Final IDM

I. Summary
II. List of Issues
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V. Discussion of the Issues
General Issue:
Comment 1: Particular Market Situation
Daejin-Specific Issues:
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Comment 3: Cost Variations Not Due to Differences in Physical Characteristics
Comment 4: SG&A Expenses
Comment 5: Quarterly Costs
Comment 6: Differential Pricing
Kowire-Specific Issues:
Comment 7: Affiliation With Subcontractor
Comment 8: SG&A Expense Ratio
Comment 9: Cash Deposit Instructions
VI. Recommendation

[FR Doc. 2018–01593 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–808]

Certain Steel Nails From the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2014–2016

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

SUMMARY: On August 7, 2017, the Department of Commerce (Commerce) published the preliminary results of the antidumping duty administrative review of certain steel nails (nails) from the Sultanate of Oman (Oman). The period of review (POR) is December 29, 2014, through June 30, 2016. As a result of our analysis of the comments and information received, these final results differ from the *Preliminary Results* with respect to Oman Fasteners LLC (Oman Fasteners), but remain unchanged with respect to the collapsed entity of Overseas International Steel Industry LLC (OISI) and Overseas Distribution Services Inc. (ODS). For the final weighted-average dumping margins, *see* the ''Final Results of Review'' section below.

DATES: Applicable January 29, 2018.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5831 or (202) 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2017, Commerce published the *Preliminary Results.*[1] In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.* On September 22, 2017, Mid Continent Steel & Wire, Inc. (the petitioner) and Oman Fasteners submitted their case briefs.[2] On September 27, 2017, the petitioner and Oman Fasteners submitted their rebuttal briefs.[3] No interested parties requested a hearing.

Scope of the Order

The merchandise covered by this order is nails having a nominal shaft length not exceeding 12 inches.[4] Merchandise covered by the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to this order also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a complete description of the scope of the order, *see* the IDM.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the IDM. A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. The IDM 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 in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building. In addition, a complete version of the IDM can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed IDM and the electronic versions of the IDM are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have recalculated Oman Fasteners's weighted-average dumping margin.[6] The AFA dumping margin for

[1] *See Certain Steel Nails from the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review;* 2014–2016, 82 FR 36738 (August 7, 2017) and accompanying Preliminary Decision Memorandum (*Preliminary Results*).

[2] *See* the petitioner's case brief, dated September 22, 2017, Oman Fasteners's case brief, dated September 22, 2017.

[3] *See* the petitioner's rebuttal brief, dated September 27, 2017, and Oman Fasteners's rebuttal brief, dated September 27, 2017.

[4] The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

[5] *See* Memorandum, ''Decision Memorandum for Final Results of the 2014–2016 Antidumping Duty Administrative Review of Certain Steel Nails from the Sultanate of Oman,'' dated concurrently with, and hereby adopted by this notice (IDM). The IDM is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the IDM are identical in content.

[6] *See* IDM; *see also* Memorandum,''Certain Nails from Oman: Calculation Memorandum for the Final

the collapsed entity (*i.e.,* OISI and ODS) remains unchanged from the *Preliminary Results.*[7]

Final Results of the Review

As a result of this review, Commerce calculated a weighted-average dumping margin that is above *de minimis* for Oman Fasteners and a margin based on AFA for the collapsed entity (*i.e.,* OISI and ODS) for the period December 29, 2014, through June 30, 2016, as referenced below.

Producer and/or exporter	Weighted-average dumping margin (percent)
Oman Fasteners LLC	0.63
Overseas International Steel Industry LLC/Overseas Distribution Services Inc ...	154.33

Duty Assessment

Commerce shall determine and Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries.[8] For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each respondent for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 9.10 percent, the all-others rate established in the antidumping investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

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

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: January 19, 2018.

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 Final IDM

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  Comment 5: Denominator in the CV Profit and Indirect Selling Expense Ratios
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  Comment 12: Application of Adverse Facts Available to Oman Fasteners' Reported Wire Rod, Drawing Wire Rod, and Relocation Costs
  Comment 13: Including Oman Fasteners' Parents' Operating Costs in G&A
VI. Recommendation

[FR Doc. 2018–01594 Filed 1–26–18; 8:45 am]

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Results of the 2014–2016 Administrative Review—Oman Fasteners,'' dated concurrently with this notice.

[7] ODS was initially a non-selected respondent subject to this administrative review; however, because we have, as adverse facts available (AFA), collapsed ODS with mandatory respondent OISI, we are assigning both the same AFA margin. *See Preliminary Results,* 82 FR at 36740.

[8] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Submission for OMB Review; Comment Request

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

Agency: National Institute of Standards and Technology, Commerce.

Title: Proposed Information Collection; Comment Request; Organization of Scientific Area Committees for Forensic Science (OSAC) Membership Application.

OMB Control Number: 0693–0070.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 1,000 per year.

Average Hours per Response: 30 minutes.

Burden Hours: 500 per year.

Needs and Uses: The information requested will allow NIST to fill new positions created within the Organization of Scientific Area Committees for Forensic Science (OSAC) and to replace positions vacated by resignation or rotation. Over 550 OSAC Members participate in the OSAC with up to ⅓ of them being eligible for reappointment or replacement each year. This effort provides a coordinated U.S. approach to the development of scientifically sound forensic science standards and ensures broad participation from forensic science practitioners, researchers, metrologists, quality assurance experts, defense, and prosecution.

Affected Public: Individuals or households.

Frequency: Once a year.

Respondent's Obligation: Voluntary.

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

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

Sheleen Dumas,

Department Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–01566 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Weather Modification Activities Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 30, 2018.

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 Kandis Boyd, (301) 734–1026 or *weather.modification@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for reinstatement, without changes, of a current information collection.

Section 6(b) of Public Law 92–205 requires that persons who engage in weather modification activities (*e.g.,* cloud seeding) provide reports prior to and after the activity. They are also required to maintain certain records. The requirements are detailed in 15 CFR part 908. NOAA uses the data for scientific research, historical statistics, international reports and other purposes.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0025.

Form Number: NOAA Forms 17–4 and 17–4A.

Type of Review: Regular submission (reinstatement without change).

Affected Public: Business or other non-profit organizations.

Estimated Number of Respondents: 55.

Estimated Time per Response: 30 minutes per report (2 reports each).

Estimated Total Annual Burden Hours: 55.

Estimated Total Annual Cost to Public: $275 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 23, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–01533 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–XF974]

Endangered and Threatened Species; Initiation of 5-Year Reviews for the Endangered Fin Whale, Endangered Gray Whale Western North Pacific Distinct Population Segment, and Endangered Sei Whale

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

ACTION: Notice of initiation of 5-year reviews; request for information.

SUMMARY: NMFS announces its intent to conduct 5-year reviews for the endangered fin whale (*Baleaenoptera physalus*), the endangered gray whale

(*Eschrichtius robustus*) Western North Pacific distinct population segment (DPS), and the endangered sei whale ((*Baleaenoptera borealis*). NMFS is required by the Endangered Species Act (ESA) to conduct 5-year reviews to ensure that the listing classifications of the species are accurate. The 5-year reviews must be based on the best scientific and commercial data available at the time. We request submission of any such information on the fin whale, gray whale Western North Pacific DPS, and the sei whale, particularly, information on the status, threats, and recovery of the species that has become available since the previous status review for the fin whale in 2011, the gray whale Western North Pacific DPS in 1991, and the sei whale in 2012.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than March 30, 2018. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: You may submit information on this document identified by NOAA–NMFS–2018–0008 by either of the following methods:

- *Electronic submission:* Submit electronic information via the Federal e-Rulemaking Portal. Go to *www.regulations.gov.* To submit information via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2018–0008 in the keyword search. Locate the document you wish to respond to from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail or hand-deliver:* Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Therese Conant.

Instructions: Information must be submitted by one of the above methods to ensure that the information is received, documented, and considered by NMFS. Information sent by any other method, to any other address or individual, or received after the end of the specified period, may not be considered. All information received is a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Therese Conant at the above address, by phone at (916) 930–3627 or *therese.conant@noaa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces our active review of the fin whale, gray whale Western North Pacific DPS, and sei whale. Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. On the basis of such reviews under section 4(c)(2)(B), we determine whether a species should be delisted or reclassified from endangered to threatened or from threatened to endangered. As described by the regulations in 50 CFR 424.11(d), delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The fin whale, gray whale, and sei whale were listed as endangered under the ESA on December 2, 1970 (35 FR 18319).

Background information on the fin whale, gray whale Western North Pacific DPS, and sei whale including the endangered listing, is available on the NMFS Office of Protected Species website at: *https://www.fisheries.noaa.gov/species/fin-whale, https://www.fisheries.noaa.gov/species/gray-whale, https://www.fisheries.noaa.gov/species/sei-whale.*

Determining if a Species Is Threatened or Endangered

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) also requires that our determination be made on the basis of the best scientific and commercial data available after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, to protect such species.

Public Solicitation of New Information

To ensure that the 5-year reviews are complete and based on the best available scientific and commercial data, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of fin whale, gray whale Western North Pacific DPS, and the sei whale. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; (5) need for additional conservation measures; and (6) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes and improved analytical methods for evaluating extinction risk.

If you wish to provide information for the 5-year reviews, you may submit your information and materials electronically or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 24, 2018.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–01619 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Western Pacific Community Development Program Process

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 30, 2018.

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 Jarad Makaiau, National Marine Fisheries Service, Pacific Islands Regional Office, 1845 Wasp Blvd. 176, Honolulu, HI 96818. Telephone: (808) 725–5176; Email: *jarad.Makaiau@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Federal regulations at 50 CFR part 665 authorize the Regional Administrator of the National Marine Fisheries Service (NMFS), Pacific Island Region to provide eligible western Pacific communities with access to fisheries that they have traditionally depended upon, but may not have the capabilities to support continued and substantial participation, possibly due to economic, regulatory, or other barriers. To be eligible to participate in the western Pacific community development program, a community must meet the criteria set forth in 50 CFR part 665.20, and submit a community development plan that describes the purposes and goals of the plan, the justification for proposed fishing activities, and the degree of involvement by the indigenous community members, including contact information.

This collection of information provides NMFS and the Western Pacific Fishery Management Council (Council) with data to determine whether a community that submits a community development plan meets the regulatory requirements for participation in the program, and whether the activities proposed under the plan are consistent with the intent of the program, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws. The information is also important for evaluating potential impacts of the proposed community development plan activities on fish stocks, endangered species, marine mammals, and other components of the affected environment for the purposes of compliance with the National Environmental Policy Act, the Endangered Species Act and other applicable laws.

II. Method of Collection

The collection of information of a community development plan involves no forms, and respondents have a choice of submitting information by electronic transmission or by mail. Instructions on how to submit a community development plan can be found on the Council's website at *http://www.wpcouncil.org/community-development/western-pacific-community-development-program/*.

III. Data

OMB Control Number: 0648–0612.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for profit organizations, and individuals or households.

Estimated Number of Respondents: 5.

Estimated Time per Response: 6 hours.

Estimated Total Annual Burden Hours: 30.

Estimated Total Annual Cost to Public: $50 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 23, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–01532 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–XF972]

International Pacific Halibut Commission Appointments

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

ACTION: Notice; call for nominations.

SUMMARY: NOAA is soliciting nominations for two individuals to serve as U.S. Commissioners to the IPHC. This action is necessary to ensure that the interests of the United States and all of its stakeholders in the Pacific halibut fishery are adequately represented. Nominations are open to all qualified individuals and may include current Commissioners.

DATES: Nominations and any supporting documentation must be received by February 28, 2018.

ADDRESSES: Nominations for U.S. Commissioners to the IPHC may be made in writing to Mr. Patrick E. Moran, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, at 1315 East-West Highway, Silver Spring, MD 20910. Nominations may also be sent via email (*IPHC2018nominations@noaa.gov*).

FOR FURTHER INFORMATION CONTACT: Mr. Patrick E. Moran, (301) 427–8370.

SUPPLEMENTARY INFORMATION:

Background

The IPHC is a bilateral regional fishery management organization established pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and

Bering Sea (Convention). The Convention was signed at Ottawa, Ontario, on March 2, 1953, and was amended by a Protocol Amending the Convention signed at Washington, DC, on March 29, 1979. The Convention's central objective is to develop the stocks of Pacific halibut in waters off the west coasts of Canada and the United States to levels that will permit the optimum yield from the Pacific halibut fishery and to maintain the stocks at those levels. The IPHC fulfills this objective in part by recommending Pacific halibut fishery conservation and management measures for approval by the United States and Canada. Pursuant to the Northern Pacific Halibut Act of 1982, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, conservation and management measures recommended by the IPHC. 16 U.S.C. 773b. Measures accepted by the Secretary of State are adopted as binding regulations governing fishing for Pacific halibut in Convention waters of the United States. 16 U.S.C. 773c(b)(1). More information on the IPHC can be found at *http://www.iphc.int.*

Section 773a of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773a) requires that the United States be represented on the IPHC by three U.S. Commissioners. U.S. Commissioners are appointed for a term not to exceed 2 years, but are eligible for reappointment. Of the Commissioners:

(1) One must be an official of the National Oceanic and Atmospheric Administration; and

(2) Two must be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one must be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one must also be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners who are not Federal employees are not considered to be Federal employees except for the purposes of injury compensation or tort claims liability as provided in section 8101 *et seq.* of title 5 and section 2671 *et seq.* of title 28.

In their official IPHC duties, Commissioners represent the interests of the United States and all of its stakeholders in the Pacific halibut fishery. These duties require a modest amount of travel (typically two or three trips per year lasting less than a week), and travel expenses are paid by the U.S. Department of State. Commissioners receive no compensation for their services.

Nomination Process

NOAA Fisheries is currently accepting nominations for two U.S. Commissioners for the IPHC who are not officials of NOAA. Successful nominees will be considered for appointment by the President and (pending Presidential action) interim designation by the Department of State.

Nomination packages should provide details of an individual's knowledge and experience relative to Pacific halibut. Examples of such knowledge and/or experience could include (but are not limited to) such activities as: Participation in commercial, tribal, or Community Development Quota (CDQ) fisheries, and/or sport and charterboat halibut fishing operations; participation in halibut processing operations; and participation in Pacific halibut management activities.

Nomination packages should document an individual's qualifications and state of residence. Self-nominations are acceptable, and current and former IPHC Commissioners are eligible for reappointment. Résumés, curriculum vitae, and/or letters of recommendation/support are useful but not required. Nomination packages will be evaluated on a case-by-case basis by officials in NOAA and the Department of Commerce who are familiar with the duties and responsibilities of IPHC Commissioners; evaluations will consider the aggregate of an individual's prior experience and knowledge of the Pacific halibut fishery, residency requirements, and any letters of recommendation provided. Nominees will be notified of their status (including rejection or approval) and any need for further information once the nomination process is complete.

Dated: January 23, 2018.

Steven Wilson,

Acting Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.

[FR Doc. 2018–01629 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; "Representative and Address Provisions"

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: Representative and Address Provisions.

OMB Control Number: 0651–0035.

Form Number(s):

- PTO/AIA/80
- PTO/AIA/81
- PTO/AIA/81A
- 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/SB84
- PTO/SB/122
- PTO/SB/123
- PTO/SB/124
- PTO/SB/125
- PTO–2248

Type of Request: Regular.

Number of Respondents: 501,905 responses per year.

Average Hours per Response: The USPTO estimates that it will take the public approximately between 3 minutes (0.05 hours) and 90 minutes (1.5 hours) to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO.

Burden Hours: 28,479.25 hours per year.

Cost Burden: $13,950.74 per year.

Needs and Uses: The public uses this information collection to grant or revoke power of attorney, to withdraw as attorney or agent of record, to authorize a practitioner to act in a representative capacity, to change a correspondence address, to request a Customer Number, and to change the data associated with a Customer Number. This collection is necessary so that the USPTO knows who is authorized to take action in an application, patent, or reexamination proceeding and where to send correspondence regarding an application, patent, or reexamination proceeding.

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 ''0651–0035 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 February 28, 2018 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. 2018–01609 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Public Search Facility User ID and Badging

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 extension of an existing information collection: 0651–0041 (Public Search Facility User ID and Badging).

DATES: Written comments must be submitted on or before March 30, 2018.

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

• *Email: InformationCollection@uspto.gov.* Include ''0651–0041 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 Terry Howard, Manager, Public Search Facility, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3258; or by email to *Terry.Howard@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 41(i)(1) to maintain a Public Search Facility to make publically accessible USPTO patent and trademark collections for search and retrieval. The facility is located in a publicly accessible portion of USPTO headquarters in Alexandria, Virginia, and offers access to the collection's paper and electronic files.Trained staff are available to assist users with searches. The USPTO also offers training courses to assist users with the advanced electronic search systems available at the facility.

This collection covers information that individuals submit in application to establish a USPTO online access account. This application allows users to obtain, renew, or replace online access account cards which provide access to the electronic search system at the Public Search Facility. The public may apply for an online access account only at the Public Search Facility reference desk by providing the completed application (including contact information) and proper identification. The access account cards include a bar-coded user number and an expiration date. Users may renew their account card in person by validating and updating the required information and may obtain a replacement for a lost account card by providing proper identification. Users who wish to register for the voluntary training courses by do so by completing the appropriate form.

This collection also covers information in applications to establish, renew, or replace security identification badges issued, under the authority provided in 41 CFR part 102–81, to members of the public who wish to access the Public Search Facility. Users may apply for a security badge in person at the USPTO Security Office by providing the completed application (including applicant and contact information) and presenting a valid form of identification with photograph. The security badges include a color photograph of the user and must be worn at all times while at the USPTO facilities.

II. Methods of Collection

The applications for online access accounts and security identification badges are completed on site and handed to a USPTO staff member for issuance. User training registration forms may be mailed, faxed, emailed, or hand delivered to the USPTO.

III. Data

OMB Number: 0651–0041.

IC Instruments and Forms: PTO–2030 and PTO–2224.

Type of Review: Extension of a Previously Existing Information Collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 6,250 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 5 minutes (0.08 hours) to 10 minutes (0.17 hours) to complete the information in this collection, depending on the application. This includes the time to gather the necessary information, prepare the appropriate form, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 500 hours.

Estimated Total Annual Respondent Cost Burden: $145,750. The USPTO expects that both attorneys and paraprofessionals will complete the submissions. The USPTO estimates that one third of the applicants will be attorneys and the remaining two thirds will be paraprofessionals. The professional hourly rate for attorneys is $438 and the professional hourly rate for paraprofessionals is $145. The attorney rates is 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. The paraprofessional rate is established by estimates in the 2016 *National Utilization and Compensation Survey,* published by the National Association of Legal Assistance (NALA). The estimated combined rate is $291.50. Using this hourly rate, the USTPO estimates that the total respondent cost burden for this collection is $145,750. per year.

IC #	Item	Time for response (hours) (a)	Responses (b)	Burden hours (c) = (a) × (b)	Rate (d)	Annual cost burden (e) = (c) × (d)
1	Application for Public User ID (Access Card).	0.08 (5 minutes)	1,250	100	$291.50	$29,150.00
2	Renew Online Access Card	0.08 (5 minutes)	500	40	291.50	11,600.00
3	Replace Online Access Card	0.08 (5 minutes)	50	4	291.50	1,166.00
4	User Training Registration Forms	0.08 (5 minutes)	150	12	291.50	3,498.00
5	Security Identification Badges for Public Users.	0.08 (5 minutes)	1,000	80	291.50	23,320.00
6	Renew Security Identification Badges for Public Users.	0.08 (5 minutes)	3,200	256	291.50	74,624.00
7	Replace Security Identification Badges.	0.08 (5 minutes)	100	8	291.50	2,332.00
Totals			6,250	500		145,750.00

Estimated Total Annual Non-hour Respondent Cost Burden: $1,501.96. This collection has annual (non-hour) costs in the form of fees and postage costs.

There are no application or renewal fees for online access cards or security identification badges. However, there is a $15 fee for issuing a replacement security identification badge. The USPTO estimates that it will reissue approximately 100 security badges annually that have been lost, stolen, or need to be replaced, for a total of $1,500.00 per year in replacement fees.

Users may incur postage costs when submitting a user training registration form to the USPTO by mail. The USPTO expects that approximately 4 training forms received per year will be submitted by mail. The USPTO estimates that the average first-class postage cost for a mailed training form will be $0.49 for a total postage cost of $1.96 per year for this collection.

The total annual (non-hour) respondent cost burden for this collection in the forms of fees and postage costs is estimated to be $1,501.96 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. 2018–01610 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Public Key Infrastructure (PKI) Certificate Action Form

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 extension of an existing information collection: 0651–0045 (Public Key Infrastructure (PKI) Certificate Action Form).

DATES: Written comments must be submitted on or before March 30, 2018.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0045 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 Richard Arnold, Security Authorizations Branch, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–270–0539; or by email to *Richard.Arnold@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) uses Public Key Infrastructure (PKI) technology to support electronic commerce between the USPTO and its customers. PKI is a set of hardware, software, policies, and procedures that provide important security services for the electronic business activities of the USPTO, including protecting the confidentiality of unpublished patent applications in accordance with 35 U.S.C. 122 and 37 CFR 1.14, as well as protecting international patent applications in accordance with Article 30 of the Patent Cooperation Treaty.

In order to provide the necessary security for its electronic commerce systems, the USPTO uses PKI technology to protect the integrity and confidentiality of information submitted to the USPTO. PKI employs public and private encryption keys to authenticate the customer's identity and support secure electronic communication between the customer and the USPTO. Customers may submit a request to the USPTO for a digital certificate, which enables the customer to create the encryption keys necessary for electronic identity verification and secure transactions with the USPTO. This digital certificate is required in order to access any secure online systems that the USPTO provides, including the systems for electronic filing of patent applications and viewing confidential

information about unpublished patent applications.

This information collection covers the Certificate Action Form (PTO–2042), which is used by the public to request a new digital certificate, revoke a current certificate, or recover a lost or corrupted certificate. Customers may also change the name listed on the certificate or associate the certificate with one or more Customer Numbers. A Customer Number allows an applicant to associate all correspondence and USPTO actions regarding multiple patent applications to a single address and name. The Certificate Action Form must include a notarized signature in order to verify the identity of the applicant. The Certificate Action Form has an accompanying subscriber agreement to ensure that customers understand their obligations regarding the use of the digital certificates and cryptographic software. When generating a new certificate, customers also register to receive a set of seven codes that will enable customers to recover a lost certificate online without having to contact USPTO support staff.

II. Method of Collection

The Certificate Action Form must be notarized and may be mailed or hand delivered to the USPTO.

III. Data

OMB Number: 0651–0045.

IC Instruments and Forms: PTO–2042.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 3,825 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 30 minutes (0.50 hours) to read the instructions and subscriber agreement, gather the necessary information, prepare the Certificate Action Form, and submit the completed request.

Estimated Total Annual Respondent Burden Hours: 1,912.50 hours.

Estimated Total Annual Respondent Cost Burden: $402,084. The USPTO expects that attorneys, paraprofessionals, and independent inventors will complete the submissions for this collection. The professional hourly rate for attorneys is $438, for paraprofessionals is $145, and for independent inventors is $47.71. The attorney rate is 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. The paraprofessional rate is established by estimates in the 2016 *National Utilization and Compensation Survey,* published by the National Association of Legal Assistance (NALA). The independent inventor rate is based the mean hourly wage for engineers according to the Bureau of Labor Statistics Occupational Employment Statistics (17–2199). The USPTO estimates that the combined average hourly rate of these estimates for all respondents is approximately $210.24. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is $402,804 per year.

IC No.	Item	Annual response time (hours) (a)	Annual response (b)	Annual burden hours (c) = (a) × (b)	Rate (d)	Annual cost burden (e) = (c) × (d)
1	Certificate Action Form (including Subscriber Agreement).	0.50 (30 minutes) ...	3,825	1,912.50	$210.24	$402,084.00
Totals	.....	.....	3,825	1,915.50	.....	402,084.00

Estimated Total Annual Non-hour Respondent Cost Burden: $24,824.25. There are no capital start-up costs, maintenance costs, or fees associated with this information collection. However, this collection does have annual (non-hour) cost burden associated with the Certificate Action Form.

This collection has costs due to the notarization requirement for authenticating the signatures on the Certificate Action Form. The USPTO estimates that the average fee for having a signature notarizing is $6 and 3,825 responses for these forms will be submitted annually, for a total cost of $22,950 per year. The notary fee was determined based on estimates for notary fees by states as published by the National Notary Association.

This collection also has postage costs for submitting the Certificate Action Form to the USPTO by mail. The form cannot be faxed or submitted electronically because it requires an original notarized signature. The USPTO estimates that the first class postage cost for these forms will be $0.49 and that it will receive 3,825 mailed responses annually for a total postage cost of approximately $1,874.25 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. 2018–01612 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; Financial Transactions

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: Financial Transactions.

OMB Control Number: 0651–0043.

Form Number(s):

- PTO–2038

Type of Request: Regular.

Number of Respondents: 4,885,505 responses per year.

Average Hours per Response: The USPTO estimates that it will take the public approximately 1 to 8 minutes (0.03 to 0.13 hours) to prepare the appropriate form or documents and submit to the USPTO.

Burden Hours: 242,402.84 hours annually.

Cost Burden: $111,419.97.

Needs and Uses: Under 35 U.S.C. 41 and 15 U.S.C. 1113, the United States Patent and Trademark Office (USPTO) charges fees for processing and other services related to patents, trademarks, and information products. Customers may submit payments to the USPTO by several methods, including credit card, deposit account, electronic funds transfer (EFT), and paper check transactions. The provisions of 35 U.S.C. 41 and 15 U.S.C. 1113 are implemented in 37 CFR 1.16–1.28, 2.6–2.7, and 2.206–2.209. This information collection includes associated payment and account forms for the aforementioned financial transactions and methods.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0043 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 February 28, 2018 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. 2018–01611 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Recording Assignments

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 30, 2018.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0027 Recording Assignments'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Joyce R. Johnson, Manager, Assignment Division, Mail Stop 1450, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 703–756–1265; or by email to *Joyce.Johnson@uspto.gov* with ''Paperwork'' 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. 261 and 262 for patents and 15 U.S.C. 1057 and 1060 for trademarks. These statutes authorize the United States Patent and Trademark Office (USPTO) to record patent and trademark assignment documents, including transfers of properties (*i.e.,* patents and trademarks), liens, licenses, assignments of interest, security interests, mergers, and explanations of transactions or other documents that record the transfer of ownership of a particular patent or trademark property from one party to another. Assignments are recorded for applications, patents, and trademark registrations.

The USPTO administers these statutes through 37 CFR 2.146, 2.171, and 37 CFR part 3. These rules permit the public, corporations, other federal agencies, and Government-owned or Government-controlled corporations to submit patent and trademark assignment documents and other documents related to title transfers to the USPTO to be recorded. In accordance with 37 CFR 3.54, the recording of an assignment document by the USPTO is an administrative action and not a determination of the validity of the document or of the effect that the document has on the title to an application, patent, or trademark.

Once the assignment documents are recorded, they are available for public inspection. The only exceptions are those documents that are sealed under secrecy orders according to 37 CFR 3.58 or related to unpublished patent applications maintained in confidence under 35 U.S.C. 122 and 37 CFR 1.14. The public uses these records to conduct ownership and chain-of-title searches. The public may view these records either at the USPTO Public Search Facility or at the National Archives and Records Administration, depending on the date they were recorded. The public may also search patent and trademark assignment information online through the USPTO website.

In order to record an assignment document, the respondent must submit an appropriate cover sheet along with copies of the assignment document to be recorded. The USPTO provides two paper forms for this purpose, the Patent Recordation Form Cover Sheet (PTO–1595) and the Trademark Recordation Form Cover Sheet (PTO–1594), which capture all of the necessary data for accurately recording various assignment documents. These forms may be downloaded in PDF format from the USPTO website (*https://www.uspto.gov/forms/pto1595.pdf* and *https://www.uspto.gov/sites/default/files/pto1594.pdf,* respectively).

Customers may also submit assignments online by using the Electronic Patent Assignment System (EPAS) and the Electronic Trademark

Assignment System (ETAS), which are available through the USPTO website. These systems allow customers to fill out the required cover sheet information online using web-based forms and then attach the electronic assignment documents to be submitted for recordation.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0027.

IC Instruments: PTO–1594 and 1595, Trademark and Patent Recordation Form Cover Sheets.

Type of Review: Extension of a Previously Existing Information Collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 596,527 responses per year.

Estimated Time per Response: The USPTO estimates that the response time for activities related to the recording assignment process will take approximately 30 minutes (0.5 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Hour Burden: 298,263.50 hours.

Estimated Total Annual Cost Burden (Hourly): $86,943,810.25 per year. The USPTO expects that the information in this collection will be prepared by both attorneys and paralegals. 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 and the 2017 National Utilization and Compensation Survey published by the National Association of Legal Assistants (NALA). The USPTO estimates that the combined rate for respondents will be approximately $291.50 per hour. Therefore, the estimated total respondent cost burden for this collection will be approximately $86,943,810.25 per year.

TABLE 1— RESPONDENT COSTS

IC No.	Information collection instrument	Estimated time for response (minutes) (a)	Estimated annual responses (b)	Estimated annual burden hours (c) = (a) × (b)	Rate ($/hr) (d)	Estimated total annual hourly cost burden (e) = (c) × (d)
1	Patent Recordation Form Cover Sheet (PTO–1595).	30	2,498	1,249	$291.50	$364,083.50
2	Trademark Recordation Form Cover Sheet (PTO–1594).	30	816	408	291.50	118,932.00
3	Electronic Patent Assignment System (EPAS) (PTO–1595).	30	546,884	273,442	291.50	79,708,343.00
4	Electronic Trademark Assignment System (ETAS) (PTO–1594).	30	46,329	23,164.50	291.50	6,752,451.75
Total			596,527	262,150		86,943,810.25

Estimated Total Annual Cost Burden (Non-Hourly): $3,267,181.32. This information collection has annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with submitting patent and trademark assignment documents to be recorded. The filing fees for recording patent and trademark assignments are the same for both paper and electronic submissions. However, the filing cost for recording patent or trademark assignments varies according to the number of properties involved in each submission.

Filing Fees

The filing fee for submitting a patent assignment as indicated by 37 CFR 1.21(h) is $40 per property for recording each document, while the filing fee for submitting a trademark assignment as indicated by 37 CFR 2.6(b)(6) is $40 for recording the first property in a document and $25 for each additional property in the same document. The USPTO estimates that the average fee for a patent assignment recordation request is approximately $80 and that the average fee for a trademark assignment recordation request is approximately $65. Therefore, this collection has an estimated total of $2,950,395 in filing fees per year.

TABLE 2—FILING COSTS

IC No.	Information collection instrument	Estimated annual responses (a)	Filing fee ($) (b)	Estimated total non-hour cost burden (a) × (b) = (c)
1	Patent Recordation Form Cover Sheet (PTO–1595)	2,498	$80.00	$199,840.00
2	Trademark Recordation Form Cover Sheet (PTO–1594)	816	65.00	53,040.00
4	Electronic Trademark Assignment System (ETAS) (PTO–1594)	46,329	65.00	3,011,385.00
Total		49,643		3,264,265.00

Postage Costs

Customers may incur postage costs when submitting a patent or trademark assignment request to the USPTO by mail. The Patent and Trademark Recordation Cover Sheets will be submitted by mail, for a total of 3,314 mailed submissions. The average postage cost for a mailed Patent or Trademark Recordation Form Cover Sheet submission is 88 cents, resulting in a total postage cost of $2,916.32 per year for this collection.

The total (non-hour) respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be $3,267,181.32 per year.

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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2018–01608 Filed 1–26–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0144]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Charter School Facilities Survey

AGENCY: Office of Innovation and Improvement (OII), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 28, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0144. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–44, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Clifton Jones, 202–205–2204.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Charter School Facilities Survey.

OMB Control Number: 1855–0024.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 200.

Total Estimated Number of Annual Burden Hours: 300.

Abstract: Charter schools across the county are spending a significant amount of operating dollars to cover facilities costs that could otherwise be spent on the students. The data from participating schools will be used to build a database of charter school facilities data; providing concrete evidence to all stakeholders and allowing researchers to study the potential impact that charter school facilities have on student outcomes.

Dated: January 24, 2018.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–01607 Filed 1–26–18; 8:45 am]

BILLING CODE 4000–01–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: EC18–47–000.

Applicants: SR South Loving LLC, Hattiesburg Farm, LLC, Shell New Energies US LLC.

Description: Application under FPA Section 203 of Hattiesburg Farm, LLC, et. al.

Filed Date: 1/19/18.

Accession Number: 20180119–5200.

Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: EC18–48–000.

Applicants: Horse Butte Wind I LLC.

Description: Application of Horse Butte Wind I LLC for Authorization Under Section 203 of the Federal Power Act for Disposition of Jurisdictional Facilities.

Filed Date: 1/19/18.

Accession Number: 20180119–5219.

Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: EC18–49–000.

Applicants: Northern Indiana Public Service Company.

Description: Application for Approval of Acquisition of Transmission

Facilities Pursuant to Section 203 of the Federal Power Act of Northern Indiana Public Service Company.

Filed Date: 1/22/18.

Accession Number: 20180122–5058.

Comments Due: 5 p.m. ET 2/12/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2794–024; ER14–2672–009; ER12–1825–022.

Applicants: EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.

Description: Notice of Non-Material Change in Status of EDF Trading North America, LLC, et. al.

Filed Date: 1/22/18.

Accession Number: 20180122–5068.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER10–2984–038.

Applicants: Merrill Lynch Commodities, Inc.

Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.

Filed Date: 1/22/18.

Accession Number: 20180122–5101.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER11–4501–013; ER12–979–012.

Applicants: Caney River Wind Project, LLC, Rocky Ridge Wind Project, LLC.

Description: Notice of Non-Material Change in Status of Caney River Wind Project, LLC, et al.

Filed Date: 1/19/18.

Accession Number: 20180119–5190.

Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER16–2201–004.

Applicants: Antelope DSR 1, LLC.

Description: Compliance filing: Antelope DSR 1 Notice of Change in Category Status to be effective 1/18/2018.

Filed Date: 1/18/18.

Accession Number: 20180118–5068.

Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER17–1741–002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Central Nebraska Stated Rate Revisions Settlement Compliance Filing to be effective 1/1/2018.

Filed Date: 1/22/18.

Accession Number: 20180122–5064.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER18–686–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP–DEP E&P Agmnt Cumberland CC to be effective 2/1/2018.

Filed Date: 1/22/18.

Accession Number: 20180122–5029.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER18–687–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3384 Central Power/Otter Tail/MISO Interconnection Agreement to be effective 1/1/2018.

Filed Date: 1/22/18.

Accession Number: 20180122–5030.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER18–688–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Interim ISA SA No. 4883; Queue No. AD1–025 to be effective 12/22/2017.

Filed Date: 1/22/18.

Accession Number: 20180122–5049.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER18–689–000.

Applicants: Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

Description: § 205(d) Rate Filing: 2018–01–22_SA 3075 OTP–CPEC TIA and Termination of SA 2713 and SA 2606 to be effective 1/1/2018.

Filed Date: 1/22/18.

Accession Number: 20180122–5056.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER18–690–000.

Applicants: Meyersdale Windpower LLC.

Description: § 205(d) Rate Filing: Amended and Restated Common Facilities Agreement to be effective 1/12/2018.

Filed Date: 1/22/18.

Accession Number: 20180122–5140.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER18–691–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–01–22_SA 3083 Lake Benton-NSP GIA (J790) to be effective 1/5/2018.

Filed Date: 1/22/18.

Accession Number: 20180122–5143.

Comments Due: 5 p.m. ET 2/12/18.

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: January 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01527 Filed 1–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–677–000]

Switch, Ltd.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SWITCH, LTD.'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 February 8, 2018.

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 website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 19, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01587 Filed 1–26–18; 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 Numbers: RP18–357–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) Rate Filing: GT&C Section 28—Failure of Electronic Equipment to be effective 2/17/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5025.
Comments Due: 5 p.m. ET 1/30/18.

Docket Numbers: RP18–358–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (TGS Jan 2018) to be effective 1/18/2018.
Filed Date: 1/17/18.
Accession Number: 20180117–5146.
Comments Due: 5 p.m. ET 1/29/18.

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: January 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01528 Filed 1–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2507–014.
Applicants: Westar Energy, Inc.
Description: Notice of Non-Material Change in Status of Westar Energy, Inc.
Filed Date: 1/19/18.
Accession Number: 20180119–5105.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER15–1579–009.
Applicants: 67RK 8me LLC.
Description: Compliance filing: 67RK 8me LLC Notice of Change in Category Status to be effective 1/18/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5066.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER15–1582–010.
Applicants: 65HK 8me LLC.
Description: Compliance filing: 65HK 8me LLC Notice of Change in Category Status to be effective 1/18/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5065.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER15–1914–011.
Applicants: 87RL 8me LLC.
Description: Compliance filing: 87RL 8me LLC Notice of Change in Category Status to be effective 1/18/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5067.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER16–1955–005.
Applicants: Antelope DSR 2, LLC.
Description: Compliance filing: Antelope DSR 2 Notice of Change in Category Status to be effective 1/18/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5069.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER17–512–004.
Applicants: Virginia Electric and Power Company.
Description: Compliance filing: VEPCO Informational Filing on Deactivation of Certain Generation Units to be effective N/A.
Filed Date: 1/19/18.
Accession Number: 20180119–5066.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER17–2470–002.
Applicants: Red Dirt Wind Project, LLC.
Description: Notice of Non-Material Change in Status of Red Dirt Wind Project, LLC.
Filed Date: 1/18/18.
Accession Number: 20180118–5157.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER18–27–001.
Applicants: Thunder Ranch Wind Project, LLC.
Description: Compliance filing: Thunder Ranch Wind Project, LLC MBR Tariff to be effective 11/1/2017.
Filed Date: 1/18/18.
Accession Number: 20180118–5143.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER18–670–000.
Applicants: Ohio River Partners Shareholder LLC.
Description: Petition for Limited Waiver of Ohio River Partners Shareholder LLC.
Filed Date: 1/17/18.
Accession Number: 20180117–5134.
Comments Due: 5 p.m. ET 1/25/18.

Docket Numbers: ER18–676–000.
Applicants: North American Energy Markets Association.
Description: Baseline eTariff Filing: North American Energy Markets Association Submits its 2018 Power and Gas Tariff to be effective 1/19/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5142.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER18–677–000.
Applicants: SWITCH, LTD.
Description: Baseline eTariff Filing: Switched On Request for MBR Authority to be effective 3/20/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5144.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER18–678–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: § 205(d) Rate Filing: Cancellation 18-a 1/18/2018 to be effective 1/19/2018.
Filed Date: 1/18/18.
Accession Number: 20180118–5154.
Comments Due: 5 p.m. ET 2/8/18.

Docket Numbers: ER18–679–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Queue Position #AA2–017, Original Service Agreement No. 4881 to be effective 12/20/2017.

Filed Date: 1/19/18.
Accession Number: 20180119–5029.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER18–680–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Revisions to OATT Sch. 12-Appx and Appx A re: Linden/HTP's cost responsibility to be effective 1/1/2018.
Filed Date: 1/19/18.
Accession Number: 20180119–5069.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER18–681–000.
Applicants: NorthWestern Corporation.
Description: Tariff Cancellation: Notice of Cancellation: SA 793, Utilities Agreement with MDT (West Laurel) to be effective 1/20/2018.
Filed Date: 1/19/18.
Accession Number: 20180119–5071.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER18–682–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: 3 Phases Renewables (OR D.A.) to be effective 1/1/2018.
Filed Date: 1/19/18.
Accession Number: 20180119–5079.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER18–683–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA and Distrib Serv Agmt, Difwind Farms Limited V Project SA 991 992 WDT1130QFC to be effective 1/17/2018.
Filed Date: 1/19/18.
Accession Number: 20180119–5097.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER18–684–000.
Applicants: Nevada Power Company.
Description: Initial rate filing: Rate Schedule No. 158 NPC/Desertlink O & M Agree to be effective 3/21/2018.
Filed Date: 1/19/18.
Accession Number: 20180119–5135.
Comments Due: 5 p.m. ET 2/9/18.

Docket Numbers: ER18–685–000.
Applicants: Nevada Power Company.
Description: Initial rate filing: Rate Schedule No. 159 NPC/Desertlink License & Sale Agr to be effective 3/21/2018.
Filed Date: 1/19/18.
Accession Number: 20180119–5144.
Comments Due: 5 p.m. ET 2/9/18.

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: January 19, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01586 Filed 1–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2727–000]

Black Bear Hydro Partners, LLC.; Notice of Authorization for Continued Project Operation

On December 30, 2015, Black Bear Hydro Partners, LLC., licensee for the Ellsworth Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Ellsworth Hydroelectric Project facility is located on the Union River in Hancock County, Maine.

The license for Project No. 2727 was issued for a period ending December 31, 2017. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2727 is issued to the licensee for a period effective January 1, 2018 through December 31, 2018 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before December 31, 2018, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, Black Bear Hydro Partners, LLC., is authorized to continue operation of the Ellsworth Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Dated: January 19, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01588 Filed 1–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3342–022]

Briar Hydro Associates; Notice of Application Accepted for Filing, Soliciting Comments, Protests and Motions To Intervene

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Extension of License Term.
b. *Project No.:* P–3342–022.
c. *Date Filed:* January 9, 2018.
d. *Licensee:* Briar Hydro Associates.
e. *Names and Locations of Project:* Penacook Lower Falls Hydroelectric Project No. 3342, located on the Contoocook River, in Merrimack County, New Hampshire.
f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
g. *Licensee Contact Information:* Andrew J. Locke, Briar Hydro Associates, c/o Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; Telephone: (617) 367–0032; Email: *alocke@essexhydro.com.*

h. *FERC Contact:* Mr. Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov.*

i. Deadline for filing comments, motions to intervene and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include the docket number P–3342–022.

j. *Description of Proceeding:* The licensee, Briar Hydro Associates, LLC, requests that the Commission extend the license term for its Penacook Lower Falls Project No. 3342, approximately 2 years, from October 31, 2022 to November 30, 2024, to synchronize the license expiration date with the licensee's two other projects, so that they can be relicensed concurrently. The licensee's other two projects, the Penacook Upper Falls Project No. 6689 and the Rolfe Canal Project No. 3240, have licenses that expire on November 30, 2024 and all three projects are located on the Contoocook River.

The licensee states that extending the license terms for the project would allow for better coordination during relicensing for all of its projects. The licensee's request includes correspondence from the U.S. Fish and Wildlife Service and National Marine Fisheries Service supporting the license extension. The licensee has filed a Notice of Intent and Pre-Application Document for applying for a new license for the project which the licensee states they will withdraw should the license extension be granted.

k. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–3342–022) excluding the last three digits in the docket number field to access the notice. 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, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, 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 comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (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. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the request for the extension of the license term. 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. If an intervener 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. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: January 19, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01589 Filed 1–26–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Friendswood Energy Genco, LLC, EG18–1–000; NTE Carolinas II, LLC, EG18–2–000; Bladen Solar, LLC, EG18–3–000; Bullock Solar, LLC, EG18–4–000; Voyager Wind II, LLC, EG18–5–000; PowerFin ASL 1, LLC, EG18–6–000; PowerFin SolarMundo, LLC, EG18–7–000 ; 54KR 8me LLC, EG18–8–000; Capricorn Bell Interconnection, LLC, EG18–9–000; CXA La Paloma, LLC, EG18–10–000; APV Renaissance Opco, LLC, EG18–11–000; EGP Stillwater Solar PV II, LLC, EG18–12–000; EGP Stillwater Solar, LLC, EG18–13–000]

Notice of Effectiveness of Exempt Wholesale Generator Status

Take notice that during the month of December 2017, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2017).

Dated: January 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–01526 Filed 1–26–18; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Candidates To Serve as Non-Federal Members of the Federal Accounting Standards Advisory Board

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) is currently seeking candidates (candidates must not currently be federal employees) to serve as non-federal members of FASAB. FASAB is the body designated to establish generally accepted accounting principles for federal government entities. Generally, non-federal Board members are selected from the general financial community, the accounting

and auditing community, or the academic community.

FASAB meets in Washington, DC, for two days every other month. Members are compensated based on current federal executive salaries. The member designated as chairperson of the board is typically compensated for 40 hours during each two-week pay period. Other members are typically compensated for 24 days per year. Travel expenses are reimbursed in accordance with federal travel regulations.

Responses may be submitted by email to *paynew@fasab.gov* or by fax to 202–512–7366. Responses may also be sent to: Ms. Wendy Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW, Mailstop 1155, Washington, DC 20548.

Please submit your resume by March 5, 2018. Additional information about FASAB can be obtained from its website at *http://www.fasab.gov.*

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, 441 G Street NW, Mailstop 1155, Washington, DC 20548, or call 202–512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: January 24, 2018.

Wendy Payne,

Executive Director.

[FR Doc. 2018–01617 Filed 1–26–18; 8:45 am]

BILLING CODE 1610–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

ACTION: Notice and request for comment.

SUMMARY: The ASC, as part of continuing efforts to reduce paperwork and respondent burden, invites the general public, and State and Federal agencies to take this opportunity to comment on a new proposed information collection. Under the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid control number issued by the Office of Management and Budget. The ASC is soliciting comment concerning a proposed collection method entitled ''Reporting information for the AMC Registry.''

DATES: Comments must be received by March 30, 2018.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: https://www.Regulations.gov.* Follow the instructions for submitting comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: webmaster@asc.gov.*
- *Fax:* (202) 289–4101.
- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401 H Street NW, Suite 760, Washington, DC 20005.
- *Hand Delivery/Courier:* 1401 H Street NW, Suite 760, Washington, DC 20005.

Additionally, you should send a copy of your comments to the ASC Desk Officer, 3139–NEW, by mail to U.S. Office of Management and Budget, 725 17th Street NW, Room 10235, Washington, DC 20503, or by fax to (202) 395–6974.

In general, the ASC will enter all comments received on the Federal eRulemaking (*Regulations.gov*) website without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC's website at *https://www.asc.gov* (follow link in ''What's New'') as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to *https://www.Regulations.gov.* Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the ASC office, 1401 H Street NW, Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1401 H Street NW, Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) [1] included amendments to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [2] (Title XI). Section 1103 of Title XI,[3] *Functions of Appraisal Subcommittee,* was amended by the Dodd-Frank Act to require the ASC to maintain a national registry of appraisal management companies (AMCs) of those AMCs that are either:

(1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) are operating subsidiaries of a Federally regulated financial institution (Federally regulated AMCs). Section 1117 of Title XI,[4] *Establishment of State appraiser certifying and licensing agencies,* was amended by the Dodd-Frank Act to include additional duties for States, if they so choose, to: (1) Register and supervise AMCs; and (2) add information about AMCs in their State to the national registry of AMCs (AMC Registry). Section 1124 of the Dodd-Frank Act required the federal banking agencies, the Federal Housing Finance Agency, and the Consumer Financial Protection Bureau (collectively, the Agencies) to jointly promulgate a rule establishing minimum requirements for the State supervision and registration of AMCs, and to promulgate regulations for the reporting of activities of AMCs to the ASC.[5] The Agencies' implementing regulations provide that each State electing to register AMCs pursuant to Title XI must submit information to the ASC concerning AMCs that operate in the State, including AMCs' violations of law, disciplinary and enforcement actions against AMCs, and other relevant information about AMCs' operations.[6] The Agencies' implementing regulations also provide that a Federally regulated

[1] Public Law 111–203, 124 Stat. 1376.

[2] Public Law 101–73, 103 Stat. 183.

[3] 12 U.S.C. 3332.

[4] 12 U.S.C. 3346.

[5] *See* 12 U.S.C. 3332(a), (e).

[6] *See* 12 CFR 34.216, 34.213(a)(7); 12 CFR 225.196, 225.193(a)(7); 12 CFR 323.14, 323.11(a)(7); 12 CFR 1222.26, 1222.23(a)(7).

AMC must report to the State or States in which it operates the reporting requirements established by the ASC.[7] This proposal is being issued pursuant to these requirements.

Title: Reporting information for the AMC Registry.

OMB Number: New Collection.

Description: The Dodd-Frank Act requires the ASC to maintain the AMC Registry of those AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) are Federally regulated AMCs. In order for a State that elects to register and supervise AMCs to enter an AMC on the AMC Registry, the following items are proposed to be required entries by the State via extranet application on the AMC Registry:

State Abbreviation
State Registration Number for AMC
Employer Identification Number (EIN)
AMC Name
  Street Address
  City
  State
  Zip
License or Registration Status
  Effective Date
  Expiration Date
AMC Type (State or multi-State)
Disciplinary Action
  Effective Date
  Expiration Date
Number of Appraisers (for invoicing registry fee)

States listing AMCs on the AMC Registry will enter the above information for each AMC for the initial entry only. After the initial entry, the information is retained on the AMC Registry, and will only need to be amended if necessary by the State. The estimate for burden assumes that 50 States will elect to supervise and register AMCs, and that the average number of AMCs in a State will be 150. This estimate is based on information currently available, and will be high for some States, and low for other States. The initial entry by a State on a single AMC is estimated to take 15 minutes. Subsequent entries to amend information on an AMC, annually or periodically, are estimated to be negligible.

Type of Review: Regular.

Affected Public: States.

Estimated Number of Respondents: 50 States.

Estimated Burden per Response: 15 minutes.

Frequency of Response: Annually and on occasion.

[7] *See* 12 CFR 34.215(c); 12 CFR 225.195(c); 12 CFR 323.13(c); 12 CFR 1222.25(c).

Estimated Total Annual Burden: 1,875 hours.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

By the Appraisal Subcommittee.

Dated: January 19, 2018.

Arthur Lindo,

Chairman.

[FR Doc. 2018–01571 Filed 1–26–18; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 23, 2018.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. Old Line Bancshares, Inc., Bowie, Maryland; to acquire 100 percent of the voting shares of Bay Bancorp, Inc., Columbia, Maryland, and thereby indirectly acquire Bay Bank, FSB, Columbia, Maryland, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, January 24, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–01624 Filed 1–26–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than February 23, 2018.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to *Comments.applications@rich.frb.org.*

1. *H Bancorp, LLC, Irvine, California;* to acquire 7.5 percent of the voting shares of Old Line Bancshares, Inc., Bowie, Maryland, and thereby indirectly acquire Old Line Bank, Bowie, Maryland.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Mid-Illinois Bancshares, Inc., Mattoon, Illinois*; to acquire 100 percent of the voting shares of First BancTrust Corporation, Champaign, Illinois, and thereby indirectly acquire First Bank & Trust IL, Paris, Illinois.

C. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Saber Investments, Inc., Irvington, Kentucky*; to become a bank holding company by acquiring voting shares of Bancorp of Lexington, Inc., Lexington, Kentucky and thereby indirectly acquire Bank of Lexington, Inc., Lexington, Kentucky.

2. *First Breckinridge Bancshares, Inc. Irvington, Kentucky*; to acquire through its subsidiary, Saber Investment Inc., 81 percent of the voting shares of Bancorp of Lexington, Inc, Lexington, Kentucky and thereby indirectly acquire Bank of Lexington, Inc., Lexington, Kentucky.

3. *Meade Bancorp, Inc. Brandenburg, Kentucky*; to acquire through its subsidiary, Saber Investment Inc., 19 percent of the voting shares of Bancorp of Lexington, Inc., Lexington, Kentucky, and thereby indirectly acquire Bank of Lexington, Inc., Lexington, Kentucky.

D. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Equity Bancshares, Inc., Wichita, Kansas*; to acquire, through its subsidiary, Oz Merger Sub, Inc., Topeka, Kansas, 100 percent of the voting shares of Kansas Bank Corporation, and thereby acquire First National Bank of Liberal, both of Liberal, Kansas.

2. *Equity Bancshares, Inc., Wichita, Kansas*; to acquire, through its subsidiary, Abe Merger Sub, Inc., Jefferson City, Missouri, 100 percent of the voting shares of Adams Dairy Bancshares, Inc., and thereby acquire Adams Dairy Bank, both of Blue Springs, Missouri.

Board of Governors of the Federal Reserve System, January 24, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–01623 Filed 1–26–18; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of Section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by Section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $34,395,000 for Section 8(a)(1), and $3,439,500 for Section 8(a)(2)(A).

DATES: Applicable Date: January 29, 2018.

FOR FURTHER INFORMATION CONTACT: James F. Mongoven, Bureau of Competition, Office of Policy and Coordination, (202) 326–2879.

Authority: 15 U.S.C. 19(a)(5).

Donald S. Clark,

Secretary.

[FR Doc. 2018–01578 Filed 1–26–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 172 3197]

Bollman Hat Company and SaveAnAmericanJob, LLC, Jointly Doing Business as American Made Matters; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 23, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of Bollman Hat Company and SaveAnAmericanJob, LLC, jointly d/b/a American Made Matters, File No. 172 3197'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/bollmanhatconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Bollman Hat Company and SaveAnAmericanJob, LLC, jointly d/b/a American Made Matters, File No. 172 3197'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Julia Solomon Ensor (202–326–2377) and Crystal Ostrum (202–326–3405), Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 23, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider

your comment, we must receive it on or before February 23, 2018. Write ''In the Matter of Bollman Hat Company and SaveAnAmericanJob, LLC, jointly d/b/a American Made Matters, File No. 172 3197'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

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

If you prefer to file your comment on paper, write ''In the Matter of Bollman Hat Company and SaveAnAmericanJob, LLC, jointly d/b/a American Made Matters, File No. 172 3197'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 23, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Bollman Hat Company and SaveAnAmericanJob, LLC, jointly d/b/a American Made Matters (''respondents'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves respondents' marketing, sale, and distribution of hats with claims that the products are of U.S.-origin, and respondents' marketing, sale, and distribution of memberships in their ''American Made Matters'' (''AMM'') program to companies wishing to make U.S.-origin claims for their products.

According to the FTC's complaint, respondents represented that their products are ''Made in USA.'' In fact, many of the respondents' hats are wholly imported, and others contain significant imported content. Therefore, this representation was false or misleading.

The complaint further alleges that the AMM seal represents by implication that respondents' products have been endorsed or certified by an independent third party. AMM, however, is a fictitious name for respondents, who created the AMM seal and use it in connection with the sale of their own products. Therefore, these representations were false or misleading.

The complaint next alleges that respondents made implied claims that products and entities using their AMM seal were independently and objectively evaluated for compliance with respondents' certification standard. These claims were false or misleading.

Finally, the complaint alleges that respondents claimed that all AMM members sell products that are all or virtually all made in the United States. Because respondents awarded the AMM certification to any company that self-certified that at least 50% of the cost of one of their products was incurred in the United States, with final assembly or transformation in the United States, this claim was false or misleading, or unsubstantiated at the time it was made.

Based on the foregoing, the complaint alleges that respondents engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Consistent with the FTC's Enforcement Policy Statement on U.S. Origin Claims, Part I prohibits respondents from making U.S.-origin claims for their products unless either: (1) The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; or (2)

a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing.

Part II prohibits respondents from making any representation about any user or endorser of any product, package, certification, service, practice, or program, unless respondents disclose clearly and conspicuously any material connection between a user or endorser and (1) respondents or (2) any other individual or entity affiliated with the product or service.

Part III prohibits respondents from representing, expressly or by implication, that a product or service meets respondents' certification standard, unless: (1) An entity with no material connection to that covered entity conducted an independent and objective evaluation to confirm that the certification standard was met; or (2) respondents' certification and marketing materials disclose clearly and conspicuously that the certification standard may be met through self-certification.

Part IV prohibits respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and respondents have a reasonable basis substantiating the representation. In the alternative, for country-of-origin representations made through AMM marketing materials, respondents may make such claims if (1) they neither know or have reason to know that the self-certification is misleading, and (2) disclose clearly and prominently that products or services meet the certification standard through self-certification.

Part V prohibits respondents from providing third parties with the means and instrumentalities to make the claims prohibited in Parts I, III, or IV.

Parts VI through IX are reporting and compliance provisions. Part VI requires respondents to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part VII requires the filing of compliance reports within one year after the order becomes final and within 14 days of any change that would affect compliance with the order. Part VIII requires respondents to maintain certain records, including records necessary to demonstrate compliance with the order. Part IX requires respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview respondents' personnel.

Finally, Part X is a ''sunset'' provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–01546 Filed 1–26–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 7A of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976 required by the 2000 amendment of Section 7A of the Clayton Act.

DATES: February 28, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Federal Trade Commission, Bureau of Competition, Premerger Notification Office, 400 7th Street SW, Room #5301, Washington, DC 20024, Phone (202) 326–3100.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Public Law 94–435, 90 Stat. 1390 (''the Act''), requires all persons contemplating certain mergers or acquisitions, which meet or exceed the jurisdictional thresholds in the Act, to file notification with the Commission and the Assistant Attorney General and to wait a designated period of time before consummating such transactions. Section 7A(a)(2) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product, in accordance with Section 8(a)(5). Note that while the filing fee thresholds are revised annually, the actual filing fees are not similarly indexed and, as a result, have not been adjusted for inflation in over a decade. The new thresholds, which take effect 30 days after publication in the **Federal Register**, are as follows:

Subsection of 7A	Original threshold (million)	Adjusted threshold (million)
7A(a)(2)(A)	$200	$337.6
7A(a)(2)(B)(i)	50	84.4
7A(a)(2)(B)(i)	200	337.6
7A(a)(2)(B)(ii)(i)	10	16.9
7A(a)(2)(B)(ii)(i)	100	168.8
7A(a)(2)(B)(ii)(II)	10	16.9
7A(a)(2)(B)(ii)(II)	100	168.8
7A(a)(2)(B)(ii)(III)	100	168.8
7A(a)(2)(B)(ii)(III)	10	16.9
Section 7A note: Assessment and Collection of Filing Fee [1] (3)(b)(1)	100	168.8
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(2)	100	168.8
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(2)	500	843.9
Section 7A note: Assessment and Collection of Filing Fees (3)(b)(3)	500	843.9

[1] Public Law 106–553, Sec. 630(b) amended Sec. 18a note.

Any reference to these thresholds and related thresholds and limitation values in the HSR rules (16 CFR parts 801–803) and the Antitrust Improvements Act Notification and Report Form (''the HSR Form'') and its Instructions will also be adjusted, where indicated by the term ''(as adjusted)'', as follows:

Original threshold	Adjusted threshold (million)
$10 million	$16.9
$50 million	84.4
$100 million	168.8
$110 million	185.7
$200 million	337.6
$500 million	843.9
$1 billion	1,687.8

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–01579 Filed 1–26–18; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 171 0126]

Seven & iHoldings Co., Ltd., a Corporation; 7-Eleven, Inc., a Corporation; and Sunoco LP, a Limited Partnership; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 20, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of Seven & iHoldings Co., Ltd. File No. 1710126'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/sevensunococonsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Seven & iHoldings Co., Ltd. File No. 1710126'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Eric Olson (202–326–2349), Bureau of Competition, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 19, 2018), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 20, 2018. Write ''In the Matter of Seven & iHoldings Co., Ltd. File No. 1710126'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *https://www.ftc.gov/policy/public-comments.*

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

If you prefer to file your comment on paper, write ''In the Matter of Seven & iHoldings Co., Ltd. File No. 1710126'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 20, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Seven & i Holdings Co., Ltd. and 7-Eleven, Inc. (collectively, ''7-Eleven''), and Sunoco LP (''Sunoco'') (collectively, the ''Respondents''). The Consent Agreement is designed to remedy the anticompetitive effects that likely would result from 7-Eleven's proposed acquisition of certain Sunoco retail fuel assets (the ''Transaction'').

Absent a remedy, the Transaction would raise competitive concerns in 76 local markets in 20 metropolitan statistical areas (''MSAs''). Under the terms of the proposed Consent Agreement, 7-Eleven must sell retail fuel outlets in some local markets to Sunoco and reject Sunoco retail fuel outlets in other local markets pursuant to the Respondents' asset purchase agreement (thereby allowing Sunoco to retain these assets). The divestitures must be completed no later than 90 days after the closing of 7-Eleven's acquisition of Sunoco. The Commission and Respondents have agreed to an Order to Maintain Assets that requires Respondents to operate and maintain each 7-Eleven divestiture outlet in the normal course of business through the date Sunoco acquires the outlet.

The Commission has placed the proposed Consent Agreement on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and any comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make it final.

II. The Respondents

Respondent Seven & iHoldings Co., Ltd, a publicly traded company headquartered in Tokyo, Japan, operates convenience stores and retail fuel outlets throughout the United States and the world. 7-Eleven's U.S. network consists of approximately 8,500 stores located in 35 states. More than 1,000 locations are company-operated, making 7-Eleven one of the largest convenience store operators in terms of company-owned stores and the second-largest chain overall in the country. 7-Eleven convenience store locations operate under the 7-Eleven banner, while its retail fuel outlets operate under a variety of company and third-party brands.

Respondent Sunoco operates convenience stores and retail fuel outlets in the United States and Canada. With more than 1,300 convenience stores and retail fuel outlets in the United States, Sunoco is one of the largest chains in the country. Sunoco's U.S. convenience stores operate primarily under the APlus and Stripes banners, while its retail fuel outlets operate under a variety of company and third-party brands. Sunoco also has an extensive wholesale fuel business that supplies more than 6,800 third-party outlets.

III. The Proposed Acquisition

On April 6, 2017, 7-Eleven, through its wholly owned subsidiaries 7-Eleven, Inc. and SEI Fuel Services, Inc. (''SEI Fuel Services''), entered into an agreement with Sunoco to acquire approximately 1,100 retail fuel outlets for approximately $3.3 billion. Sunoco would continue to operate its wholesale business and approximately 200 retail fuel outlets following the Transaction. SEI Fuel Services would enter into a 15-year fuel supply agreement with Sunoco, LLC as a part of the Transaction.

The Commission's Complaint alleges that the Transaction, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and that the asset purchase agreement constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition for the retail sale of gasoline and the retail sale of diesel in 76 local markets across 20 MSAs.

IV. The Retail Sale of Gasoline and Diesel

The Commission's Complaint alleges that relevant product markets in which to analyze the Transaction are the retail sale of gasoline and the retail sale of diesel. The retail sale of gasoline and the retail sale of diesel constitute separate relevant markets because the two are not interchangeable. Consumers require gasoline for their gasoline-powered vehicles and can purchase gasoline only at retail fuel outlets. Likewise, consumers require diesel for their diesel-powered vehicles and can purchase diesel only at retail fuel outlets.

The Commission's Complaint alleges the relevant geographic markets in which to assess the competitive effects of the Transaction are 76 local markets within the following MSAs: Boston-Cambridge-Quincy, MA–NH; Brownsville-Harlingen, TX; Buffalo-Niagara Falls, NY; Cape Coral-Fort Myers, FL; Corpus Christi, TX; Deltona-Daytona Beach-Ormond Beach, FL; Killeen-Temple-Fort Hood, TX; Laredo, TX; McAllen-Edinburg-Mission, TX; Miami-Fort Lauderdale-Pompano Beach, FL; Gettysburg, PA; Palm Bay-Melbourne-Titusville, FL; Pittsburgh, PA; Richmond, VA; San Antonio, TX; Sarasota-Bradenton-Venice, FL; Tampa-St. Petersburg-Clearwater, FL; Rio Grande City-Roma, TX; Victoria, TX; and Washington-Arlington-Alexandria, DC–VA–MD–WV. Each particular geographic market is unique, with factors such as commuting patterns, traffic flows, and outlet characteristics playing important roles in determining the scope of the geographic market. Retail fuel markets are highly localized and can range up to a few miles in size.

The Transaction would substantially increase the market concentration in each of the 76 local markets, resulting in highly concentrated markets. In 18 local markets, the Transaction would result in a monopoly. In 39 local markets, the Transaction would reduce the number of independent market participants from three to two. In 19 local markets, the Transaction would reduce the number of independent market participants from four to three.

According to the Commission's Complaint, the Transaction would reduce the number of independent market participants in each market to three or fewer. The Transaction would thereby substantially lessen competition in these local markets by increasing the likelihood that 7-Eleven would unilaterally exercise market power and by increasing the likelihood of successful coordination among the remaining firms. Absent relief, the Transaction would likely result in higher prices in each of the 76 local markets.

Entry into each relevant market would not be timely, likely, or sufficient to deter or counteract the anticompetitive

effects arising from the Transaction. Significant entry barriers include the availability of attractive real estate, the time and cost associated with constructing a new retail fuel outlet, and the time associated with obtaining necessary permits and approvals.

V. The Proposed Consent Agreement

The proposed Consent Agreement remedies the Transaction's anticompetitive effects by requiring 7-Eleven to sell retail fuel outlets in some local markets to Sunoco and reject Sunoco retail fuel outlets in other local markets pursuant to the Respondents' asset purchase agreement (thereby allowing Sunoco to retain these assets). Sunoco intends to convert the acquired or retained stations from company-operated sites to commission agent sites. This remedy would preserve competition as it is today, ensure that the divestiture assets go to a viable, large-scale competitor, and reduce the risks and costs associated with asset integration.

The Commission is satisfied that allowing Sunoco to acquire or retain retail fuel stations and transition them to commission agent sites is an appropriate remedy. Most importantly, the proposed remedy preserves competition in each local market. Indeed, as Sunoco controls retail fuel pricing at both its company-operated stations and its commission agent stations, Sunoco and 7-Eleven would continue as independent retail fuel competitors in each local market. Moreover, Sunoco is a large, viable competitor capable of maintaining the competitive landscape in each local market. Finally, the proposed Consent Agreement reduces the uncertainty and costs relating to integration since Sunoco already is familiar with the majority of the stations at issue.

The proposed Consent Agreement also requires that for up to six months following the divestiture, with up to an additional twelve months at the buyer's option, 7-Eleven make available transitional services, as needed, to assist the buyer of each divestiture asset. The buyer may extend the period for an additional twelve months, but only with Commission approval.

In addition to requiring outlet divestitures, the proposed Consent Agreement also requires 7-Eleven to provide the Commission (and Florida, Texas, or Virginia, where applicable) notice before acquiring designated outlets in the 76 local areas for ten years. The prior notice provision is necessary because acquisitions of the designated outlets likely would raise competitive concerns and may fall below the HSR Act premerger notification thresholds.

The proposed Consent Agreement contains additional provisions designed to ensure the effectiveness of the proposed relief. For example, Respondents have agreed to an Order to Maintain Assets that will issue at the time the proposed Consent Agreement is accepted for public comment. The Order to Maintain Assets requires Respondents to operate and maintain each divestiture outlet in the normal course of business through the date the Respondents' complete divestiture of the outlet, thereby maintaining the economic viability, marketability, and competitiveness of each divestiture asset. During this period, and until such time as the buyer (or buyers) no longer requires transitional assistance, the Order to Maintain Assets authorizes the Commission to appoint an independent third party as a monitor to oversee the Respondents' compliance with the requirements of the proposed Consent Agreement.

The proposed Consent Agreement also requires Sunoco to take steps to ensure that its employees in charge of setting retail fuel prices at the acquired or retained retail fuel outlets do not have access to confidential information about Sunoco's post-Transaction wholesale supply of 7-Eleven's retail fuel stations. To ensure appropriate firewalls remain in place for the duration of the Respondents' fuel supply agreement, the proposed Consent Agreement has a term of fifteen years.

The purpose of this analysis is to facilitate public comment on the proposed Consent agreement, and the Commission does not intend this analysis to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2018–01547 Filed 1–26–18; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''Outcome Measure Repository (OMR).''

DATES: Comments on this notice must be received by March 30, 2018.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by emails at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Outcome Measure Repository

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites public comment on this proposed information collection. In accordance with the agency's mission, AHRQ developed the Outcome Measure Repository (OMR), a web-based database with the purpose of providing a readily available public resource that includes definitions of outcome measures associated with patient registries. The information being collected in each OMR record will be visible to the public and readily available for public use.

This effort is in alignment the AHRQ Registry of Patient Registries (RoPR), which provides a centralized point of collection for information about all patient registries in the United States. The RoPR furthers AHRQ's goals to enhance the description of the quality, appropriateness, and effectiveness of health services, and patient registries in particular, in a more readily available, central location by enhancing patient registry information, extracted from ClinicalTrials.gov or modeled based on the ClinicalTrials.gov data elements.

The development of the OMR continues these efforts, and aims to achieve the following objectives:

(1) Provide a searchable database of outcome measures used in patient registries in the United States to promote collaboration, reduce redundancy, and improve transparency;

(2) Facilitate the use of standardized data elements and outcome measures; and

(3) Facilitate the identification of potential areas of harmonization.

The OMR system will be linked to RoPR in two key ways. First, users entering registry information in the RoPR system will be able to associate OMR measure records with the RoPR registry records. Second, measure stewards listing a measure record in the OMR system will be able to associate the measure with an existing patient registry in RoPR. Users will be able to access both databases with a single account (*i.e.,* users with a RoPR account will be able to log in/access the OMR using that account, and vice versa).

This study is being conducted by AHRQ through its contractor, L&M Policy Research and subcontractors Truven Health Analytics, an IBM Company, and OM1, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the outcomes, cost, cost-effectiveness, and use of health care services and access to such services, and with respect to health statistics and database development. 42 U.S.C. 299a(a)(3) and (8).

Method of Collection

To achieve the three objectives of this project, information on outcome measures and related sub-elements from measure stewards who populate the OMR database system will be collected. Users of the OMR will primarily fall into two types: those stewarding a registry who will provide information on the data they collect in their registry, and those who will search for information about how a particular type of outcome measure is collected within patient registries. For the OMR to succeed, the first group of users—registry stewards—must be able to enter information into the system easily and efficiently. The second group of users—parties interested in seeking information on outcome measures—must be able to find sufficient information efficiently on outcome measures to identify items for use in their own registry or research. Meeting the needs of both sets of users is an important consideration in the design of the OMR.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to contribute to the OMR.

Based on the number of respondents submitting RoPR records in 2016 (65 respondents), it is expected that a similar number of stakeholders (approximately 70 respondents) will provide measure information in the OMR on an annual basis.

All users will complete required fields on the ''Measure Profile'' form. Some users may also choose to complete the ''Sub-Element Profile'' form for one or more sub-elements associated with a given measure although this is not required. The number of sub-elements for a given measure is expected to vary widely. Many users may not provide sub-element information, while others may include five or more. It is expected that on average, measure stewards will enter information for two sub-elements.

In September 2017, Truven Health Analytics consulted with several stakeholders and used a sample of existing measure definitions to estimate the time required to enter all OMR fields. The sample included measures representing a range of depth and complexity. For example, one measure record contained no sub-element information, only required fields, and short responses to open text fields (*e.g.,* title and description). Another record contained two sub-elements, all optional fields, and longer responses to open text fields.

As a result of the knowledge gained during these processes, it is estimated that it will take users 16 minutes, on average, to enter manually the additional fields added through the self-registration process (an average of 12 minutes to complete the Measure Profile form and 4 minutes to complete two Sub-Element Profile sub-forms). If 70 respondents complete the Measure Profile form and two Sub-Element Profile sub-forms, the estimated annualized burden would be 18.7 hours total.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses er respondent	Minutes per response	Total burden hours
OMR Measure Profile/Sub-Element Profile	70	1	16/60	18.7
Total	70	1	16/60	18.7

Exhibit 2 shows the estimated cost burden associated with the respondent's time to participate in the OMR. The total cost burden to respondents is estimated at an average of $711.72 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate †	Total cost burden
OMR Measure Profile/Sub-Element Profile	70	18.7	$38.06	$711.72
Total	70	18.7	38.06	711.72

* Based on the mean wages for Healthcare Practitioners and Technical Occupations, 29–0000.

National Compensation Survey: Occupational Wages in the United States May 2016, ''U.S. Department of Labor, Bureau of Labor Statistics.'' Available at: *https://www.bls.gov/oes/current/oes290000.htm*.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information

dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2018–01515 Filed 1–26–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–1122]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Congenital Heart Survey To Recognize Outcomes, Needs, and well-being (CH STRONG) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on 09/20/2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Congenital Heart Surveillance To Recognize Outcomes, Needs, and Well-being (CHSTRONG) (OMB Control Number 0920–1122,Expiration 07/31/2017)—Reinstatement with Change—National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Congenital heart defects (CHDs) are the most common type of structural birth defects, affecting approximately 1 in 110 live-born children. In prior decades, many CHDs were considered fatal during infancy or childhood, but with tremendous advances in pediatric cardiology and cardiac surgery, at least 85% of patients now survive to adulthood and there are approximately 1.5 million adults with CHD living in the United States.

With vast declines in mortality from pediatric heart disease over the past 30 years, it is vital to evaluate long-term outcomes and quality of life issues for adults with CHD. However, U.S. data on long-term outcomes, quality of life issues, and comorbidities of adults born with CHD are lacking. U.S. data is needed to provide insight into the public health questions that remain for this population and to develop services and allocate resources to improve long-term health and wellbeing.

The initial request for this project was one year, but there were delays in recruitment due to challenges with tracking and tracing individuals for correct addresses. The three sites, Metro-Atlanta Congenital Defect Program (MACDP), University of Arizona, and University of Arkansas, decided to conduct more intensive and time-consuming tracking and tracing to identify more accurate contact information for all eligible individuals and for those individuals whose materials were returned as undeliverable. At MACDP, this required modifying a contract to include the task of tracking and tracing 2,313 individuals. While the large majority of tracking and tracing at all three sites took place in the first year of the project, including that for the 2,313 individuals above, an additional 1,115 mothers of eligible individuals need to be sent a contact information form to assist to locating their child. Due to these delays and changes in the recruitment process, CH STRONG data collection is expected to last an additional 24 months and conclude two years after receiving OMB approval.

Since July 2016, the three CH STRONG sites identified 9,228 individuals with CHD through their respective birth defects registries. The CH STRONG project has successfully tracked and traced 6,417 individuals for current contact information. To date, the three sites have sent recruitment materials to 3,651 individuals (40% of all individuals).

The purpose of this survey is to collect information on barriers to health care, quality of life, social and educational outcomes, and transition of care from childhood to adulthood among adults born with CHD. Currently, Congress has appropriated approximately $4 million per year to CDC to conduct surveillance among adults with CHD.

CH STRONG will survey adults aged 18 to 45 years of age and born with a CHD as identified through the birth defects surveillance system in three participating sites in the United States. The information collected from this cohort will be used to identify the healthcare, educational, and social service needs of adults with CHDs. Findings will be reported through peer-reviewed publications, presentations at state and national conferences, and webinars and reports to partners who work on CHD. The findings will be used by national, state and local organizations to allocate resources and develop services and programs for adults with CHD.

With the information collected in this survey, the CDC, along with its partners, will have information on healthcare

needs and quality of life among a U.S. population-based group of adults with CHD. This information will inform local, state, and federal resource allocation for services targeting U.S. adults with CHD, a group that is increasing in size and currently totals over 1.5 million. Additionally, clinicians will have information to counsel families of children with CHD on how to prepare for their child's future. Without the information, needed resource allocation and services for adults and information on long-term outcomes for children with CHD are unknown.

Across the three sites, there are 2,766 individuals that were tracked and traced in the first year of the project, but have not yet been recruited to participate in the survey. Additionally, mothers of 1,115 individuals will be sent a letter and contact information form to assist in reaching their child. It is estimated that half of these mothers will complete the form (n=556); 85% (n=474) in English and 15% (n=83) in Spanish. Therefore, with the 2,766 yet to be recruited, and the approximately 556 individuals that will be successfully tracked and traced through the mother's contact form, approximately 3,322 potential respondents will be contacted. It is expected that approximately 70%, or 2,325 respondents, will participate.

The total estimated annual burden hours are 563.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Individuals aged 18–45 years who were born with a congenital heart defect.	Survey questionnaire	1,661	1	20/60	554
English-speaking mothers of respondents.	Contact Information Form—English.	237	1	2/60	8
Spanish-speaking mothers of respondents.	Contact Information Form—Spanish.	42	1	2/60	1

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–01585 Filed 1–26–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–18KS]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Zika Reproductive Health and Emergency Response Call-Back Survey, 2018'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 27, 2017 to obtain comments from the public and affected agencies. CDC received one comment, which was unrelated to the proposed information collection. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Zika Reproductive Health and Emergency Response Call-Back Survey, 2018—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In May 2015, the World Health Organization reported the first local mosquito-borne transmission of Zika virus in the Western Hemisphere. Through the course of the outbreak, local transmission was identified in at least 50 countries or territories in the Americas; within the United States, widespread mosquito born transmission was documented in the territories of Puerto Rico and the U.S. Virgin Islands, with localized transmission in Florida and Texas. In addition, in the continental United States, there has been a large number of travel-related cases with infection occurring through mosquito born and sexual transmission.

In response to the Zika virus outbreak, and evidence that Zika virus infection during pregnancy is a cause of microcephaly and other adverse pregnancy and infant outcomes, CDC's Emergency Operations Center was activated to respond to the Zika virus outbreak from January 22, 2016–September 29, 2017. Given the adverse pregnancy and birth outcomes associated with Zika virus infection during pregnancy, through this response CDC developed specific recommendations for preconception

care and counseling. These recommendations included discussing travel plans with women and couples, screening them for possible exposure to Zika virus, and providing counseling on behaviors to prevent sexual and mosquito born transmission of Zika and Zika affected pregnancies.

As part of its assessment of emergency response efforts, CDC has surveyed women of reproductive age (18–49 years) in Puerto Rico, the U.S. territory with highest number of reported Zika virus cases and widespread local transmission. However, no information is available for other U.S. states and territories, including those with more localized transmission or a large number of travel related cases. Given the ongoing risk for Zika transmission in parts of the Americas and other areas of the world, there is a continuing need to screen women for potential exposure, particularly related to travel, which may put them at risk for additional infectious diseases that affect pregnancy.

While the Zika virus outbreak created the need to mount public health efforts specifically targeted to women of reproductive age, other natural disasters, such as the recent hurricanes in the Gulf Coast and Caribbean, also have been associated with adverse pregnancy outcomes and a wide range of needs that are unique to women and children. The recent hurricanes have thus highlighted the need for states to develop response plans specifically targeted to women of reproductive age (18–49 years) and for a wider range of public health emergencies. In response to current state needs to address preparedness, including reproductive health preparedness related to weather emergencies, CDC has adjusted its information collection instrument to address these circumstances.

The objectives of this information collection will be to provide states with the information they need to assess whether women in this age group: (1) Are being screened for potential travel related exposures and are they knowledgeable about recommendations for pregnancy timing in regards to Zika exposure; (2) are prepared for natural disasters and other types of public health emergencies including addressing their reproductive health needs in these circumstances. The jurisdictions included have all had widespread local transmission, are at high risk for local transmission, and/or have had travel-related cases. Additionally, many of the same jurisdictions have been affected by the recent hurricanes along the Gulf Coast and the Caribbean. There is no cost to respondents other than the time to participate. The total estimated burden hours are 2,030.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Average burden per response (in hours)
Women aged 18–49 years who completed the main BRFSS survey in:			
Alabama	Recruitment text	1976	1/60
Arizona	Recruitment text	2058	1/60
District of Columbia	Recruitment text	2466	1/60
Florida	Recruitment text	1903	1/60
Georgia	Recruitment text	1638	1/60
Louisiana	Recruitment text	2353	1/60
Maryland	Recruitment text	2669	1/60
Mississippi	Recruitment text	1985	1/60
New Mexico	Recruitment text	2636	1/60
New York	Recruitment text	2052	1/60
Texas	Recruitment text	1864	1/60
Guam	Recruitment text	737	1/60
U.S. Virgin Islands	Recruitment text	737	1/60
Women aged 18–49 years who agree to participate in the call-back survey in:			
Pilot State	Survey & Consent	100	10/60
Alabama	Survey & Consent	800	10/60
Arizona	Survey & Consent	800	10/60
District of Columbia	Survey & Consent	800	10/60
Florida	Survey & Consent	800	10/60
Georgia	Survey & Consent	800	10/60
Louisiana	Survey & Consent	800	10/60
Maryland	Survey & Consent	800	10/60
Mississippi	Survey & Consent	800	10/60
New Mexico	Survey & Consent	800	10/60
New York	Survey & Consent	800	10/60
Texas	Survey & Consent	800	10/60
Guam	Survey & Consent	400	10/60
U.S. Virgin Islands	Survey & Consent	400	10/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–01583 Filed 1–26–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2018–0006, NIOSH–306]

Draft—National Occupational Research Agenda for Services

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for comment.

SUMMARY: The National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of a draft NORA Agenda entitled *National Occupational Research Agenda for Services* for public comment. To view the notice and related materials, visit *https://www.regulations.gov* and enter CDC–2018–0006 in the search field and click ''Search.''

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- ADDRESSES
- FOR FURTHER INFORMATION CONTACT
- SUPPLEMENTARY INFORMATION:
- Background

DATES: Electronic or written comments must be received by March 30, 2018.

ADDRESSES: You may submit comments, identified by CDC–2018–0006 and docket number NIOSH–306, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All submissions received in response to this notice must include the agency name and docket number [CDC–2018–0006; NIOSH–306]. All relevant comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.* All information received in response to this notice will also be available for public examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 155, Cincinnati, OH 45226–1998.

FOR FURTHER INFORMATION CONTACT: Emily Novicki (*NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE, Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

SUPPLEMENTARY INFORMATION: The National Occupational Research Agenda (NORA) is a partnership program created to stimulate innovative research and improved workplace practices. The national agenda is developed and implemented through the NORA sector and cross-sector councils. Each council develops and maintains an agenda for its sector or cross-sector.

Background: The National Occupational Research Agenda for Services is intended to identify the research, information, and actions most urgently needed to prevent occupational illnesses and injuries in the Services sector. The National Occupational Research Agenda for Services provides a vehicle for stakeholders to describe the most relevant issues, gaps, and safety and health needs for the sector. Each NORA research agenda is meant to guide or promote high priority research efforts on a national level, conducted by various entities, including: Government, higher education, and the private sector.

The first National Occupational Research Agenda for Services was published in 2009 for the second decade of NORA (2006–2016) and updated in 2013 and 2015. This draft is an updated agenda for the third decade of NORA (2016–2026). The revised agenda was developed considering new information about injuries and illnesses, the state of the science, and the probability that new information and approaches will make a difference. As the steward of the NORA process, NIOSH invites comments on the draft *National Occupational Research Agenda for Services.* Comments expressing support or with specific recommendations to improve the Agenda are requested. A copy of the draft Agenda is available at *https://www.regulations.gov* (search Docket Number CDC–2018–0006).

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2018–01509 Filed 1–26–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–1078]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Public Health Associate Program (PHAP) Alumni Assessment to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 10, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Public Health Associate Program (PHAP) Alumni Assessment (OMB Control No. 0920–1078, Exp. 08/31/2018)—Revision—Office for State, Tribal Local and Territorial Support (OSTLTS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) works to protect America from health, safety and security threats, both foreign and in the U.S. CDC strives to fulfill this mission, in part, through a competent and capable public health workforce. One mechanism to developing the public health workforce is through training programs like the Public Health Associate Program (PHAP).

The mission of PHAP is to train and provide experiential learning to early career professionals who contribute to the public health workforce. PHAP targets recent graduates with bachelors or masters degrees who are beginning a career in public health. Each year, a new cohort of up to 200 associates is enrolled in the program. Associates are CDC employees who complete two-year assignments in a host site (*i.e.,* a state, tribal, local, or territorial health department or non-profit organization). Host sites design their associates' assignments to meet their agency's unique needs while also providing on-the-job experience that prepare associates for future careers in public health. At host sites, associates are mentored by members of the public health workforce (referred to as ''host site supervisors''). PHAP's goal is that alumni will seek employment within the public health system (*i.e.,* federal, state, tribal, local, or territorial health agencies, or non-governmental organizations), focusing on public health, population health, or health care.

Efforts to systematically evaluate PHAP began in 2014 and continue to date. Evaluation priorities focus on continuously learning about program processes and activities to improve the program's quality and documenting program outcomes to demonstrate impact and inform decision making about future program direction.

The purpose of this ICR is to collect information from two key stakeholder groups (host site supervisors and alumni) via two distinct surveys. The information collected will enable CDC to; a) learn about program processes and activities to improve the program's quality, and b) document program outcomes to demonstrate impact and inform decision making about future program direction. The results of these surveys may be published in peer reviewed journals and/or in non-scientific publications such as practice reports and/or fact sheets. The revision includes the following adjustments: Expansion from one data collection instrument to two. Specifically, rather than just collect information from PHAP Alumni to learn of career progression and achievements post-PHAP, the revised ICR will also include the collection of information from PHAP host site supervisors, another important stakeholder group. Data collected from this group of respondents will assess host site supervisors' perspectives of PHAP's value to their agencies and gather suggestions for improvement to ensure the program is most effective in facilitating a meaningful host site experience (and overall PHAP experience) for all involved. Together, data from these two stakeholder groups will inform improvements to PHAP and document evidence of quality and value in a more comprehensive way. The second adjustment to this ICR is a name change from ''Public Health Associate Program (PHAP) Alumni Assessment'' to ''Public Health Associate Program (PHAP): Assessment of Quality and Value.''

The respondent universe is comprised of PHAP host site supervisors and PHAP alumni. Both surveys will be administered electronically; a link to the survey websites will be provided in the email invitation. The PHAP Host Site Supervisor survey will be deployed every year to all active PHAP host site supervisors. The total estimated burden is 20 minutes per respondent per survey.

The PHAP Alumni Survey will be administered at three different time points (1 year post-graduation, 3 years post-graduation, and 5 years post-graduation) to PHAP alumni. Assessment questions will remain consistent at each administration (*i.e.,* 1 year, 3 years, or 5 years post-PHAP graduation). The language, however, will be updated for each survey administration to reflect the appropriate time period. The total estimated burden is 8 minutes per respondent per survey. The total annualized estimated burden is 213 hours. There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
PHAP Host Site Supervisors	PHAP Host Site Supervisor Survey	400	1	20/60
PHAP Alumni	PHAP Alumni Survey	600	1	8/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–01584 Filed 1–26–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Continued Use of the Low Income Home Energy Assistance Program (LIHEAP) Performance Data Form (LPDF).

OMB No.: 0970–0449.

Description: In response to the 2010 Government Accountability Office (GAO) report, *Low Income Home Energy Assistance Program—Greater Fraud Prevention Controls are Needed* (GAO–10–621), and in consideration of the recommendations issued by the Low Income Home Energy Assistance Program (LIHEAP) Performance Measures Implementation Work Group, the Office of Community Services (OCS) required the collection and reporting of the new performance measures by state LIHEAP grantees and the District of Columbia. Office of Management and Budget (OMB) approved the LIHEAP Performance Data Form (LPDF) in November 2014 (OMB Clearance No. 0970–0449) which expired on October 31, 2017. The LPDF provides for the collection of the following LIHEAP performance measures which are considered to be developmental as part of the Form.):

1. The benefit targeting index for high burden households receiving LIHEAP fuel assistance;

2. The burden reduction targeting index for high burden households receiving LIHEAP fuel assistance;

3. The number of instances where LIHEAP prevented a potential home energy crisis; and

4. The number of instances where LIHEAP benefits restored home energy.

All State LIHEAP grantees and the District of Columbia are required to complete the LPDF data through the Administration for Children and Families' web-based, data collection and reporting system, the Online Data Collection (OLDC) which is available at *https://home.grantsolutions.gov/home.* The reporting requirements will be described through OLDC.

The previously OMB-approved *LIHEAP Grantee Survey* on sources and uses of LIHEAP funds was added in 2014 to the LPDF in addition to the LIHEAP performance data. No substantive changes are being proposed for this data collection activity. A sample of the draft form is available for viewing here: *https://www.acf.hhs.gov/ocs/resource/funding-applications.*

Module 1. LIHEAP Grantee Survey (Required Reporting)

Module 1 of the LPDF will continue to require the following data from each state for the federal fiscal year:

- Grantee information,
- sources and uses of LIHEAP funds,
- average LIHEAP household benefits, and
- maximum income cutoffs for 4-person households for each type of LIHEAP assistance provided by each grantee for the fiscal year.

Module 2. LIHEAP Performance Measures (Required Reporting)

Module 2 of the LPDF will continue to require the following data from each state for the federal fiscal year:

- Grantee information,
- energy burden targeting,
- restoration of home energy service, and
- prevention of loss of home energy.

Module 3. LIHEAP Performance Measures (Optional Reporting)

Module 3 of the LPDF will continue to voluntarily collect the following additional information from each interested grantee for the federal fiscal year:

- Average annual energy usage,
- Unduplicated number of households using supplemental heating fuel and air conditioning,
- Unduplicated number of households that had restoration of home energy service, and
- Unduplicated number of households that had prevention of loss of home energy.

Based on the data collected in the LPDF:

- ACF will provide reliable and complete LIHEAP fiscal and household data to Congress in the Department's annual *LIHEAP Report to Congress.*
- ACF will calculate LHEAP performance measures and report the results through the annual budget development process and in LIHEAP's annual Congressional Justification (CJ) under the Government Performance and Results Act of 1993.
- ACF and grantees will be informed about the impact LIHEAP has with respect to LIHEAP households' home energy burden (the proportion of their income spent towards their home heating and cooling bills), including information on the difference between the average recipient and high burden recipients, restoring home energy service, and preventing loss of home energy service.
- ACF will be able to respond to questions on sources and uses of LIHEAP funds from the Congress, Department, OMB, White House, and other interested parties in a timely manner.
- LIHEAP grantees will be able to compare their own results to the results for other states, as well as to regional and national results, through the Data Warehouse of the LIHEAP Performance Management website as they manager their programs.

ACF published a **Federal Register** notice on October 11, 2017 soliciting 60 days of public comment on the renewal of the LIHEAP Performance Data Form without any changes and the continuation of requiring State grantees and the District of Columbia to collection the data collection annually. No comments were received during this timeframe.

Respondents: 50 State LIHEAP Grantees plus the District of Columbia LIHEAP Grantee are the direct respondents.

The table below shows the estimated annual reporting burden for the LPDF. These estimates are based on a small number of interviews with grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Module 1: Grantee Survey				
Grantees	51	1	30	1,530
Module 2: Performance Measures				
Grantees	51	1	150	7,650
Sub-Grantees (in states with sub-grantee managed systems)	100	1	8	800
Large Energy Vendors (largest 5 electric, 5 gas, 10 fuel oil, and 10 propane vendors per state—average).	1,530 (estimate)	1	8	12,240
Total Annual Burden Hours	1,732	1	Varies	22,220

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: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–01545 Filed 1–26–18; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Privacy Act of 1974; Matching Program

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation (HHS/ACF/OPRE), is providing notice of a re-established matching program between the Department of Veterans Affairs (VA) and State Public Assistance Agencies (SPAAs), ''Information Comparisons and Disclosure to Assist in Administering the Public Assistance Reporting Information System (PARIS) Program.'' The matching program provides VA pay and pension data to SPAAs, which SPAAs use to identify individual public assistance clients (applicants and recipients) who are receiving compensation and pension payments from VA, in order to determine their eligibility for benefits under HHS' Medicaid and Temporary Assistance to Needy Families (TANF) programs and the Department of Agriculture's Supplemental Nutrition Assistance Program (SNAP). HHS/ACF/OPRE facilitates the matching program, with computer assistance from the Department of Defense, Defense Manpower Data Center (DOD/DMDC).

DATES: The deadline for comments on this notice is February 28, 2018. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months (approximately February 25, 2018 through July 25, 2019) and within 3 months of expiration may be renewed for one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Interested parties may submit written comments on this notice, by mail or email, to the Director, Division of Data and Improvement, HHS/ACF Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20024, *thomas.miller@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: General questions about the matching program may be submitted to the Director, Division of Data and Improvement, HHS/ACF Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20024. Telephone: (202) 401–7237.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a), provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, federal agency records about individuals retrieved by name or other personal identifier) are matched with records of other federal or non-federal agencies. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each source and recipient federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and

annually, as required by 5 U.S.C. 552a(o) (2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

Participating Agencies: Department of Veterans Affairs (VA) is the source agency, and State Public Assistance Agencies (SPAAs) are recipient agencies. The Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation (HHS/ACF/OPRE) facilitates the matching program, with computer assistance from the Department of Defense, Defense Manpower Data Center (DOD/DMDC).

Authority for Conducting the Matching Program: Sections 402, 1137, and 1903(r) of the Social Security Act (42 U.S.C. 602(a), 1320b–7, and 1396b(r)).

Purpose(s): The purpose of the matching program is to provide SPAAs with VA compensation and pension data on a periodic (typically quarterly) basis to use in determining public assistance applicants' and recipients' eligibility for benefits under HHS' Medicaid and Temporary Assistance to Needy Families (TANF) programs and the Department of Agriculture's Supplemental Nutrition Assistance Program (SNAP). The matching program helps ensure fair and equitable treatment in the delivery of benefits attributable to funds provided by the federal government.

Categories of Individuals: The categories of individuals whose information is involved in the matching program are:

- Individuals who apply for or receive Medicaid, TANF, SNAP and/or general assistance benefits; and
- Eligible veterans receiving VA pay or pension benefits.

Categories of Records: The categories of records involved in the matching program are VA pay and pension benefit records. The matching program will compare Social Security Numbers (SSNs) in quarterly SPAA files about individuals applying for Medicaid, TANF, SNAP and/or general assistance benefits to VA files containing names and other identifying information about eligible veterans receiving VA pay or pension benefits. The data elements that will be provided to a SPAA about a veteran whose SSN matches an SSN in a quarterly SPAA file include (as applicable):

VA File Number; Veteran/Beneficiary/Apportionee SSN and SSN Verification Indicator; Payee Type Code; Award Type, Award Line Type, and Award Status Codes; Gender Code; Last Name/First Name/Middle Name; Beneficiary Birth Date; Veteran/Spouse Aid and Attendance Code; Station Number; Spouse; Minor Child; School Child; Helpless Child; Parent; Combined Degree; Entitlement Type Code; Change Reason; Suspense Reason; Last Paid Date; Effective Date; Gross Amount; Net Award Amount; Payment Amount; Frequency Pay Type Code; Income for VA Purposes Amount; Beneficiary/Spouse Annual Amounts (for Wages, Insurance, Interest, Social Security, Civil Service Retirement, Military, Railroad Retirement Board, Black Lung, and Rest); Beneficiary/Spouse Rest of Exclusion Amount; Medical Expense/Education Expense/Last Expense/Hardship Amounts; Receivable/Receivable Amount; Monthly Deductions/Deduction Amount; Proceeds/Proceeds Amount; Address Type Indicator; Address Name/Fiduciary; Address Fiduciary Type; Address Name Beneficiary; and Corporate Format Address (Address Lines One, Two, and Three, City Name, State Name, ZIP Code Prefix and Suffix, Country Type Name, Foreign Postal Code, Province Name, Territory Name, Military Postal Type, Military Post Office).

System(s) of Records: The VA pay and pension records used in this matching program will be disclosed from the following system of records, as authorized by routine use 25: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records-VA (58VA21/22/28), last published at 77 FR 42593 (July 19, 2012).

Naomi Goldstein,

Deputy Assistant Secretary for Planning, Research and Evaluation, ACF.

[FR Doc. 2018–01627 Filed 1–26–18; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Allergy and Infectious Diseases Special Emphasis Panel, February 08, 2018, 08:00 a.m. to February 09, 2018, 05:00 p.m., National Institutes of Health, 5601 Fishers Lane, Rockville, MD, 20892 which was published in the **Federal Register** on January 19, 2018, 83 FR 2810.

This meeting notice is being amended to change the date of the meeting from February 8–9, 2018 to February 7–9, 2018. The meeting is closed to the public.

Dated: January 23, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–01524 Filed 1–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Generic Clearance for the Research Domain Criteria (RDoC) Initiative, National Institute of Mental Health (NIMH)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Melba Rojas, NIMH Project Clearance Liaison, Science Policy and Evaluation Branch, Office of Science Policy, Planning and Communications, NIMH, Neuroscience Center, 6001 Executive Boulevard, MSC 9667, Bethesda, Maryland 20892, call 301–443–4335, or email your request, including your mailing address, to *nimhprapubliccomments@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited

to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Generic Clearance for the Research Domain Criteria (RDoC) Initiative, 0925–NEW, National Institute of Mental Health (NIMH), National Institutes of Health (NIH).

Need and Use of Information Collection: This NEW COLLECTION request serves as notice that the National Institute of Mental Health (NIMH) is seeking OMB approval of a generic plan to conduct information collections to interface with the scientific community and promote the RDoC Initiative. As the lead Federal agency for research on mental illnesses, NIMH's mission is to transform the understanding and treatment of mental illnesses through basic and clinical research, paving the way for prevention, recovery, and cure. To this end, NIMH launched the RDoC Initiative in 2009 to implement Strategy 1.4 of the 2008 NIMH Strategic Plan: ''Develop new ways of classifying disorders based on dimensions of observable behaviors and brain functions.'' The aim of RDoC is to guide research that begins with disruptions in neurobiological and behavioral mechanisms, and then works across systems to clarify connections among such disruptions and clinical symptoms. The information collected as part of this generic clearance will allow NIMH to determine success of the RDoC Initiative, develop future directions and endeavors, and to help guide programmatic priorities for RDoC and the agency.

OMB approval is requested for 3 years. There are no costs to respondents' other than their time. The total estimated annualized burden hours are 490.

ESTIMATED ANNUALIZED BURDEN HOURS

Instrument type	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Workshops	50	1	8	400
Interviews	10	1	30/60	5
Surveys	100	1	30/60	50
Focus Groups	10	1	1	10
Evaluation Forms	100	1	15/60	25
Total	270	270	.....	490

Dated: January 16, 2018.

Melba Rojas,

Project Clearance Liaison, NIMH, NIH.

[FR Doc. 2018–01525 Filed 1–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Draft NTP Technical Reports on Cell Phone Radiofrequency Radiation; Availability of Documents; Request for Comments; Notice of Peer-Review Meeting

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Toxicology Program (NTP) announces a meeting to peer review two Draft NTP Technical Reports on Cell Phone Radiofrequency Radiation. These reports present the results of NTP studies conducted to evaluate the impact of cell phone radiofrequency radiation exposure in mice and rats. NTP studied two system modulations: Global System for Mobile Communications and Code Division Multiple Access. The peer-review meeting will be held at the National Institute of Environmental Health Sciences (NIEHS) in Research Triangle Park, NC and is open to the public. Registration is requested for attendance at the meeting either in-person or by webcast and to present oral comments. Information about the meeting and registration is available at *https://ntp.niehs.nih.gov/go/36051.*

DATES: *Meeting:* Tentatively scheduled for March 26, 2018, 8:30 a.m. to adjournment on March 28, 2018, at approximately 5:00 p.m. Eastern Daylight Time (EDT). The preliminary agenda of topics is available at *https://ntp.niehs.nih.gov/go/36051* and will be updated one week before the meeting.

Document Availability: The two draft NTP technical reports should be available by February 2, 2018, at *https://ntp.niehs.nih.gov/go/36051.*

Written Public Comment Submissions: Deadline is March 12, 2018.

Registration for Oral Comments: Deadline is March 12, 2018.

Registration to Attend Meeting In-person or to View Webcast: Deadline is March 28, 2018.

ADDRESSES: Meeting Location: Rodbell Auditorium, Rall Building, NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting web page: The two draft NTP technical reports, preliminary agenda, registration, and other meeting materials will be available at *https://ntp.niehs.nih.gov/go/36051.*

Webcast: The URL for viewing the peer-review meeting webcast will be provided to registrants.

FOR FURTHER INFORMATION CONTACT: Canden Byrd, ICF, 2635 Meridian Parkway, Suite 200, Durham, NC, USA 27713. Phone: (919) 293–1660, Fax: (919) 293–1645, Email: *NTP-Meetings@icf.com.*

SUPPLEMENTARY INFORMATION: Background: Personal (cellular) telecommunications is a rapidly evolving technology that uses radiofrequency energy or radiation for mobile communication. According to a 2016 survey, 95 percent of American adults now use cell phones. Given such broad use, adverse health effects shown

to be associated with cell phone use could be a widespread public health concern. The U.S. Food and Drug Administration (FDA) nominated cell phone radiofrequency radiation for NTP study because (a) widespread human exposure is possible, (b) current exposure guidelines are based largely on protection from acute injury due to thermal effects, (c) little is known about the potential health effects of long-term exposure to radiofrequency radiation, and (d) currently available human studies have found limited evidence of an increased risk of cancer from cell phone use.

NTP studied in rats and mice the effects of exposure to cell phone radiofrequency radiation from two system modulations: Global System for Mobile Communications and Code Division Multiple Access. NTP released the ''Report of Partial Findings from the National Toxicology Program Carcinogenesis Studies of Cell Phone Radiofrequency Radiation in Hsd: Sprague Dawley SD Rats (Whole Body Exposure)'' in May 2016 (*https://doi.org/10.1101/055699*). The partial findings will be included in the draft NTP technical report for rats. The two draft NTP technical reports present results for all NTP studies on rats and mice on the toxicity and carcinogenicity of cell phone-emitted radiofrequency radiation.

Meeting Attendance Registration: The meeting is open to the public with time set aside for oral public comment; in-person attendance at the NIEHS is limited by the space available (~100 attendees). Registratration for in-person attendance is on a first-come, first-served basis, and registrants will be assigned a number in their confirmation email. After the first 100 registrants, persons will be placed on a wait list and notified should an opening become available. Registration to attend the meeting in-person or view the webcast is by March 28, 2018, at *https://ntp.niehs.nih.gov/go/36051.* The URL for the webcast will be provided in the email confirming registration. Visitor and security information for those attending in person is available at *https://www.niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to view the webcast should contact Canden Byrd by phone: (919) 293–1660 or email: *NTP-Meetings@icf.com.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

Public Comment Registration: NTP invites written and oral public comments on the draft NTP technical reports. Guidelines for public comments are available at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.*

The deadline for submission of written comments is March 12, 2018. Written public comments should be submitted through the meeting website. Persons submitting written comments should include name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP website, and the submitter will be identified by name, affiliation, and sponsoring organization (if any). Comments that address scientific or technical issues will be forwarded to the peer-review panel and NTP staff prior to the meeting.

Registration to provide oral comments is on or before March 12, 2018, at *https://ntp.niehs.nih.gov/go/36051.* Registratration is on a first-come, first-served basis, and registrants will be assigned a number in their confirmation email. Oral comments may be presented in person at NIEHS or by teleconference line. The access number for the teleconference line will be provided to registrants by email prior to the meeting. Each organization is allowed one time slot per comment period. The agenda allows for two public comment periods: The first comment period on the exposure system (12 commenters, up to 5 minutes per speaker), and the second comment period on the NTP findings in rats and mice (24 commenters, up to 5 minutes per speaker). After the maximum number of speakers per comment period is exceeded, individuals registered to provide oral comment will be placed on a wait list and notified should an opening become available. Commenters will be notified after March 12, 2018, the deadline to register for oral public comments, about the actual time allotted per speaker.

If possible, oral public commenters should send a copy of their slides and/or statement or talking points to Canden Byrd by email: *NTP-Meetings@icf.com* by March 12, 2018.

Meeting Materials: The two draft NTP technical reports and preliminary agenda will be available on the NTP website at *https://ntp.niehs.nih.gov/go/36051.* The draft NTP technical reports should be available by February 2, 2018. Additional information will be posted when available or may be requested in hardcopy, contact Canden Byrd by phone: (919) 293–1660 or email: *NTP-Meetings@icf.com.* The preliminary meeting agenda is available on the meeting web page and will be updated one week before the meeting. Individuals are encouraged to access the meeting web page to stay abreast of the most current information regarding the meeting.

Following the meeting, a report of the peer review will be prepared and made available on the NTP website.

Background Information on NTP Peer-Review Panels: NTP panels are technical, scientific advisory bodies established on an ''as needed'' basis to provide independent scientific peer review and advise NTP on agents of public health concern, new/revised toxicological test methods, or other issues. These panels help ensure transparent, unbiased, and scientifically rigorous input to the program for its use in making credible decisions about human hazard, setting research and testing priorities, and providing information to regulatory agencies about alternative methods for toxicity screening. NTP welcomes nominations of scientific experts for upcoming panels. Scientists interested in serving on an NTP panel should provide their current curriculum vitae to Canden Byrd by email: *NTP-Meetings@icf.com.* The authority for NTP panels is provided by 42 U.S.C. 217a; section 222 of the Public Health Service Act, as amended. The panel is governed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: January 16, 2018.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2018–01523 Filed 1–26–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0004]

Area Maritime Security Advisory Committee (AMSC), Eastern Great Lakes and Regional Sub-Committee Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Area Maritime Security Committee (AMSC), Eastern Great Lakes, and the four regional sub-committees: Northeast Ohio Region, Northwestern Pennsylvania Region, Western New York Region, and Eastern New York Region submit their applications for

membership to the Federal Maritime Security Coordinator (FMSC), Buffalo. The Committee assists the FMSC, Buffalo, in developing, reviewing, and updating the Area Maritime Security Plan for their area of responsibility.

DATES: Requests for membership should reach the FMSC, Buffalo, on February 28, 2018.

ADDRESSES: Applications for membership should be submitted to the following address: Federal Maritime Security Coordinator, Buffalo, Attention: CDR Karen Jones, 1 Fuhrmann Boulevard, Buffalo, NY 14203–3189.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application, or about the AMSC in general, contact:

For the Northeast Ohio Region Sub-Committee Executive Coordinator: Mr. Peter Killmer at 216–937–0136.

For the Northwestern Pennsylvania Region Sub-Committee Executive Coordinator: Mr. Joseph Fetscher at 216–937–0126.

For the Western New York Region Sub-Committee Executive Coordinator: Mr. Shawn Larrabee at 716–843–9549.

For the Eastern New York Region Sub-Committee Executive Coordinator: Mr. Ralph Kring at 315–343–1217.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C.; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2). The AMSCs shall assist the FMSC in the development, review, update, and exercising of the Area Maritime Security Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; identifying risks (threats, vulnerabilities, and consequences); determining mitigation strategies and implementation methods; developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and providing advice to, and assisting the FMSC in developing and maintaining the Area Maritime Security Plan.

AMSC Membership

Members of the AMSC should have at least five years of expertise related to maritime or port security operations. We are seeking to fill the following vacancies with this submission:

(A) Northeast Ohio Region Sub-Committee (no new members): No applications are being taken for this Sub-Committee at this time.

(B) Northwestern Pennsylvania Region Sub-Committee (no new members): No applications are being taken for this Sub-Committee at this time.

(C) Western New York Region Sub-Committee (no new members): No applications are being taken for this Sub-Committee at this time.

(D) Eastern New York Region Sub-Committee (2 members): Executive Board member to serve as (one) Chairperson of the Sub-Committee and concurrently as member of the Eastern Great Lakes AMSC when so convened by the FMSC, and (one) Vice Chairperson.

Applicants may be required to pass an appropriate security background check prior to appointment to the Committee. Applicants must register with and remain active as Coast Guard HOMEPORT users if appointed. Members' terms of office will be for five years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC. In accordance with 33 CFR 103, members may be selected from the Federal, Territorial, or Tribal governments; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Request for Applications: Those seeking membership are not required to submit formal applications to the local FMSC, however, because we do have an obligation to ensure that a specific number of members have the prerequisite maritime security experience, we encourage the submission of resumes highlighting experience in the maritime and security industries.

Dated: January 9, 2018.

J.S. Dufresne,

Captain, U.S. Coast Guard, Federal Maritime Security Coordinator, Buffalo.

[FR Doc. 2018–01606 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–1073]

Certificate of Alternative Compliance for M/V NORDLAND II (O.N. 1274463)

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) was issued for M/V NORDLAND II (O.N. 1274463). We are issuing this notice because it is required by statute. The M/V NORDLAND II is a vessel of special purpose that, with respect to the position of the lighting, it is not possible to comply fully with the requirements of the 72 COLREGS, without interfering with the normal operation, construction, or design of the vessel. The issuance of the certificate of alternate compliance promotes maritime safety and stewardship missions.

DATES: The Certificate of Alternative Compliance was issued on December 20, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Lieutenant B. Luke Woods, Thirteenth Coast Guard District, Prevention Branch, U.S. Coast Guard, telephone 206–220–7232.

SUPPLEMENTARY INFORMATION: A Certificate of Alternative Compliance, as allowed under the provisions of the Alternative Compliance Regulations (33 CFR 81 and 89), has been issued for the M/V NORDLAND II (O.N. 1274463). The vessel's primary purpose is as a work boat. The unique design of the vessel did not lend itself to full compliance with Annex I, of the 72 COLREGS and

33 CFR 84.05(b) and (d) of the International and Inland Navigational Rules.

The U.S. Coast Guard certifies that full compliance with the International and Inland Navigational Rules would interfere with the special functions and intent of the vessel and would not significantly enhance the safety of the vessel's operation. Due to the design of the vessel, the superstructure is offset to the starboard side of the vessel as far aft as practical in order to permit the loading of two vehicles on the forward part of the main deck.

The Certificate of Alternative Compliance authorizes the M/V NORDLAND II (O.N. 1274463) to deviate from the requirements set forth in Annex I of the International Navigational Rules and 33 CFR 84.05 of the Inland Navigational Rules by placing its required lights about a line aft of amidships and 7 feet and 6 starboard of the vessel's centerline.

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: December 20, 2017.

B.S. Gilda,

Captain, U.S. Coast Guard, Prevention Chief, Thirteenth Coast Guard District.

[FR Doc. 2018–01596 Filed 1–26–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2017–N154; FXES11140400000–178–FF04E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given in **ADDRESSES** by February 26, 2018.

ADDRESSES:

Reviewing Documents: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice (see **DATES**): U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).

Submitting Comments: If you wish to comment, you may submit comments by any one of the following methods:

- *U.S. mail or hand-delivery:* U.S. Fish and Wildlife Service's Regional Office (see above).
- *Email: permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone) or 404–679–7081 (fax).

SUPPLEMENTARY INFORMATION: We invite review and comment from local, State, and Federal agencies and the public on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* ESA), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. With some exceptions, the ESA prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

PERMIT APPLICATIONS

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE 125521–3	Department of Natural and Environmental Resources, San Juan, PR.	Puerto Rican parrot (*Amazona vittata*)/1–2 eggs per year and 1–2 chicks per year.	Puerto Rico	Captive propagation and reintroduction.	Collect eggs from wild nests for hatching and rearing in captivity and remove sick chicks from wild for veterinary treatment.	Renewal.
TE 132409–2	Gary R. O'Neill, Jr., Camden, AR.	Red-cockaded woodpecker (*Picoides borealis*).	Arkansas and Louisiana.	Population enhancement, management, and monitoring.	Construct and install artificial nest cavities and restrictors; monitor nest cavities.	Renewal and Amendment.
TE 56430B–2	Jonathan R. Hootman, Mayking, KY.	Gray bat (*Myotis grisescens*).	Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, Tennessee, Virginia.	Presence/absence surveys.	Enter hibernacula, salvage dead bats, capture with mist nets or harp traps, handle, identify, collect hair samples, band, radio-tag, swab, and wing-punch.	Amendment.

PERMIT APPLICATIONS—Continued

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE 14105A–2	Breedlove, Dennis, and Associates, Inc., Winter Park, FL.	Red-cockaded woodpecker (*Picoides borealis*).	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina.	Population enhancement, management, and monitoring.	Construct and monitor artificial nest cavities and restrictors, monitor nest cavities, capture, band, and translocate.	Renewal and Amendment.
TE 56827C–0	De Soto National Forest, Wiggins, MS.	*Isoetes louisianensis* (Louisiana quillwort), *Schwalbea americana* (American chaffseed), and *Lindera melissifolia* (pondberry).	National Forests in Mississippi.	Species identification and confirmation, genetic studies and preservation, and reproduction studies.	Remove and reduce to possession (collect) whole and/or partial plants, seeds and spore-bearing and non-spore-bearing sporophylls.	New.

Authority: We provide this notice under section 10(c) of the Act.

Leopoldo Miranda,

Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2018–01570 Filed 1–26–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–0131]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Indian Child Welfare Quarterly and Annual Report

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 28, 2018.

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 Ms. Evangeline Campbell, Chief, Division of Human Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS–4513–MIB, Washington, DC 20240; facsimile: (202) 208–5113; email: *Evangeline.Campbell@bia.gov.* Please reference OMB Control Number 1076–0131 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Evangeline Campbell by email at *Evangeline.Campbell@bia.gov,* or by telephone at (202) 513–7621. 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, we provide 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 November 2, 2017 (82 FR 50890). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA 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 BIA is seeking to renew the information collection conducted under 25 CFR 23, related to the Indian Child Welfare Act (ICWA). BIA collects information using a consolidated caseload form, which tribal ICWA program directors fill out. BIA uses the information to determine the extent of service needs in local Indian communities, assess ICWA program effectiveness, and provide date for the annual program budget justification. The aggregated report is not considered confidential. This form must completed by tribes that operate child protection programs. Submission of this information by Indian tribes allows BIA to consolidate and review selected data on Indian child welfare cases. The data is useful on a local level, to the tribes and tribal entities that collect it, for case management purposes. The data are useful on a nationwide basis for planning and budget purposes.

Title of Collection: Indian Child Welfare Quarterly and Annual Report.

OMB Control Number: 1076–0131.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Indian tribes or tribal entities that are operating programs for Indian tribes.

Total Estimated Number of Annual Respondents: 940 per year, on average.

Total Estimated Number of Annual Responses: 3,760 per year, on average.

Estimated Completion Time per Response: Approximately 15 minutes for Part A—ICWA Data; approximately 15 minutes for Part B—Tribal Child Abuse and Neglect Data.

Total Estimated Number of Annual Burden Hours: 940, per year on average.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: Four times per year for the Part A—ICWA Data; if applicable, four times per year for Part B—Tribal Child Abuse Neglect Data.

Total Estimated Annual Nonhour Burden Cost: $0.

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*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2018–01557 Filed 1–26–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14400000.BJ0000 18X]

Notice of Filing of Plats of Survey, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Colorado State Office, Lakewood, Colorado, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the BLM, are necessary for the management of these lands.

DATES: Unless there are protests of this action, the plats described in this notice will be filed on February 28, 2018.

ADDRESSES: You may submit written protests to the BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856; *rbloom@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat and field notes of the dependent resurvey and survey in Township 14 South, Range 98 West, Sixth Principal Meridian, Colorado, were accepted on November 22, 2017.

The plat, in 2 sheets, and field notes of the dependent resurvey and survey in Township 19 South, Range 70 West, Sixth Principal Meridian, Colorado, were accepted on January 11, 2018.

A person or party who wishes to protest any of the above surveys must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. Before including your address, phone number, email address, or other personal identifying information in your protest, please be aware that your entire protest, 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.

Authority: 43 U.S.C. Chap. 3.

Randy A. Bloom,

Chief Cadastral Surveyor.

[FR Doc. 2018–01568 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON04000.L14400000.EQ0000.17X]

Notice of Realty Action: Designation of Public Lands in Garfield County, Colorado, as Suitable for Lease Renewal for Agricultural Uses

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to renew a lease of 31 acres, more or less, located 4 miles southeast from Carbondale, Colorado, to continue agricultural and ranching operations for the Carbondale Corporation.

DATES: In order to ensure consideration in the environmental analysis of the proposed lease renewal, comments must be received by March 15, 2018.

ADDRESSES: You may submit written comments to Gloria Tibbetts, Assistant Field Manager, Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO 81652. Comments can be emailed to *blm_co_si_crvfo_webmail@blm.gov*. Additional information, including details of the lease area, location map, lease terms and conditions, and planning documents, is available for review at this address.

FOR FURTHER INFORMATION CONTACT: Monte Senor, Realty Specialist, BLM, Colorado River Valley Field Office, at the above address, by phone at (970) 876–9053, or by email at *msenor@blm.gov*. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The site has been examined and found suitable for leasing under provisions of Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) and 43 CFR part 2920. The BLM Colorado River Valley Field Office has identified the following described public lands as preliminarily suitable for non-competitive lease.

Sixth Principal Meridian, Colorado

T. 8 S, R. 88 W,
Sec. 1, SE1/4SE1/4;
Sec. 12, lot 1, E1/2NE1/4 and E1/2SE1/4.

The lands proposed for lease within the area described above contain 31 acres. The lease renewal is proposed to authorize agricultural uses, including an irrigated hayfield and non-irrigated range land, by the Carbondale Corporation.

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.

Any adverse comments will be evaluated by the Assistant Field Manager who may sustain, vacate, or modify this Realty Action and issue a final determination of the Bureau.

Authority: 43 CFR 2920.4.

Gregory P. Shoop,

Acting BLM Colorado State Director.

[FR Doc. 2018–01590 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24899; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before January 13, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by February 13, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before January 13, 2018. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

ALASKA

Lake and Peninsula Borough

Hammond, Jay and Bella, Homestead, N shore of L. Clark, Port Alsworth vicinity, SG100002107

DISTRICT OF COLUMBIA

District of Columbia

Equitable Life Insurance Building, 3900 Wisconsin Ave. NW, Washington, SG100002110

Homestead Apartments, The, (Apartment Buildings in Washington, DC, MPS), 812 Jefferson St. NW, Washington, MP100002111

LOUISIANA

Caddo Parish

Bethune Junior—Senior High School, (Caddo Parish Public School System Building Program, 1946–1961 MPS), 4331 Henry St., Shreveport, MP100002113

Orleans Parish

Priestley, Alfred C., Junior High School, (Public Schools of the Consolidation and Conversion Era in Orleans Parish, 1945–1960 MPS), 1601 Leonidas St., New Orleans, MP100002115

West Baton Rouge Parish

St. Mark's Baptist Church and Ashland Cemetery, 6025 Section Rd., Fort Allen, SG100002116

OHIO

Belmont County

George—Caldwell—Grum Farm, Address Restricted, Belmont vicinity, SG100002118

Clark County

Myers Daily Market, 101 S Fountain Ave., Springfield, SG100002119

Cuyahoga County

Bruce—Macbeth Engine Company, 2111 Center St., Cleveland, SG100002120

Hamilton County

Building at 620—622 Vine Street, 620–622 Vine St., Cincinnati, SG100002121

Lawrence County

Chesapeake High School, 3748 OH 7, Chesapeake, SG100002122

Medina County

Medina Farmers Exchange Co., 320 S Court St., Medina, SG100002123

Trumbull County

Newton Falls United Service Organization (USO) Center, 52 E Quarry St., Newton Falls, SG100002124

SOUTH CAROLINA

Spartanburg County

Montgomery Building (Boundary Decrease), 187 N. Church St., Spartanburg, BC100002126

TEXAS

Bexar County

Green, Robert B., Memorial Hospital, 903 W Martin St., San Antonio, SG100002127

San Antonio Downtown and River Walk Historic District, Roughly bounded by Camaron, Augusta, 6th, Bonham, Losoya, & Tolie Place, San Antonio, SG100002128

El Paso County

El Paso Natural Gas Company (Blue Flame) Building, 120 N Stanton, El Paso, SG100002129

Lubbock County

Lubbock County Jail, 811 Main St., Lubbock, SG100002130

Potter County

Amarillo Building, 301 S Polk, Amarillo, SG100002131

Young County

State Highway 120 Bridge at the Brazos River, (Road Infrastructure of Texas, 1866–1965 MPS), Hardin Ln. at the Brazos R., Newcastle vicinity, MP100002132

VIRGINIA

Halifax County

Dewberry Hill, 2181 Wilkins Rd., Alton vicinity, SG100002133

Riverside, 11161 River Rd., Sutherlin vicinity, SG100002134

Walters—Moshier House, 1421 N Main St., South Boston vicinity, SG100002135

Henry County

Highlands, The, 510 Edgewood Dr., Stanleytown, SG100002136

Lancaster County

Greenfield, 412 Greenfields Ln., Whitestone vicinity, SG100002137

Mecklenburg County

Groom, John, Elementary School, 1050 Plank Rd., South Hill, SG100002138

Staunton Independent City

Montgomery Hall Park, 1000 Montgomery Ave., Staunton (Independent City), SG100002139

WISCONSIN

Winnebago County

Fraternal Order of Eagles, 405 Washington Ave., Oshkosh, SG100002140

Waite Grass Carpet Company, 300 E Custer & 221 E Nevada Aves., Oshkosh, SG100002141

A request for removal has been made for the following resource:

OREGON

Hood River County

Roe—Parker House, 416 State St., Hood River, OT88000085

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

CALIFORNIA

Marin County

Marconi—RCA Bolinas Transmitting Station, Mesa Rd., Bolinas, SG100002108

RCA Point Reyes Receiving Station, 17400 Sir Francis Drake Blvd., Inverness, SG100002109

Authority: 60.13 of 36 CFR part 60.

Dated: January 17, 2018.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2018–01630 Filed 1–26–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24881; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before January 6, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by February 13, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before January 6, 2018. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

FLORIDA

Hillsborough County

Lafayette Street Bridge, Kennedy Blvd. & Hillsborough R., Tampa, MP100002094

Palm Beach County

Old School Square Historic District, Bounded by Lake Ida Rd. NE 1st Ave. SW 2nd St. & N Swinton Ave., Delray Beach, SG100002095

OREGON

Polk County

Spring Valley School, 8295 Spring Valley Rd. NW, Zena, SG100002097

SOUTH CAROLINA

Charleston County

Meggett, W. Gresham, High and Elementary School, 1929 Grimball Rd., Charleston vicinity, MP100002098

SOUTH DAKOTA

Custer County

Wood, Maggie J., House, 303 2nd St., Buffalo Gap, SG100002099

Davison County

Seaman, Louis N. and Helen, House, 300 E 3rd St., Mitchell, SG100002100

Scheurenbrand, Gottlieb and Friederike, House, 700 E Hanson St., Mitchell, SG100002101

Hughes County

Goddard, Celina and Albert, House, 111 S Van Buren, Pierre, SG100002102

Union County

St. Paul Lutheran Church and Cemetery, 31903 475th Ave., Richland vicinity, SG100002103

VERMONT

Washington County

Montpelier Historic District (Boundary Increase II), Monsignor Crosby Ave., Peck Place, Tower Loop Rd., Cross, Downing, Franklin & Wilder Sts., Montpelier, BC100002105

WISCONSIN

Jefferson County

Niedecker, Lorine, Cottage, W7307 Blackhawk Island Rd., Sumner, SG100002106

In the interest of preservation, a SHORTENED comment period has been requested for the following resource(s):

GEORGIA

Fulton County

Trust Company of Georgia Northeast Freeway Branch, 2160 Monroe Dr. NE, Atlanta, SG100002093, Comment period: 3 days

Additional documentation has been received for the following resources:

OREGON

Benton County

Oregon State University Historic District, Monroe and Orchard Ave., 30th St., Washington Wy., Jefferson Ave., 11th St., Corvallis, AD08000546

VERMONT

Washington County

Montpelier Historic District, Roughly Bailey Ave., Baird, Baldwin & Barre Sts., Blanchard Ct., Brown & Cedar Sts., Chapman Rd., *et. al.,* Montpelier, AD78000246

Authority: 60.13 of 36 CFR part 60.

Dated: January 12, 2018.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2018–01633 Filed 1–26–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24821; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before December 23, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by February 13, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 23, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

ARKANSAS

Mississippi County

Sherman Mound and Village, Address Restricted, Osceola vicinity, SG100002062

FLORIDA

Alachua County

Bethlehem Presbyterian Church, 16979 SW 137 Ave., Archer, SG100002065

Levy County

Knotts, Eugene, House, 1 Genie Ct., Yankeetown, MP100002066

MICHIGAN

Genesee County

Coolidge, Calvin, Elementary School, 3701 Van Buren Ave., Flint, SG100002067

NEVADA

Clark County

Church of Jesus Christ of Latter Day Saints Administration and Cultural Center, 821 N Las Vegas Blvd., Las Vegas, SG100002069

Lincoln County

Pioche Firehouse, Lots 3 & 32, Block 1 of Pioche Townsite, N of Main St. & Lacour, Pioche, MP100002070

White Pine County

Ely City Hall and Fire Station, 501 Mill St., Ely, MP100002071

NEW YORK

Bronx County

Saxe Embroidery Company Building, 511–513 E 164th St., Bronx, SG100002072

Dutchess County

New Guinea Community Site, Address Restricted, Hyde Park vicinity, SG100002073

Kings County

Ridgewood Reservoir, Jackie Robinson Pkwy., Vermont Pl., Cypress Hills St. & Highland Blvd., Brooklyn, SG100002074

Madison County

Wampsville Presbyterian Church, 109 Geneessee St., Wampsville, SG100002075

New York County

Greenacre Park, 217 E 51st St., New York, SG100002076

LANAI (yacht), 79th St. Boat Basin, New York, SG100002077

Onondaga County

Lipe-Rollway Corporation Building, 1153 W Fayette St., Syracuse, MP100002078

Queens County

Old Town of Flushing Burial Ground, 46th Ave. between 164th & 165th St., Queens, SG100002079

Suffolk County

Smith-Ransome Japanese Bridge, Merkel Lane, Shelter Island, SG100002080

Ulster County

Bellows, George W., House, 9 Bellows Ln., Woodstock, SG100002081

Kingston City Almshouse, 300 Flatbush Ave., Kingston, SG100002082

Trumbull, John H. and Sarah, House, 80 Marius St., Kingston, SG100002083

SOUTH CAROLINA

Greenville County

Judson Mill, 701 Easley Bridge Rd., Greenville vicinity, SG100002084

Spring Park Inn, 301 Old Buncombe Rd., Travelers Rest, SG100002085

TEXAS

Comal County

Walzem Homestead, 690 Mission Valley Rd., New Braunfels, SG100002086

Harris County

Downtown Houston Post Office, Processing and Distribution Center, 401 Franklin St., Houston, SG100002087

WISCONSIN

Dodge County

Horicon State Bank, 326 E Lake St., Horicon, SG100002090

Door County

Teweles and Brandeis Grain Elevator, 92 E Maple St., Sturgeon Bay, SG100002091

Jefferson County

Beck, Michael and Margaritha, Farmstead, W2803 US 18, Jefferson, SG100002092

Additional documentation has been received for the following resources:

ARKANSAS

Pulaski County

Capitol View Neighborhood Historic District, Roughly bounded by Riverview Dr., Schiller St., W. 7th St. and Woodrow St., Little Rock, AD00000813

South Main Street Residential Historic District, South Main St. from 19th St. to 24th St., Little Rock, AD07000436

UTAH

Salt Lake County

Wheeler, Henry J., Farm, 6343 S. 900 East, Salt Lake City, AD76001832

Walton, Wesley and Frances, House, 5197 S. Wesley Rd., Salt Lake City, AD95000983

Authority: 60.13 of 36 CFR part 60.

Dated: December 29, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program and Keeper of the National Register of Historic Places.

[FR Doc. 2018–01632 Filed 1–26–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0047]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Permanent Program Performance Standards—Surface and Underground Mining Activities

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE) are proposing to renew an information collection used by the regulatory authority to monitor and inspect surface coal mining activities to ensure that they are conducted in compliance with the requirements of the Act.

DATES: Interested persons are invited to submit comments on or before February 28, 2018.

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 Office of Surface Mining Reclamation and Enforcement, Attn: John Trelease, 1849 C. Street NW, Mail Stop 4559, Washington, DC 20240, or by email to *jtrelease@osmre.gov.* Please refer to OMB Control Number 1029–0047 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783. 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, we provide 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 August 16, 2017 (82 FR 38932). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of OSMRE; (2) is the estimate of burden accurate; (3) how might OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might OSMRE 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.

Title: 30 CFR parts 816 and 817—Permanent Program Performance Standards—Surface and Underground Mining Activities.

OMB Control Number: 1029–0047.

Abstract: Sections 515 and 516 of the Surface Mining Control and Reclamation Act of 1977 provide that permittees conducting coal mining operations shall meet all applicable performance standards of the Act. The information collected is used by the regulatory authority to monitor and inspect surface coal mining activities to ensure that they are conducted in compliance with the requirements of the Act.

Bureau Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Coal mining operators and State regulatory authorities.

Total Estimated Number of Annual Responses: 406,897 coal mining operator responses and 1,672 State regulatory authority responses.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: Varies from 1.1 hours to 107 hours for operators, depending on the requirement; 40 hours to 240 hours for regulatory authorities, depending on the requirement.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Once, on occasion, quarterly and annually.

Total Estimated Annual Nonhour Burden Cost: $26,787,506.

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*).

Dated: January 24, 2018.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–01615 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A0067F 178S180110; S2D2D SS08011000 SX066A00 33F 17XS501520; OMB Control Number 1029–0039]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE) are proposing to renew an information collection used by the regulatory authority to determine if underground coal mine applicants can comply with the applicable performance and environmental standards required by the law.

DATES: Interested persons are invited to submit comments on or before February 28, 2018.

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 John Trelease, Office of Surface Mining Reclamation and Enforcement, 1849 C. Street NW, Mail Stop 4559, Washington, DC 20240; or by email to *jtrelease@osmre.gov.* Please reference OMB Control Number 1029–0039 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783. 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, we provide 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 provides 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 August 16, 2017 (82 FR 38932). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of OSMRE; (2) is the estimate of burden accurate; (3) how might OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might OSMRE 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.

Title: 30 CFR part 784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

OMB Control Number: 1029–0039.

Abstract: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses and State regulatory authorities.

Total Estimated Number of Annual Respondents: 40 underground coal mining permit applicants and 39 State regulatory authorities.

Total Estimated Number of Annual Responses: 1,086.

Estimated Completion Time per Response: Varies from 2 hours to 80 hours, depending on type of respondent and activity.

Total Estimated Number of Annual Burden Hours: 21,612 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $390,350.

SUMMARY FOR 30 CFR PART 784

Section	Industry responses	Industry hours per response	State responses	State hours per response	Total hours requested	Currently approved burden hours	Changes to burden hours
784.11	40	16	39	4	796	312	484
.12	5	7	4	3	47	47	0
.13	40	55	39	20	2,980	2,583	397
.14	40	80	39	40	4,760	2,185	2,575
.15	40	8	39	2	398	314	84
.16	40	30	39	20	1,980	1,160	820
.17	1	6	1	5	11	11	0
.18	16	12	15	2	222	178	44
.19	30	10	29	14	706	702	4
.20	40	14	39	6	794	716	78
.21	40	10	39	8	712	532	180
.22	40	30	39	8	1,512	1,344	168
.23	40	70	39	10	3,190	2,130	1,060
.24	40	30	39	4	1,356	1,098	258
.25	19	15	18	4	357	206	151
.29	40	20	39	5	995	940	55
.30	40	16	39	4	796	448	348
Totals	.....	.....	.....	.....	21,612	14,906	6,706

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*).

Dated: January 24, 2018.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–01614 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A0067F 178S180110; S2D2D SS08011000 SX066A00 33F 17XS501520; OMB Control Number 1029–0083]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Certification of Blasters in Federal Program States and on Indian Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection to ensure that the applicants for blaster certification are qualified. This information, with blasting tests, will be used to determine the eligibility of the applicant.

DATES: Interested persons are invited to submit comments on or before February 28, 2018.

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 John Trelease, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4559, Washington, DC 20240; or by email to *jtrelease@osmre.gov*. Please reference OMB Control Number 1029–0054 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783. 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, we provide 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 provides 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 August 16, 2017 (82 FR 38930). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of OSMRE; (2) is the estimate of burden accurate; (3) how might OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might OSMRE 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.

Title: 30 CFR part 955—Certification of blasters in Federal program states and on Indian lands.

OMB Control Number: 1029–0083.

Summary: This information is being collected to ensure that the applicants for blaster certification are qualified. This information, with blasting tests, will be used to determine the eligibility of the applicant.

Form Number: OSM–74.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals intent on being certified as blasters in Federal program States and on Indian lands.

Total Estimated Number of Annual Respondents: 25.

Total Estimated Number of Annual Responses: 25.

Estimated Completion Time per Response: One hour.

Total Estimated Number of Annual Burden Hours: 25 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $1,891.

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.*).

Dated: January 24, 2018.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–01613 Filed 1–26–18; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–006]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 2, 2018 at 11:00 a.m.

PLACE: Room 100, 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. 731–TA–895 (Third Review) (Pure Granular Magnesium from China). The Commission is currently scheduled to complete and file its determination and views of the Commission by February 20, 2018.
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: January 25, 2018.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–01771 Filed 1–25–18; 4:15 pm]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a meeting on April 3, 2018. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: April 3, 2018.

Time: 9:00 a.m. to 5:00 p.m.

ADDRESSES: Hilton Hotel, Skyline and Lindbergh Conference Rooms, 1960 Harbor Island Drive, San Diego, CA 92101.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 23, 2018.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2018–01544 Filed 1–26–18; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Notice of Proposed Settlement Agreement for Natural Resource Damages Under the Oil Pollution Act of 1990, 33 U.S.C. 2701 et seq. and the Clean Water Act, 33 U.S.C. 1251 et seq.

Notice is hereby given that the United States of America, on behalf of the Department of the Interior (''DOI'') acting through the Fish and Wildlife Service, and the Commonwealth of Virginia, acting through the Virginia Department of Environmental Quality (collectively ''Trustees''), are providing an opportunity for public comment on a proposed Settlement Agreement (''Settlement Agreement'') among DOI, the Commonwealth of Virginia, and Kinder Morgan resolving civil claims arising from a January 22, 2016 spill of 75,222 gallons of jet fuel A at the Kinder Morgan Virginia Liquids Terminal located in Chesapeake, Virginia. The Trustees determined that the spill threatened natural resources and that

the release affected or potentially affected migratory birds. Defendant Kinder Morgan performed a cooperative assessment with the Trustees and the restoration option the Trustees selected was rehabilitation of waterfowl impoundments located in the Fish and Wildlife's Back Bay National Wildlife Refuge, located in the same flyway as the natural resources lost from the release. The Damage Assessment and Restoration Plan (''DARP'') was finalized and put out for public comment in 2017 and no comments were received.

The proposed settlement provides that Kinder Morgan will pay DOI $15,000 to reimburse the costs of the Natural Resource Damage Assessment, and $100,000 for the projects to restore natural resources as selected in the DARP. In consideration for the payments, the United States and Virginia covenant not to sue Defendant for specified civil claims arising from the spill.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. The Trustees will receive comments relating to the Settlement Agreement for a period of thirty (30) days from the date of this publication. A copy of the proposed Settlement Agreement is available electronically at *https://www.fws.gov/northeast/virginiafield/index.html.* A copy of the proposed Settlement Agreement may be examined at the Fish and Wildlife Service Field office located in Gloucester, Virginia. Arrangements to view the documents must be made in advance by contacting the Environmental Contaminants Biologist at 804–824–2415 or email at *susan_lingenfelser@fws.gov.* A copy of the Settlement Agreement may also be obtained by mail from:

Mark Barash, Esq., Senior Attorney, Office of the Solicitor of the United States, Department of the Interior, 15 State St., 8th Floor, Boston, MA 02109–3502

Please reference: Kinder Morgan Virginia Liquids Terminal LLC Settlement Agreement, DOI–SOL–ASA–2017–00201. When requesting a copy of the Settlement Agreement please enclose a check in the amount of $2.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Comments on the proposed Settlement Agreement may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*DOInrdar@ios.doi.gov.* Subject: Comment on Kinder Morgan Settlement Agreement.
By mail	Assistant Solicitor, Environmental Restoration Branch, Office of the Solicitor, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240. ATTN: Kinder Morgan Settlement Agreement.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–01598 Filed 1–26–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

U.S. Marshals Service

[OMB Number 1105–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Proposed Collection; Comments Requested: Form USM–234, District/Aviation Security Officers (DSO/ASO) Personal Qualifications Statement

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), U.S. Marshals Service (USMS), will submit 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.

DATES: Comments are encouraged and will be accepted for an additional 30 days until February 28, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Nicole Timmons either by mail at CG–3, 10th Floor, Washington, DC 20530–0001, by email at *Nicole.Timmons@usdoj.gov,* or by telephone at 202–236–2646.

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 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;
—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 (*check justification or form 83): New collection.

2. *The Title of the Form/Collection:* Form USM–234, District/Aviation Security Officers (DSO/ASO) Personal Qualifications Statement.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

• Form number (if applicable): USM–234.

• Component: U.S. Marshals Service, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: District/Aviation Security Officers Job Applicants.

Abstract: This form will primarily be used to collect applicant reference information. Reference checking is an objective evaluation of an applicant's past job performance based on information collected from key individuals (*e.g.,* supervisors, peers, subordinates) who have known and worked with the applicant. Reference checking is a necessary supplement to the evaluation of resumes and other descriptions of training and experience, and allows the selecting official to hire applicants with a strong history of performance. The questions on this form have been developed following the OPM, MSPB, and DOJ ''Best Practice'' guidelines for reference checking.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: An estimated 1000 respondents will utilize the form, and it will take each respondent approximately 60 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 1000 hours, which is equal to 1000 (total # of annual responses) * 60 minutes.

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: January 24, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–01553 Filed 1–26–18; 8:45 am]

BILLING CODE 4410–04–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: February 1, 2018 from 1:00 to 2:00 p.m. EST.

PLACE: This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

STATUS: Closed

MATTERS TO BE CONSIDERED: (1) NSB Chair's opening remarks; (2) Discussion of the National Science Foundation's FY 2019 budget.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Brad Gutierrez, 2415 Eisenhower Ave., Alexandria, VA 22314, *bgutierr@nsf.gov,* (703) 292–7000. Meeting information and updates may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* Please refer to the National Science Board website *www.nsf.gov/nsb* for general information.

Chris Blair,

Executive Assistant to the NSB Office.

[FR Doc. 2018–01739 Filed 1–25–18; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0174]

Information Collection: 10 CFR Part 100 "Reactor Site Criteria"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled 10 CFR part 100, ''Reactor Site Criteria.''

DATES: Submit comments by February 28, 2018.

ADDRESSES: Submit comments directly to the OMB reviewer at: Brandon De Bruhl, Desk Officer, Office of Information and Regulatory Affairs (3150–0093), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–0710, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance 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–2017–0174 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 website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0174.
- *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 supporting statement is available in ADAMS under Accession No. ML17298A191.
- *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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Reactor Site Criteria.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 9, 2017, (82 FR 37241).

1. *The title of the information collection:* ''10 CFR part 100, Reactor Site Criteria.''
2. *OMB approval number:* 3150–0093.
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 assess the adequacy of proposed seismic design bases and the design bases for other site hazards for nuclear power and test reactors constructed and licensed in accordance with parts 50 and 52 of title 10 of the *Code of Federal Regulations* and the Atomic Energy Act of 1954, as amended.
6. *Who will be required or asked to respond: Applicants who apply for an early site permit (ESP), combined license (COL) or a construction permit (CP) or operating license (OL) on or after January 10, 1997.*
7. *The estimated number of annual responses:* 1.3.
8. *The estimated number of annual respondents:* 1.3.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 94,900 hours (73,000 hours per application × 1.3 applications).
10. *Abstract:* Title 10 of the *Code of Federal Regulations,* Part 100, ''Reactor Site Criteria,'' establish approval requirements for proposed sites for the purpose of constructing and operating stationary power and testing reactors. Subpart B, ''Evaluation Factors for Stationary Power Reactor Site Applications on or After January 10, 1997,'' requirements apply to applicants who apply for an early site permit (ESP), combined license (COL) or a construction permit (CP) or operating license (OL) on or after January 10, 1997. This clearance is necessary since the NRC is expecting approximately two COL, one CP, and one OL application over the next 3 years. The applicants must provide information regarding the physical characteristics of the site in addition to the potential for natural phenomena and man-made hazards. This includes information on meteorological hazards (such as hurricanes, tornadoes, snowfall, and extreme temperatures), hydrologic hazards (such as floods, tsunami, and seiches) geologic hazards (such as faulting, seismic hazards, and the maximum credible earthquake) and factors such as population density, the proximity of man-related hazards, and site hydrological and atmospheric dispersion characteristics. The NRC staff reviews the submitted information and, if necessary, generates a request for additional information. The staff meets with the applicant and conducts a site visit to resolve any open issues. When the open issues have been resolved, the staff writes the final safety evaluation report, which is published and used as a basis for the remainder of the NRC licensing process.

Dated at Rockville, Maryland, this 17th day of January 2018.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2018–01543 Filed 1–26–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0061]

In the Matter of All Operating Reactor Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Revised director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a revised director's decision in response to a petition dated February 19, 2016, filed by Roy Mathew, Sheila Ray, Swagata Som, Gurcharan Singh Matharu, Tania Martinez Navedo, Thomas Koshy, and Kenneth Miller (Petitioners), requesting that the NRC take enforcement-related action with regard to all operating nuclear power plants. The petitioner's requests and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: The revised director's decision was issued on January 18, 2018.

ADDRESSES: Please refer to Docket ID NRC–2016–0061 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 website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0061. 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: Tanya Mensah, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3610, email: *Tanya.Mensah@nrc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a revised director's decision (ADAMS Accession No. ML18005A053) under section 2.206 of title 10 of the *Code of Federal Regulations* (10 CFR), on a petition filed by the Petitioners on February 19, 2016 (ADAMS Accession No. ML16050A223).

The Petitioners requested that the NRC take enforcement action against all operating nuclear power plants. Specifically, the Petitioners requested that the NRC either: (1) Issue orders to require immediate corrective actions including compensatory measures to address the operability of electric power systems in accordance with their plant technical specifications, and to implement plant modifications in accordance with current NRC regulatory requirements and staff guidance provided in the references within the 2.206 petition; or (2) issue orders to immediately shut down the nuclear power plants that are operating without addressing the significant design deficiency identified in NRC Bulletin 2012–01, ''Design Vulnerability in Electric Power System,'' dated July 27, 2012, (ADAMS Accession No. ML12074A115) since the licensees are not in compliance with their technical specifications (typically Section 3.8.1) related to onsite and offsite power systems.

On February 24, 2016, the NRC's petition manager acknowledged receipt of the petition and offered the Petitioners an opportunity to address the Petition Review Board (PRB). The Petitioners declined an opportunity to address the PRB on the basis that the petition already contained all of the

relevant facts to support the PRB's review.

The NRC sent a copy of the proposed director's decision to the Petitioners and to the licensees for comment by letters dated September 18, 2017 (ADAMS Accession Nos. ML17156A197 and ML17156A214, respectively). The Petitioners and the licensees were provided the opportunity to provide comments on any part of the proposed director's decision that was considered to be erroneous or any issues in the petition that were not addressed. The Petitioners provided comments by letter dated October 11, 2017 (ADAMS Accession No. ML17291A040), and the Nuclear Energy Institute (NEI) provided comments, on behalf of licensees, by letter dated October 16, 2017 (ADAMS Accession No. ML17291A846). No new information was provided. To enhance the clarity of the director's decision, the NRC staff revised the description of the NRC's accident sequence precursor (ASP) program provided in Section D of the director's decision, to differentiate between condition and event assessments. The comments from the Petitioners and NEI, along with the NRC staff's responses to the comments, are included as an attachment to the director's decision. The attachment identifies any updates to the director's decision, as a result of comments received from the Petitioners and NEI.

On December 12, 2017, the NRC issued a final director's decision (ADAMS Accession No. ML17304A893). Subsequently, the NRC was informed of a minor error in the final director's decision. Specifically, Section D of the final director's decision refers to a December 2015 open phase condition event at Oconee and states, ''Two separate transformers required for safe shutdown of the three operating Oconee nuclear units were identified with open phase conditions.'' This statement is in error because only one Oconee transformer experienced an open phase condition. Although this error does not change the decision in the director's decision, the NRC revised it, as appropriate, for accuracy.

The Director, Office of Nuclear Reactor Regulation, has determined that the request(s) to issue orders to operating reactor licensees regarding an open phase condition be denied. The reasons for this decision are explained in the Director's Decision DD–17–04, pursuant to 10 CFR 2.206.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 23rd day of January, 2018.

For the Nuclear Regulatory Commission.

Tanya M. Mensah,

Senior Project Manager, ROP Oversight and Generic Communications Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–01514 Filed 1–26–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Containment Air Filtration Exhaust Rooms West Walls Removal

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 98 and 97 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, Authority of Georgia, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on November 14, 2017.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 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 website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. 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. The request for the amendment and exemption was submitted by letter dated May 24, 2017 (ADAMS Accession No. ML17144A413), as supplemented by letter dated August 31, 2017 (ADAMS Accession No. ML17243A445).
- *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: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3025; email: *Chandu.Patel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 98 and 97 to COLs, NPF–91 and NPF–92, respectively, to the licensee. The exemption is required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes to the Updated Final Safety Analysis Report in the form of departures from the incorporated

plant-specific Design Control Document Tier 2 information and involves changes to COL Appendix C. The proposed changes revise the COLs to remove the west walls of containment air filtration exhaust rooms A and B in the annex building to facilitate ease of access to equipment in the room during installation and maintenance.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML17283A313.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML17283A316 and ML17283A317, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML17283A314 and ML17283A315, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item (1) in order to grant the exemption:

1. In a letter dated May 24, 2017, as supplemented by letter dated August 31, 2017, the licensee requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 17–017, ''Containment Air Filtration Exhaust Rooms West Walls Removal.''

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML17283A313, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License as described in the request dated May 24, 2017, as supplemented by letter dated August 31, 2017. This exemption is related to, and necessary for the granting of License Amendment No. 98 (Unit 3) and 97 (Unit 4), which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML17283A313), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated May 24, 2017 (ADAMS Accession No. ML17144A413), as supplemented by letter dated August 31, 2017 (ADAMS Accession No. ML17243A445), the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on August 8, 2017 (82 FR 37128). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemptions and issued the amendments that the licensee requested on May 24, 2017, as supplemented by letter dated August 31, 2017.

The exemptions and amendments were issued on November 14, 2017, as part of a combined package to the licensee (ADAMS Accession No. ML17283A312).

Dated at Rockville, Maryland, this 22nd day of January, 2018.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2018–01520 Filed 1–26–18; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9091; NRC–2011–0148]

Strata Energy, Inc.; Ross Uranium In Situ Recovery Facility; Source and Byproduct Materials License

AGENCY: Nuclear Regulatory Commission.

ACTION: Final environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an amendment of Source and Byproduct Materials License SUA–1601 to modify a License Condition for the Strata Energy, Inc. (Strata) Ross In Situ Recovery (ISR) Project. Specifically, Strata is requesting that NRC approve a modification to License Condition 11.3(C) for Mine Units Nos. 1 and 2 (MU1 and MU2) that would reduce the number of monitoring wells placed in the underlying aquifer. The NRC has prepared a final environmental assessment (EA) and finding of no significant impact (FONSI) for this licensing action.

DATES: The final EA and FONSI referenced in this document were available on January 17, 2018.

ADDRESSES: Please refer to Docket ID NRC–2011–0148 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 website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0148. 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 via 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: Jessie Muir Quintero, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7476; email: *Jessie.Quintero@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering amending License Condition 11.3(C) of License SUA–1601 issued to Strata. As required by part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC prepared a final EA (ADAMS Accession No. ML17360A222). Based on the results of the final EA, described as follows, the NRC has determined not to prepare an environmental impact statement (EIS) for the amendment, and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would amend License Condition 11.3(C) of Strata's Ross license. Strata's amendment request (ADAMS Accession No. ML17103A262) would reduce the number of monitoring wells in the designated underlying aquifer.

Need for the Proposed Action

The proposed action would reduce Strata's burden of routine monitoring of low-yielding wells.

Environmental Impacts of the Proposed Action

The NRC assessed the environmental impacts to ground water as a result of amending License Condition 11.3 (C) and determined that there would be no significant impact to ground-water quality. The NRC determined the proposed changes to the License Condition—reduction in the number of monitoring wells in the underlying aquifer within MU1 and MU2—would still maintain Strata's ability to identify vertical exclusions into the underlying aquifer at MU2 where the unit has the potential to transmit water.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). The No-Action Alternative would mean that the NRC would not approve the requested change to License Condition 11.3 (C). The No-Action alternative would result in Strata operating the Ross project as currently licensed, thus the impacts would be the same as those already considered in the Ross Supplemental EIS and the EA prepared for License Amendment No. 7 (ADAMS Accession Nos. ML14056A096 and ML17191A371, respectively).

Agencies and Persons Consulted

On December 01, 2017, the NRC staff sent a copy of the draft EA to the Wyoming Department of Environmental Quality (DEQ) for their review and comment (ADAMS Accession No. ML17335A567). The Wyoming DEQ responded on January 2, 2018, with no comments on the draft EA (ADAMS Accession No. ML18003A749).

III. Finding of No Significant Impact

Based on its review of the proposed action, and in accordance with the requirements in 10 CFR part 51, the NRC staff has determined that amending License Condition 11.3(C) for the Ross ISR project would not significantly affect ground-water quality. The NRC staff has determined that pursuant to 10 CFR 51.31, preparation of an EIS is not required for the proposed action and, pursuant to 10 CFR 51.32, a FONSI is appropriate.

On the basis of the final EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an EIS for the proposed action.

Dated at Rockville, Maryland, this 23rd day of January 2018.

For the U.S. Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Fuel Cycle Safety, Safeguards and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–01522 Filed 1–26–18; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–126, OMB Control No. 3235–0287]

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form 4.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Under Section 16(a) of the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*) every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which registered under Section 12 of the Exchange Act (15 U.S.C. 78l), or who is a director or an officer of the issuer of such security (collectively ''insiders''), must file a statement with the Commission reporting their ownership. Form 4 is a statement to disclose changes in an insider's ownership of securities. The information is used for the purpose of disclosing the equity holdings of

insiders of reporting companies. Approximately 338,207 insiders file Form 4 annually and it takes approximately 0.5 hours to prepare for a total of 169,104 annual burden hours.

Written comments are invited on: (a) Whether this proposed collections of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: January 24, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01601 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82571; File No. SR–LCH SA–2017–013]

Self-Regulatory Organizations; LCH SA; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Adopt LCH SA's Wind Down Plan

January 23, 2018.

On December 7, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] a proposed rule change to adopt an updated wind down plan (the ''WDP''). (File No. SR–LCH SA–2017–013). The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.[3] To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate, if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is February 2, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. LCH SA proposes to adopt an updated WDP. The Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider LCH SA's proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) [5] of the Act, designates March 19, 2018, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–LCH SA–2017–013).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01539 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34- 82317 (December 13, 2017), 82 FR 60238 (December 19, 2017) (SR–LCH SA–2017–013) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32973; File No. 812–14810]

Northern Lights Fund Trust and Pacific Financial Group, LLC

January 23, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, and business development companies, as defined in section 2(a)(48) of the Act (''BDCs''), and registered unit investment trusts (collectively, ''Underlying Funds''), that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

Applicants: Northern Lights Fund Trust (the ''Trust''), a Delaware statutory trust that is registered under the Act as an open-end management investment company with multiple series, and Pacific Financial Group, LLC (the ''Applying Manager''), a limited liability company organized under the laws of the state of California that is registered as an investment adviser under the Investment Advisers Act of 1940.

Filing Dates: The application was filed on August 14, 2017, and amended on January 8, 2018.

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 February 20, 2018 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 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: Northern Lights Fund Trust and Pacific Financial Group, LLC, c/o JoAnn Strasser, Esq., Thompson Hine LLP, 41 South High Street, Suite 1700, Columbus, OH 43215; and Richard Malinowski, Esq., Gemini Fund Services, 80 Arkay Drive, Hauppauge, NY 11788.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811, or Robert Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website 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.

Summary of the Application

1. Applicants request an order to permit (a) a Fund [1] (each a ''Fund of Funds'') to acquire shares of Underlying Funds [2] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[3] Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[4] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01548 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[1] Applicants request that the order apply to each existing and future series of the Trust and to each existing and future registered open-end investment company or series thereof that is advised by the Applying Manager or its successor-in-interest or by any other investment adviser controlling, controlled by or under common control with the Applying Manager or its successor and is part of the same ''group of investment companies'' as the Trust (each, a ''Fund''). For purposes of the requested order, ''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. For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies or BDCs, that hold themselves out to investors as related companies for purposes of investment and investor services.

[2] Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (''ETF'').

[3] Applicants do not request relief for the Funds of Funds to invest in reliance on the order in BDCs and registered closed-end investment companies that are not listed and traded on a national securities exchange.

[4] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from section 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of an ETF, to sell shares to or redeem shares from the ETF. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF, is also an investment adviser to the Fund of Funds. A Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund or BDC through secondary market transactions at market prices rather than through principal transactions with the closed-end fund or BDC. Accordingly, applicants are not requesting section 17(a) relief with respect to transactions in shares of closed-end funds (including BDCs).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–148, OMB Control No. 3235–0133]

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 17a–19 and Form X–17A–19.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–19 (17 CFR 240.17a–19) and Form X–17A–19 of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–19 requires every national securities exchange and registered national securities association to file a Form X–17A–19 with the Commission and the Securities Investor Protection Corporation (''SIPC'') within 5 business days of the initiation, suspension, or termination of any member and, when terminating the membership interest of any member, to notify that member of its obligation to file financial reports as

required by Exchange Act Rule 17a–5(b).[1]

Commission staff anticipates that the national securities exchanges and registered national securities associations collectively will make 800 total filings annually pursuant to Rule 17a–19 and that each filing will take approximately 15 minutes. The total reporting burden is estimated to be approximately 200 total annual hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *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 by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 24, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01599 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[1] 17 CFR 240.17a–5(b).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82575; File No. TP 18–08]

Order Granting Limited Exemptions From Rules 101 and 102 of Regulation M in Connection With Distributions of AT1 Contingent Convertible Securities Pursuant to Rules 101(d) and 102(e) of Regulation M

January 23, 2018.

By letter dated January 23, 2018, counsel from Sullivan & Cromwell LLP and Davis Polk & Wardell LLP (collectively, the ''Applicants''),[1] requested that the staff of the Division of Trading and Markets grant, on behalf of certain European financial institutions (each, an ''Issuer''), conditional class exemptive or no-action relief from Rules 101 and 102 of Regulation M under the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), to permit certain transactions in ordinary shares underlying the contingent convertible debt securities qualifying as additional tier 1 capital (''AT1 Contingent Convertible Securities''), including ordinary shares represented by American depositary shares (collectively, ''Shares''), by Issuers and affiliated purchasers, including those acting as distribution participants, during a distribution of such AT1 Contingent Convertible Securities.[2]

AT1 Contingent Convertible Securities

Over the last several years, a number of European financial institutions have issued various series of AT1 Contingent Convertible Securities that are designed to qualify as additional tier 1 capital (''AT1 Capital'') that can be counted by a financial institution towards the capital requirements mandated by European regulators.[3]

Applicants represent in the Request Letter that the AT1 Contingent Convertible Securities to be offered are fundamentally fixed-income debt securities that are priced and traded by investors as such.[4] Applicants also represent in the Request Letter that, unlike traditional convertible debt instruments, the AT1 Contingent Convertible Securities to be offered automatically convert into Shares only upon the occurrence of a remote, capital adequacy-related trigger event that is set forth in the terms of the relevant AT1 Contingent Convertible Security.

Specifically, Applicants represent, among other things, the following:

- Relief is requested only with respect to AT1 Contingent Convertible Securities that automatically and mandatorily convert into Shares if the Issuer's Common Equity Tier 1 Capital Ratio (as calculated in accordance with CRD IV) falls below a pre-determined trigger level of 7.0% or lower;[5]
- A Common Equity Tier 1 Capital Ratio below 7.0% is effectively a sign of distress, and conversion of AT1 Contingent Convertible Securities with a trigger level of 7.0% or lower is unlikely to occur as a result of actions within an Issuer's control;
- Because of the perceived severity of the regulatory sanctions that would otherwise apply to an Issuer who allows its Common Equity Tier 1 Capital Ratio to fall below its Combined Buffer Requirement,[6] Issuers have a strong

[1] Letter from John O'Connor, Sullivan & Cromwell LLP, and John Banes, Davis Polk & Wardell LLP, to Josephine J. Tao, Assistant Dir., Office of Derivatives Policy & Trading Practices, Div. of Trading & Mkts., SEC (Jan. 23, 2018) (the ''Request Letter'').

[2] The requested relief is solely to permit transactions in Shares during a distribution of an Issuer's AT1 Contingent Convertible Securities (*i.e.,* the Request Letter does not seek relief with respect to transactions in the AT1 Contingent Convertible Securities themselves). For purposes of this relief, the terms ''affiliated purchasers'' and ''distribution participants'' shall have the same meaning as defined in Rule 100(b) of Regulation M. *See* 17 CFR 242.100(b).

[3] Applicants represent in the Request Letter that the qualification requirements/features for AT1 Contingent Convertible Securities that qualify as AT1 Capital are set forth in the European Union's Capital Requirements Directive IV and related Capital Requirements Regulation (collectively, the ''CRD IV''), which were issued in response to the new global regulatory frameworks on bank capital adequacy and liquidity adopted by the Basel Committee on Banking Supervision in December 2010 (generally known as ''*Basel III*''). Applicants represent that the purpose of AT1 Capital is to absorb future losses through conversion to common equity (or write-down) so as to allow a financial institution to maintain sufficient Common Equity Tier 1 Capital to continue as a going concern. In addition, the basic equity-related-structure of AT1 Contingent Convertible Securities that qualify as AT1 Capital under CRD IV is summarized in the Request Letter.

[4] Applicants also represent that Issuers have previously indicated that they expect AT1 Contingent Convertible Securities to price and trade more like traditional fixed-income debt instruments than conventional convertible instruments (*i.e.,* that investors in AT1 Contingent Convertible Securities are generally focused on receiving interest payments during the life of the AT1 Contingent Convertible Securities rather than any potential equity upside in the unlikely event of a conversion into Shares), citing to prior requests for relief from Rules 101 and 102 of Regulation M in connection with offerings of AT1 Contingent Convertible Securities: Letter from Josephine J. Tao, Assistant Dir., Office of Derivatives Policy & Trading Practices, Div. of Trading & Mkts., SEC, to Mark J. Welshimer, Sullivan & Cromwell LLP (Apr. 7, 2015) (ING Groep N.V.); Letter from Josephine J. Tao, Assistant Dir., Office of Derivatives Policy & Trading Practices, Div. of Trading & Mkts., SEC, to John Banes, Davis Polk & Wardwell London LLP (Mar. 6, 2014) (Lloyds Banking Group); Letter from Josephine J. Tao, Assistant Dir., Office of Derivatives Policy & Trading Practices, Div. of Trading & Mkts., SEC, to George H. White, Sullivan & Cromwell LLP (Nov. 7, 2013) (Barclays PLC); Letter From Josephine J. Tao, Assistant Dir., Office of Derivatives Policy & Trading Practices, Div. of Trading & Mkts., SEC, to Michael J. Willisch, Davis Polk & Wardwell Spain LLP (Nov. 3, 2017) (Banco Bilbao Vizcaya Argentaria, S.A.).

[5] Applicants represent that guidance from the UK Prudential Regulation Authority will generally result in a 7.0% trigger level for AT1 Contingent Convertible Securities issued by UK financial institutions, which is intended to ensure that only instruments that will reliably absorb losses while a firm is still a going concern can count towards the leverage ratio under CRD IV. Applicants represent that the applicable 7.0% threshold is equivalent to the sum of the basic 4.5% minimum for Common Equity Tier 1 Capital under CRD IV and the additional 2.5% capital conservation buffer that is also required to be satisfied with Common Equity Tier 1 Capital under CRD IV.

[6] In addition to the basic 4.5% minimum Common Equity Tier 1 Capital Ratio under CRD IV, there is a Combined Buffer Requirement applicable to any institution that is incremental to the minimum requirement and is composed of (1) in all cases, an additional 2.5% capital conservation buffer (with the consequence that the sum of the

Continued

incentive to maintain capital levels, and investors expect such Issuers to maintain capital levels, well in excess of the pre-determined trigger level;[7]

• Because the risk of regulatory capital falling below the pre-determined trigger level is considered remote at the time of the issuance, the price of the Shares is not expected to have a significant impact on pricing or market demand for AT1 Contingent Convertible Securities at the time of issuance;

• Because AT1 Contingent Convertible Securities would convert only if Common Equity Tier 1 Capital fell below the pre-determined trigger level of at least 7.0%, which would, effectively, indicate distress of the Issuer, investors do not purchase AT1 Contingent Convertible Securities in the initial distribution of AT1 Contingent Convertible Securities to have the possibility of acquiring Shares in a conversion or to increase their exposure to the Issuer's common equity (*i.e.,* investors, instead, are focused primarily on receiving interest payments during the life of the AT1 Contingent Convertible Securities);

• Accordingly, trading activity in the Shares at or around the time of distribution is unlikely to influence the pricing or trading of the AT1 Contingent Convertible Securities that would be in distribution.

I. Rules 101 and 102 of Regulation M

Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain exceptions, prohibits any ''distribution participant'' (*i.e.,* underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities) and its ''affiliated purchasers'' from bidding for, purchasing, or attempting to induce any person to bid for or purchase, any security that is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the Rule. Rule 102 of Regulation M includes the same prohibitions but applies to issuers, selling security holders, and any of their affiliated purchasers.

Regulation M applies to activities in both the securities in distribution (*i.e.,* activities in the ''subject securities'') and any ''reference securities,'' such as common stock underlying an exercisable, exchangeable, or convertible security that is being distributed.[8] Accordingly, the Issuer's Shares may be deemed to be ''reference securities'' in relation to the AT1 Contingent Convertible Securities. Thus, Regulation M would prohibit Issuers and any affiliated purchasers from making any bids for, purchases of, or attempts to induce any other person to bid for or purchase the Shares during an applicable restricted period in connection with a distribution of the Issuer's AT1 Contingent Convertible Securities.

Discussion

Based on the representations and facts presented in the Request Letter—particularly, that a distribution of AT1 Contingent Convertible Securities that satisfies the conditions set forth in the Request Letter, as well as below, does not raise the concerns at which Regulation M is directed and that any bids for, purchases of, or attempts to induce any other person to bid for or purchase of the Shares by Issuers or affiliated purchasers during an applicable restricted period in connection with a distribution of the Issuer's AT1 Contingent Convertible Securities would be unlikely, except in unusual circumstances, to affect the pricing or trading of the AT1 Contingent Convertible Securities[9]—the U.S. Securities and Exchange Commission (the ''Commission'') finds that it is appropriate in the public interest and consistent with the protection of investors to grant class exemptive relief from the requirements of Rule 101 and Rule 102, under paragraph (d) of Rule 101 and paragraph (e) of Rule 102 of Regulation M, respectively, in connection with distributions of AT1 Contingent Convertible Securities that satisfy the conditions set forth below to permit transactions involving Shares by an Issuer and its affiliated purchasers (including those acting as distribution participants) during a distribution of such AT1 Contingent Convertible Securities.[10]

Consistent with the limited scope of relief sought in the Request Letter, this relief is limited to distributions of AT1 Contingent Convertible Securities by or on behalf of a ''foreign private issuer'' (within the meaning of Rule 3b–4 under the Exchange Act) and where the ''principal market'' (as such term is defined in Rule 100 of Regulation M) of the underlying Shares is outside of the United States. This condition narrowly tailors the relief's application to Issuers who engage in distributions of the AT1 Contingent Convertible Securities that are the subject of this relief and ensures that the Issuers of such securities are subject to the information reporting requirements of the Exchange Act. Limiting the scope of the relief in this way should help to reduce the potential risk of transactions in Shares that could adversely affect U.S. markets during a distribution of a non-U.S. Issuer's AT1 Contingent Convertible Securities.

This relief is also limited to distributions of AT1 Contingent Convertible Securities that automatically and mandatorily convert into Shares if an Issuer's Common Equity Tier 1 Capital Ratio (as calculated in accordance with CRD IV) falls below a predetermined trigger level of 7.0% or lower. Applicants represent in the Request Letter that a Common Equity Tier 1 Capital Ratio below 7.0% is considered, under guidance from the UK Prudential Regulation Authority, to be effectively a sign of distress, and conversion of AT1 Contingent Convertible Securities with a trigger level of 7.0% or lower is unlikely to occur as a result of actions within an Issuer's control. As such, this condition is intended to further ensure the remoteness of any possibility of conversion of the AT1 Contingent Convertible Securities, thus also decreasing the likelihood of any trading activity in Shares during such distributions affecting the pricing or demand for the AT1 Contingent Convertible Securities being distributed.

This relief also requires that, as of the date of the most recent calculation required to be reported to the relevant

basic minimum and the Combined Buffer Requirement is never less than 7.0%), and (2) at least three other potential buffers—namely, (i) an institution-specific counter-cyclical capital buffer (which may be disapplied by member states to small and medium-sized institutions), (ii) a member state-specific systemic risk buffer, and (iii) any applicable systemically important institution buffers.

[7] Applicants represent that the CRD IV regulatory sanctions include automatic limitations on distributions (such as the ability to pay dividends) and compensation that create significant disincentives for an Issuer to allow its Common Equity Tier I Capital Ratio to fall below the applicable Combined Buffer Requirement.

[8] *See* Anti-Manipulation Rules Concerning Securities Offerings, Exchange Act Rel. No. 38067 (Dec. 20, 1996), 62 FR 520 (Jan. 3, 1997) (stating that transactions in ''reference securities'' can have a direct and substantial effect on the pricing and terms of the security in distribution).

[9] In particular, that AT1 Contingent Convertible Securities do not convert to equity unless the Issuer's regulatory capital falls below a pre-determined trigger level, and that the price of and trading activity in Shares at or around the time of a distribution is not expected to influence or have a significant impact on pricing or market demand for the AT1 Contingent Convertible Securities at the time of issuance.

[10] Consistent with the limited scope of relief sought in the Request Letter, the relief granted herein, however, does not extend to transactions in the AT1 Contingent Convertible Securities themselves. Transactions in the AT1 Contingent Convertible Securities that are being distributed would need to comply with the requirements of Regulation M and/or qualify for one of the exceptions provided under Regulation M.

supervising authority under applicable regulatory capital rules prior to the distribution of the AT1 Contingent Convertible Securities, the Issuer's Common Equity Tier 1 Capital Ratio must exceed the applicable Combined Buffer Requirement.[11] This condition, which conforms to applicable regulatory capital rules, is intended to ensure that the Issuer maintains capital levels that are sufficiently above the pre-determined trigger level at the time of distribution of the AT1 Contingent Convertible Securities.[12] Accordingly, this condition helps to ensure the remoteness of any possibility of conversion of the AT1 Contingent Convertible Securities and, thus, to decrease the likelihood of any trading activity in Shares during such distributions affecting the pricing or demand for the AT1 Contingent Convertible Securities being distributed.

In addition, this relief applies only to AT1 Contingent Convertible Securities in distribution that do not include any right of the Issuer or holders to convert the AT1 Contingent Convertible Securities into Shares at their option. This condition is intended to help to ensure the remoteness of any possibility of conversion of the AT1 Contingent Convertible Securities and, thus, to decrease the likelihood of trading activity in Shares affecting the pricing or demand for the AT1 Contingent Convertible Securities in distribution.

This relief also requires that any transactions in Shares by an Issuer or any of its affiliated purchasers must be effected in the ordinary course of business and not to facilitate the distribution of the AT1 Contingent Convertible Securities. This condition should help to ensure that transactions in Shares are more customer-driven rather than driven by market activities that could potentially be used to artificially facilitate the distribution of the AT1 Contingent Convertible Securities or unduly impact the pricing of or demand for the AT1 Contingent Convertible Securities in distribution.

To ensure adequate transparency to potential U.S. investors in the offering, this relief also requires that any prospectus or other offering document that is distributed to U.S. investors in connection with the offering of the AT1 Contingent Convertible Securities must disclose the possibility of, or the intention to engage in, transactions in Shares by an Issuer or its affiliated purchasers.

This relief is also limited to Shares that qualify for the actively-traded securities exception under Rule 101(c)(1) of Regulation M because such securities are viewed by the Commission to be less susceptible to manipulation. This limitation should also help to reduce the impact of any attempt to artificially influence the price of the AT1 Contingent Convertible Securities that are being distributed by engaging in transactions in the Shares at or around the time of a distribution.

II. Conclusion

It is hereby ordered, pursuant to Rule 101(d) and Rule 102(e) of Regulation M, that, based on the representations and facts presented in the Request Letter, class exemptive relief from the requirements of Rules 101 and Rule 102, respectively, is granted in connection with distributions of AT1 Contingent Convertible Securities that satisfy the conditions set forth below to permit transactions involving Shares by an Issuer and its affiliated purchasers (including affiliated purchasers who may be deemed to be participating in a distribution of such Issuer's ATI Contingent Convertible Securities) during a distribution of such AT1 Contingent Convertible Securities, as described in the Request Letter and herein, subject to the following conditions:

(1) The Issuer of the AT1 Contingent Convertible Securities must be a foreign private issuer (within the meaning of Rule 3b–4 under the Exchange Act);

(2) The principal market (within the meaning of Rule 100 of Regulation M) of Shares must be outside of the United States;

(3) The AT1 Contingent Convertible Securities in distribution must only automatically and mandatorily convert into the Issuer's Shares if the Issuer's Common Equity Tier 1 Capital Ratio (as calculated in accordance with CRD IV) falls below a pre-determined trigger level of 7.0% or lower;

(4) As of the date of the most recent calculation that is required to be reported to the relevant supervising authority under applicable regulatory capital rules prior to the distribution of the AT1 Contingent Convertible Securities, the Issuer's Common Equity Tier 1 Capital Ratio must exceed the applicable Combined Buffer Requirement;

(5) The AT1 Contingent Convertible Securities in distribution must not include any right of the Issuer or holders to convert the AT1 Contingent Convertible Securities into Shares at their option;

(6) Any transactions in Shares by the Issuer or any of its affiliated purchasers must be effected in the ordinary course of business and not for the purpose of facilitating the distribution of the AT1 Contingent Convertible Securities;

(7) Any prospectus or other offering document that is distributed to U.S. investors in connection with the offering of the AT1 Contingent Convertible Securities must disclose the possibility of, or the intention to engage in, transactions in Shares by the Issuer or its affiliated purchasers;

(8) Shares must have an ADTV (within the meaning of Rule 100 of Regulation M) value of at least $1 million during the two full calendar months immediately preceding, or any consecutive 60 calendar days ending within the 10 calendar days preceding, the determination of the offering price, and Shares must be issued by an Issuer whose common equity securities have a public float value (within the meaning of Rule 100 of Regulation M) of at least $150 million; and

(9) Except as otherwise exempted herein, the issuance of the AT1 Contingent Convertible Securities shall remain subject to the provisions of Regulation M.

In the event that any material change occurs in the facts or representations in the Request Letter, the Applicants shall promptly present for consideration the facts to staff in the Division of Trading and Markets. This exemption is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on this limited exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a) and 10(b), and Rule 10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption.

This Order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

[11] *See supra* note 6.

[12] As mentioned above, because of the perceived severity of regulatory sanctions that would apply to an Issuer that allows its Common Equity Tier I Capital Ratio to decline below the applicable Combined Buffer Requirement, it is expected that Issuers will maintain capital levels well in excess of the predetermined trigger level.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2018–01531 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82568; File No. SR–ISE–2018–07]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Assess Fees for OTTO Port, CTI Port, FIX Port, FIX Drop Port and Disaster Recovery Port Connectivity

January 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 19, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') 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 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 Schedule of Fees to assess fees for OTTO Port, CTI Port, FIX Port, FIX Drop Port and Disaster Recovery Port connectivity. The text of the proposed rule change is available on the Exchange's website at *www.ise.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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees[3] to assess fees for OTTO[4] Port, CTI[5] Port, FIX[6] Port, FIX Drop[7] Port and Disaster Recovery Port[8] connectivity. The Exchange has completed the migration of the Exchange's trading system to the Nasdaq INET architecture.[9] This migration included the adoption of new connectivity, including OTTO, CTI, FIX, FIX Drop, and Disaster Recovery Ports, which are the same as connectivity options currently used to connect to the Exchange's affiliate options markets, including The Nasdaq Stock Market (''Nasdaq''), Nasdaq BX (''BX''), Nasdaq GEMX (''GEMX'') and Nasdaq Phlx (''Phlx'').[10] When the Exchange adopted these new ports it did not assess a fee for them so that members would not be double charged for connectivity to the old Exchange architecture and the new Nasdaq INET architecture.[11]

The Exchange is proposing to amend the Nasdaq ISE Schedule of Fees Section V.D. to assess a fee of $400 per month, per port, per mnemonic[12] for OTTO Ports, $500 per port, per month, per account number[13] for CTI Ports, $300 per port per month, per mnemonic for FIX Ports, and $500 per port per month per account number for FIX Drop Ports. The Exchange is proposing to assess a fee of $50 per month, per port for Disaster Recovery Ports. The Exchange notes that it is adding ''per account number'' to the CTI and FIX Drop Port fees described above to clarify that billing for the ports is based on how many account numbers that a member associates with a port, which will allow the Exchange to determine a member's use of a port more precisely. The Exchange notes that this is the method by which GEMX bills these fees.[14] The Exchange is proposing to add ''per mnemonic'' to OTTO and FIX Port fees, which will allow the Exchange to more granularly identify use of such ports.[15] The Exchange notes that this is how the

[13] 17 CFR 200.30–3(a)(6) and (9).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed pricing changes on January 2, 2018 (SR–ISE–2018–01). On January 16, 2018, the Exchange withdrew that filing and on January 19, 2018 submitted this filing, making certain clarifying changes. The Exchange represents that it has not added new subscriptions or canceled existing subscriptions to the ports described in this filing between the time it withdrew the original proposal and the submission of this filing.

[4] OTTO is an interface that allows market participants to connect and send orders, auction orders and auction responses into ISE. Data includes the following: (1) Options Auction Notifications (*e.g.,* Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (5) Option Trading Action Messages (*e.g.,* halts, resumes); (6) Execution Messages; (7) Order Messages (order messages, risk protection triggers or purge notifications).

[5] CTI is a real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; and (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; (vi) capacity.

[6] FIX is an interface that allows market participants to connect and send orders and auction orders into ISE. Data includes the following: (1) Options Symbol Directory Messages; (2) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (3) Option Trading Action Messages (*e.g.,* halts, resumes); (4) Execution Messages; (5) Order Messages (order messages, risk protection triggers or purge notifications).

[7] FIX Drop is a real-time order and execution update is a message that is sent to a member after an order been received/modified or an execution has occurred and contains trade details. The information includes, among other things, the following: (1) Executions; (2) cancellations; (3) modifications to an existing order; (4) busts or post-trade corrections.

[8] Disaster Recovery Ports provide connectivity to the Exchange's disaster recovery data center in Chicago to be utilized in the event the exchange has to fail over during the trading day. Disaster Recovery Ports are available for SQF, SQF Purge, CTI, OTTO, FIX and FIX Drop.

[9] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03).

[10] *See* Nasdaq Option Rules, Chapter XV Options Pricing, Sec. 3 Nasdaq Options Market—Ports and other Services; BX Option Rules, Chapter XV Options Pricing, Sec. 3 BX Options Market—Ports and other Services; Nasdaq GEMX Schedule of Fees Section IV.E.3; and Phlx Pricing Schedule, VII. Other Member Fees, B. Port Fees.

[11] *See* Securities Exchange Release No. 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017) (SR–ISE–2017–62).

[12] A mnemonic is a unique identifier assigned to a member consisting of a four character code. A member may be assigned multiple mnemonics, which are used to segregate a member's order flow based on its business and regulatory needs. Every mnemonic must be affiliated with an account number held by the member. Account numbers are numeric codes used to identify members and the default clearing information through which all order flow affiliated with that account number will clear. A member may be assigned multiple account numbers.

[13] An account number may have multiple mnemonics affiliated with it. *See id.*

[14] *See* Nasdaq GEMX Schedule of Fees Section IV.E.3.

[15] *Supra* note 12.

Exchange's sister exchanges (other than GEMX) bill these fees.[16] In light of the addition of account numbers and mnemonics to the rules, the Exchange is also proposing to add clarifying text to the beginning of Nasdaq ISE Schedule of Fees Section V.D. to explain how the various fees thereunder are billed. Specifically, the text notes that the fees are billed to members and a member may subscribe [17] to as many ports as it elects to under the rule. The text also explains that some of the fees under the rule are billed based on the number of ports subscribed, while others are billed based by the number of account numbers or mnemonics that a subscriber associates with a port. Last, the Exchange is proposing to add a new footnote to the rule that applies a monthly fee cap to OTTO Port subscriptions of $4,000.[18]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[20] 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 proposed fees are reasonable because they are similar to the fees assessed by other exchanges. As noted above, Nasdaq, BX, GEMX and Phlx provide some or all of the same connectivity options as is provided by ISE. For example, GEMX assesses $650 per port, per month, per account for CTI and FIX Drop Ports. GEMX also assesses a fee of $50 per port, per month, per account for Disaster Recovery Ports.[21] Thus, the proposed fees for CTI, FIX Drop and Disaster Recovery Ports are the same or less than those of GEMX. Nasdaq assesses a fee of $750 per port, per month, per mnemonic for OTTO Ports, and both Nasdaq and BX assess $650 per port, per month, per mnemonic for Order Entry Ports, all of which are greater than the fees proposed for comparable connectivity to ISE. The Nasdaq Stock Market (''Nasdaq'') also assesses a fee of $25 per port, per month for equities Disaster Recovery Ports (OUCH, RASH, and DROP).[22] Although the proposed Disaster Recovery Port fee is higher than the fee assessed by Nasdaq, the higher fee is reasonable because it reflects the ongoing costs in maintaining and supporting the ports, as well as the initial investment in such ports for the Exchange and the fewer subscribers among which it may spread fixed costs associated with offering the ports in comparison to Nasdaq. The Exchange believes that the proposed $4,000 monthly fee cap applied to OTTO Port subscriptions is reasonable because it is similar to the proposed OTTO Port fee caps provided by other exchanges. For example, GEMX applies a $7,500 per month fee cap, which includes OTTO Port subscription.[23] BX also applies a $7,500 per month fee cap for its connectivity.[24] The proposed OTTO Port fee cap is lower than these other exchanges because it is reflective of the limited application of the fee cap (*i.e.,* OTTO Ports). The Exchange notes that limiting the fee cap to OTTO Ports is reasonable because the Exchange's proposed fees are generally lower than those of the other exchanges noted above. As such, the Exchange believes that the proposed fees are similar to those of other exchanges and therefore reasonable. The Exchange believes that the proposed text added to the beginning of Section V.D. of the Schedule of Fees is reasonable because it is designed to provide greater specificity and clarity to the application of the new fees, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

The Exchange believes that the proposed fees are an equitable allocation and are not unfairly discriminatory because the Exchange must ultimately assess fees to cover the costs associated with offering the connectivity. The Exchange notes that members have historically paid fees for Exchange connectivity and, in adopting the connectivity for which the Exchange is proposing to assess a fee, it noted that it was not adopting a fee at that time to avoid being double charged for connectivity to the old Exchange architecture and the new Nasdaq INET architecture. Now that members no longer have connectivity to the old Exchange architecture, and therefore are not assessed connectivity fees, the Exchange is now proposing to assess fees for connectivity to the new Nasdaq INET architecture of the Exchange. The Exchange notes that the proposed fees are equal to or less than the comparable fees assessed by Nasdaq, BX, Phlx, and GEMX. The Exchange believes that applying different measures (*i.e.,* account number or mnemonic) for assessing fees is an equitable allocation and is not unfairly discriminatory because members choose how many account numbers and mnemonics they have and members subscribing to the ports covered by the rule may associate as many account numbers and mnemonics they choose. Thus, members have control over their fee liability. Moreover, the Exchange must make an independent assessment of what the appropriate measure is for assessing fees based on factors such as the number of members and the costs associated with offering connectivity. In this case, the Exchange has also considered the fees historically paid by its membership for connectivity in determining what the fees should be for new connectivity. The Exchange believes that the fees are reflective of these considerations because, by using different measures in assessing the port fees together with the proposed fee cap, the Exchange attempted to make the new fees as similar to the historical fees paid by subscribers as possible. As a consequence, the proposed change is the least impactful overall to members. For these reasons, the Exchange believes that the proposed fees are an equitable allocation and are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[16] *See, e.g.,* Nasdaq Options Rules, Chapter XV Options Pricing, Section 3(b) (billing per port, per month, per mnemonic).

[17] The Exchange notes that service bureaus, some of which are not members of the Exchange, may subscribe to the connectivity under the rule on behalf of a member. The member retains responsibility for the port and is billed directly for the connectivity. All members that use a service bureau must first execute an agreement with the Exchange and the service bureau that establishes the relationship between the member, service bureau and Exchange.

[18] GEMX applies a fee cap of $7,500 per month applied to OTTO, CTI, FIX, FIX Drop, and Disaster Recovery Ports. *See* GEMX Schedule of Fees Section IV.E.3. BX applies a fee cap of $7,500 per month applied to all ports under its rule. *See* BX Option Rules, Chapter XV Options Pricing, Sec. 3 BX Options Market—Ports and other Services.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(4) and (5).

[21] The GEMX Disaster Recovery Ports fee may result in a higher charge per member than the proposed ISE Disaster Recovery Ports fee because it is assessed by account number. Thus, the greater number of accounts assigned to such a port would result in a greater overall fee, whereas it would have no effect on the fee assessed for such ports under the proposed ISE fee.

[22] *See* Rule 7015(g)(2).

[23] The fee cap also applies to CTI, FIX, FIX Drop and Disaster Recovery Ports. GEMX applies its $7,500 monthly fee cap of to encourage increased participation on GEMX. *See* Securities Exchange Act Release No. 81136 (July 13, 2017), 82 FR 33168 (July 19, 2017) (SR–GEMX–2017–29).

[24] The Exchange notes that BX does not have OTTO Ports. *See* BX Option Rules, Chapter XV Options Pricing, Sec. 3 BX Options Market—Ports and other Services.

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 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 connect to third parties instead of directly connecting to the Exchange, 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 charges assessed for connectivity to the Exchange are consistent with the fees assessed by other exchanges for the same or similar connectivity. The Exchange must assess fees to cover the costs incurred in providing connectivity and members had been assessed fees for Exchange connectivity prior to the sunset of the old Exchange architecture. The Exchange considered the historical fees paid by subscribers to the Exchange's connectivity and set the proposed fees at a level that it determined would be as similar to the historical fees paid by members for similar connectivity. As a consequence, competition will not be burdened by the proposed fees. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will see a decrease in subscribership to ports and possibly lose market share as a result. 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.[25] 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–ISE–2018–07 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–ISE–2018–07. 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 website (*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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–07 and should be submitted on or before February 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01535 Filed 1–26–18; 8:45 am]

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[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82570; File No. SR–LCH SA–2017–012]

Self-Regulatory Organizations; LCH SA; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Adopt LCH SA's Recovery Plan

January 23, 2018.

On November 30, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] a proposed rule change to adopt an updated recovery plan (the ''RP''). (File No. SR–LCH SA–2017–012). The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.[3] To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate, if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–82316 (December 13, 2017), 82 FR 60246 (December 19, 2017) (SR–LCH SA–2017–012) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is February 2, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. LCH SA proposes to adopt an updated RP. The Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider LCH SA's proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) [5] of the Act, designates March 19, 2018, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–LCH SA–2017–012).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01537 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82573; File No. SR–NASDAQ–2018–005]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Criteria for Listing Underlying Securities

January 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 16, 2018, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IV, Section 3 (Criteria for Underlying Securities) of the rules governing the Nasdaq Options Market (''NOM'') to modify the criteria for listing an option on an underlying covered security.

The text of the proposed rule change is available on the Exchange's website 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.

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 NOM Chapter IV, Section 3 to modify the criteria for listing options on an underlying security as defined in Section 18(b)(1)(A) of the Securities Act of 1933 (hereinafter ''covered security'' or ''covered securities''). In particular, the Exchange proposes to modify Section 3(b)v.1) to permit the listing of an option on an underlying covered security that has a market price of at least $3.00 per share for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation (''OCC'') for listing and trading. The Exchange does not intend to amend any other criteria for listing options on an underlying security in Chapter IV, Section 3.

This proposed rule change is identical to a recently-approved rule change by the Exchange's affiliate, Nasdaq PHLX LLC (''Phlx''), to its initial listing standards,[3] and serves to align the rules of Phlx and the Exchange.

Currently the underlying covered security must have a closing market price of $3.00 per share for the previous five consecutive business days preceding the date on which the Exchange submits a listing certificate to OCC. In the proposed amendment, the market price will still be measured by the closing price reported in the primary market in which the underlying covered security is traded, but the measurement will be the price over the prior three consecutive business day period preceding the submission of the listing certificate to OCC, instead of the prior five business day period.

The Exchange acknowledges that the Options Listing Procedures Plan [4] requires that the listing certificate be provided to OCC no earlier than 12:01 a.m. and no later than 11:00 a.m. (Chicago time) on the trading day prior to the day on which trading is to begin.[5] The proposed amendment will still comport with that requirement. For example, if an initial public offering (''IPO'') occurs at 11 a.m. on Monday, the earliest date the Exchange could submit its listing certificate to OCC would be on Thursday by 12:01 a.m. (Chicago time), with the market price determined by the closing price over the three-day period from Monday through Wednesday. The option on the IPO would then be eligible for trading on the Exchange on Friday. The proposed amendment would essentially enable options trading within four business days of an IPO becoming available instead of six business days (five

[3] *See* Securities Exchange Act Release No. 82474 (January 9, 2018) (SR–Phlx–2017–75) (Order Granting Approval of a Proposed Rule Change) (''Phlx Filing''). The Exchange, together with its affiliates, Nasdaq BX, Inc. (''BX'') and Nasdaq ISE, LLC (''ISE''), all of which are wholly owned subsidiaries of Nasdaq, Inc. (''Nasdaq HoldCo''), have filed identical rule change proposals based on the Phlx Filing.

[4] The Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11a(2)(3)(B) of the Securities Exchange Act of 1934 (a/k/a the Options Listing Procedures Plan (''OLPP'')) is a national market system plan that, among other things, sets forth procedures governing the listing of new options series. *See* Securities Exchange Act Release No. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001) (Order approving OLPP). The sponsors of OLPP include Nasdaq; OCC; BATS Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; EDGX Exchange, Inc.; Miami International Securities Exchange, LLC; MIAX PEARL, LLC; Nasdaq PHLX LLC; Nasdaq BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; NYSE American, LLC; and NYSE Arca, Inc.

[5] *See* OLPP at page 3.

consecutive days plus the day the listing certificate is submitted to OCC).

The Exchange's initial listing standards for equity options in Chapter IV, Section 3 (including the current price/time standard of $3.00 per share for five consecutive business days) are substantially similar to the initial listing standards adopted by other options exchanges.[6] At the time the options industry adopted the ''look back'' period of five consecutive business days, it was determined that the five-day period was sufficient to protect against attempts to manipulate the market price of the underlying security and would provide a reliable test for stability.[7] Surveillance technologies and procedures concerning manipulation have evolved since then to provide adequate prevention or detection of rule or securities law violations within the proposed time frame, and the Exchange represents that its existing trading surveillances are adequate to monitor the trading in the underlying security and subsequent trading of options on the Exchange.[8]

Furthermore, the Exchange notes that the scope of its surveillance program also includes cross market surveillance for trading that is not just limited to the Exchange. In particular, the Financial Industry Regulatory Authority (''FINRA''), pursuant to a regulatory services agreement, operates a range of cross-market equity surveillance patterns on behalf of the Exchange to look for potential manipulative behavior, including spoofing, algorithm gaming, marking the close and open, and momentum ignition strategies, as well as more general, abusive behavior related to front running, wash sales, quoting/routing, and Reg SHO violations. These cross-market patterns incorporate relevant data from various markets beyond the Exchange and its affiliates, including data from the New York Stock Exchange (''NYSE'').

Additionally for options, the Nasdaq Options Surveillance team utilizes an array of patterns that monitor manipulation of options, or manipulation of equity securities (regardless of venue) for the purpose of impacting options prices on any of the six Nasdaq HoldCo-operated options markets (*i.e.,* mini-manipulation strategies). Surveillance coverage is initiated once options begin trading on any of Nasdaq HoldCo's six options markets, including the Exchange. Accordingly, the Exchange believes that the cross market surveillance performed by FINRA on behalf of the Exchange, coupled with Exchange staff's real-time monitoring of similarly violative activity on Nasdaq and its affiliated markets as described herein, reflects a comprehensive surveillance program that is adequate to monitor for manipulation of the underlying security and overlying option within the proposed three-day look back period.

Furthermore, the Exchange notes that the proposed listing criteria would still require that the underlying security be listed on NYSE, the American Stock Exchange (now known as NYSE American), or the National Market System of the Exchange (now known as the Nasdaq Global Market) (collectively, the ''Named Markets''), as provided for in the definition of ''covered security'' from Section 18(b)(1)(A) of the 1933 Act.[9] Accordingly, the Exchange believes that the proposed rule change would still ensure that the underlying security meets the high listing standards of a Named Market, and would also ensure that the underlying is covered by the regulatory protections (including market surveillance, investigation and enforcement) offered by these exchanges for trading in covered securities conducted on their facilities.

In addition, the Exchange had no cases within the past five years where an IPO-related issue for which it had pricing information qualified for the $3.00 price requirement during the first three days of trading and did not qualify for the $3.00 price requirement during the first five days.[10] In other words, none of these qualifying issues fell below the $3.00 threshold within the first three or five days of trading. As such, the Exchange believes that its existing surveillance program, coupled with its findings related to the IPO-related issues as described herein, adequately address potential concerns regarding possible manipulation or price stability within the proposed timeframe.

The Exchange also believes that the proposed look back period can be implemented in connection with the other initial listing criteria for underlying covered securities. In particular, the Exchange recognizes that it may be difficult to verify the number of shareholders in the days immediately following an IPO due to the fact that stock trades generally clear within two business days (T+2) of their trade date and therefore the shareholder count will generally not be known until T+2.[11] The Exchange notes that the current T+2 settlement cycle was recently reduced from T+3 on September 5, 2017 in connection with the Commission's amendments to Exchange Rule 15c6–1(a) to adopt the shortened settlement cycle,[12] and the look back period of three consecutive business days proposed herein reflects this shortened T+2 settlement period. As proposed, stock trades would clear within T+2 of their trade date (*i.e.,* within three business days) and therefore the number of shareholders could be verified within three business days, thereby enabling options trading within four business days of an IPO (three consecutive business days plus the day the listing certificate is submitted to OCC).

Furthermore, the Exchange notes that it can verify the shareholder count with various brokerage firms that have a large retail customer clientele. Such firms can confirm the number of individual customers who have a position in the new issue. The earliest that these firms can provide confirmation is usually the day after the first day of trading (T+1) on an unsettled basis, while others can confirm on the third day of trading (T+2). The Exchange has confirmed with some of these brokerage firms who provide shareholder numbers to the Exchange that they are able to provide these numbers within T+2 after an IPO. For the foregoing reasons, the Exchange believes that basing the proposed three business day look back period on the T+2 settlement cycle would allow for

[6] *See, e.g.,* Phlx Rule 1009, Commentary .01.

[7] *See* Securities Exchange Act Release Nos. 47190 (January 15, 2003), 68 FR 3072 (January 22, 2003) (SR–CBOE–2002–62); 47352 (February 11, 2003), 68 FR 8319 (February 20, 2003) (SR–PCX–2003–06); 47483 (March 11, 2003), 68 FR 13352 (March 19, 2003) (SR–ISE–2003–04); 47613 (April 1, 2003), 68 FR 17120 (April 8, 2003) (SR–Amex–2003–19); and 47794 (May 5, 2003), 68 FR 25076 (May 9, 2003) (SR–Phlx–2003–27).

[8] Such surveillance procedures generally focus on detecting securities trading subject to opening price manipulation, closing price manipulation, layering, spoofing or other unlawful activity impacting an underlying security, the option, or both. As it relates to IPOs, the Exchange has price movement alerts, unusual market activity and order book alerts active for all trading symbols. These real-time patterns are active for the new security as soon as the IPO begins trading. The Nasdaq MarketWatch group, which provides such real-time surveillance on the Exchange and its affiliated markets, monitors trading activity in IPOs to see whether the new issue moves substantially above or below the public offering price in the first day or several days of trading.

[9] *See* 15 U.S.C. 77r(b)(1)(A).

[10] There were over 750 IPO-related issues on the Exchange within the past five years. Out of all of the issues with pricing information, there was only one issue that had a price below $3 during the first five consecutive business days. The Exchange notes, however, that it allows for companies to list on the Nasdaq Capital Market at $2.00 or $3.00 per share in some instances, which was the case for this particular issue. *See* Rule 5500 Series for initial listing standards on the Nasdaq Capital Market.

[11] The number of shareholders of record can be verified from large clearing agencies such as The Depository Trust and Clearing Corporation (''DTCC'') upon the settlement date (*i.e.,* T+2).

[12] *See* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7–22–16).

sufficient verification of the number of shareholders.

The proposed rule change will apply to all covered securities that meet the relevant criteria in Chapter IV, Section 3. Pursuant to Section 3(b), Nasdaq Regulation establishes guidelines to be considered in evaluating potential underlying securities for NOM options transactions. However, the fact that a particular security may meet the standards established by Nasdaq Regulation does not necessarily mean that it will be selected as an underlying security.[13] As part of the established criteria, the issuer must be in compliance with any applicable requirements of the Act and the rules thereunder.[14] Additionally, in considering the underlying security, Nasdaq Regulation relies on information made publicly available by the issuer and/or the markets in which the security is traded.[15] The Exchange believes that these measures, together with its existing surveillance procedures, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the timeframe contained in this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] 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 that the proposed changes to its listing standards for covered securities would allow the Exchange to more quickly list options on a qualifying covered security that has met the $3.00 eligibility price without sacrificing investor protection. As discussed above, the Exchange believes that its existing trading surveillances provide a sufficient measure of protection against potential price manipulation within the proposed three consecutive business day timeframe. The Exchange also believes that the proposed three consecutive business day timeframe would continue to be a reliable test for price stability in light of its findings that none of the IPO-related issues on Nasdaq within the past five years that qualified for the $3.00 per share price standard during the first three trading days fell below the $3.00 threshold during the fourth or fifth trading day. Furthermore, the established guidelines to be considered by the Exchange in evaluating the potential underlying securities for Exchange option transactions,[18] together with existing trading surveillances, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the proposed timeframe.

In addition, the Exchange believes that basing the proposed timeframe on the T+2 settlement cycle adequately addresses the potential difficulties in confirming the number of shareholders of the underlying covered security. Having some of the largest brokerage firms that provide these shareholder counts to the Exchange confirm that they are able to provide these numbers within T+2 further demonstrates that the 2,000 shareholder requirement can be sufficiently verified within the proposed timeframe. For the foregoing reasons, the Exchange believes that the proposed amendments will remove and perfect the mechanism of a free and open market and a national market system by providing an avenue for investors to swiftly hedge their investment in the stock in a shorter amount of time than what is currently in place.[19]

Finally, it should be noted that a price/time standard for the underlying security was first adopted when the listed options market was in its infancy, and was intended to prevent the proliferation of options being listed on low-priced securities that presented special manipulation concerns and/or lacked liquidity needed to maintain fair and orderly markets.[20] When options trading commenced in 1973, the Commission determined that it was necessary for securities underlying options to meet certain minimum standards regarding both the quality of the issuer and the quality of the market for a particular security.[21] These standards, including a price/time standard, were imposed to ensure that those issuers upon whose securities options were to be traded were widely-held, financially sound companies whose shares had trading volume and float substantial enough so as not to be readily susceptible to manipulation.[22] At that time, the Commission determined that the imposition of these standards was reasonable in view of the pilot nature of options trading and the limited experience of investors with options trading.[23]

Now more than 40 years later, the listed options market has evolved into a mature market with sophisticated investors. In view of this evolution, the Commission has approved various exchange proposals to relax some of these initial listing standards throughout the years,[24] including reducing the price/time standard in 2003 from $7.50 per share for the majority of business days over a three month period to the current $3.00 per share/five business day standard (''2003 Proposal'').[25] It has been almost fifteen years since the Commission approved the 2003 Proposal, and both the listed options market and exchange technologies have continued to evolve since then. In this instance, Nasdaq is only proposing a modest reduction of the current five business day standard to three business days to correspond to the securities industry's move to a T+2 standard settlement cycle.[26] The $3.00 per share standard and all other initial options listing criteria in Chapter IV, Section 3 will remain unchanged by this proposal. For the reasons discussed herein, the Exchange therefore believes that the proposed three business day period will be beneficial to the marketplace without sacrificing investor protections.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change reduces the number of days to list options on an underlying security, and is intended to bring new options listings to the marketplace quicker.

[13] *See* Chapter IV, Section 3(b).

[14] *See* Chapter IV, Section 3(b)iii.

[15] *See* Chapter IV, Section 3(d).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* notes 13–15 above.

[19] This proposed rule change does not alter any obligations of issuers or other investors of an IPO that may be subject to a lock-up or other restrictions on trading related securities.

[20] *See* Securities Exchange Act Release No. 29628 (August 29, 1991), 56 FR 43949–01 (September 5, 1991) (SR–AMEX–86–19; SR–CBOE–86–15; SR–NYSE–86–20; SR–PSE–86–15; and SR–PHLX–86–21) (''1991 Approval Order'') at 43949 (discussing the Commission's concerns when options trading initially commenced in 1973).

[21] *See* 1991 Approval Order at 43949.

[22] *Id.*

[23] *Id.*

[24] *See e.g.,* 1991 Approval Order (modifying a number of initial listing criteria, including the reduction of the price/time standard from $10 per share each day during the preceding three calendar months to $7.50 per share for the majority of days during the same period).

[25] *See* note 7 above.

[26] *See* note 12 above.

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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [27] and Rule 19b–4(f)(6) thereunder.[28]

A proposed rule change filed under Rule 19b–4(f)(6) [29] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[30] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to align its initial options listing standards with that of its affiliates, and the Exchange's proposal does not raise new issues. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[31]

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–NASDAQ–2018–005 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–2018–005. 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 website (*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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–005, and should be submitted on or before February 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01541 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] 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).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82567; File No. SR–BX–2018–005]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fees at Rule 7023

January 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 18, 2018, Nasdaq BX, Inc. (''BX'' 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 its fees at Rule 7023 to modify the fee schedule for BX TotalView to reflect substantial enhancements to this product since the current BX TotalView fees were set in 2010.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 adjust the fee schedule for BX TotalView to reflect substantial enhancements to this product since the current non-display usage fees and enterprise license fees were set in 2010.[3] Specifically, the Exchange proposes to: (i) Introduce a monthly non-display usage [4] fee of $55 per Professional Subscriber [5] for BX TotalView based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage of BX TotalView based upon Direct Access from $16,000 to $20,000.

BX TotalView

BX TotalView, like Nasdaq and PSX TotalView, is a real-time market data feed that provides access to every displayed quote and order at every price level in Nasdaq–, NYSE–, NYSE American–, NYSE Arca–, CBOE–, and IEX–listed securities. The product also provides anonymous interest and administrative messages relating to trading halts and symbol directory messages.[6]

BX TotalView is available for a monthly per Subscriber fee of $20 for either display or non-display usage of Nasdaq issues, and an additional monthly per Subscriber fee of $20 for NYSE and regional issues. A ''Subscriber'' is ''any access that a distributor of the data entitlement package(s) provides to: (1) Access the information in the data entitlement package(s); or (2) communicate with the distributor so as to cause the distributor to access the information in the data entitlement package(s).'' [7] The current monthly charges are based on the number of Subscribers, without regard to whether a Subscriber is used for non-display or display usage.

For firms that utilize BX TotalView internally for non-display purposes, the product may also be purchased through an enterprise license fee of $16,000 per month for unlimited internal use of non-display data. This enterprise license, which provides an alternative to monthly per Subscriber fees, is designed to relieve firms with a large number of internal Subscribers from the administrative burden of identifying, tracking and reporting such Subscribers.

Proposed Changes

BX TotalView is one of a number of market information services offered by the Exchange. Such services are inextricably connected to trade execution: Market information services require trade orders to provide useful information, and investors utilize market information to make trading decisions. Over the seven years that have elapsed since the current fee schedule for non-display usage and enterprise licenses for BX TotalView were introduced,[8] the Exchange has invested in an array of upgrades to both its trade execution and market information services, which have increased the value of these services overall, and BX TotalView in particular.[9]

The Exchange proposes to adjust its fee schedule for BX TotalView to reflect the value of the many investments improving the product, which include:

- *Glimpse Snapshot Facility.* In 2013, the Exchange substantially updated the Glimpse snapshot facility, which allows firms to obtain a snapshot of the order book at any point during the trading day. The service may be used to validate order book displays or to recover from data gaps during the trading day.[10]
- *Enhanced Data Feed.* In 2014, the Exchange enhanced the BX TotalView data feed by: (i) Converting to binary codes to make more efficient use of bandwidth and to provide greater timestamp granularity; (ii) adding a symbol directory message to identify a security and its key characteristics; and (iii) adding the Market Wide Circuit Breaker (''MWCB'') Decline Level message to inform recipients of the setting for MWCB breach points for the trading day, and an MWCB Status Level Message to inform data recipients when an MWCB has breached an established level.[11]
- *Reg SHO Circuit breaker.* In 2010, the Exchange instituted a Regulation SHO restricted indicator message. This message is disseminated if the price of the security declines by 10 percent or more from the prior closing value during normal market hours.[12]
- *Geographic Diversity.* In 2015, all of the Nasdaq Exchanges moved their Disaster Recovery (''DR'') center from Ashburn, Virginia, to Chicago, Illinois. As a result, customers can both receive market data and send orders through the Chicago facility, potentially reducing overall networking costs. Adding such geographic diversity helps protect the market in the event of a catastrophic event impacting the entire East Coast.[13]
- *Chicago ''B'' Feeds.* In 2017, all of the Nasdaq exchanges added a multicast IP address for proprietary equity and options data feeds in Chicago, allowing firms the choice of having additional redundancy to ensure data continuity.[14]
- *Extended Transmission Hours.* In 2014, the Exchange began to transmit data between 3:00 and 4:00 a.m. Eastern, approximately three hours earlier than previously, to provide customers with an opportunity to test connectivity before pre-market sessions open at 7:00 a.m. Eastern.[15]

This proposed fee change for BX TotalView differs from the corresponding fee change recently proposed for PSX TotalView [16] in that: (i) The monthly non-display usage fee for Professional Subscribers is proposed to be $50 for PSX TotalView, and $55 for BX TotalView, and (ii) the proposed monthly enterprise license fee for non-display usage of PSX TotalView is $17,000, while the corresponding fee proposal for BX TotalView is $20,000.

[3] *See* Securities Exchange Act Release No. 62001 (April 29, 2010), 75 FR 25014 (May 6, 2010) (SR–BX–2010–027).

[4] Non-Display usage is any method of accessing Exchange information that does not involve the display of such data on a screen or other mechanism designed for access or use by a natural person or persons. Non-Display usage applies to automated order generation and program trading, algorithmic trading and order routing, and back office processes such as surveillance, order verification, and risk management. *See Id.* (establishing a Non-Display usage cap for internal distributors of BX TotalView).

[5] A ''Subscriber'' is any access that a distributor of data entitlement package(s) provides to: (1) Access the information in the data entitlement package(s); or (2) communicate with the distributor so as to cause the distributor to access the information in the data entitlement package(s). *See* BX Rule 7023(c).

[6] Symbol directory messages include basic security data such as the market tier and Financial Status Indicator.

[7] *See* Note 5.

[8] *See* Securities Exchange Act Release No. 62001 (April 29, 2010), 75 FR 25014 (May 6, 2010) (SR–BX–2010–027).

[9] Many of these upgrades are common to several Nasdaq-affiliated exchanges, as improvements to the products and services of one exchange are reproduced in other exchanges.

[10] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2013-33.*

[11] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2013-45* and *http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2013-33.*

[12] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2010-023.*

[13] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2015-17.*

[14] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2017-02.*

[15] The extended schedule for data transmission did not extend pre-market trading hours. *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2014-08.*

[16] *See* SR–PHLX–2018–10.

These differences are justified by differences in the usage of the two exchanges, as well as certain network investments that are unique to BX.

BX has approximately 25 percent more market participants than PSX, as measured by Market Participant Identifier (''MPID''). This greater number of market participants results in more trades: BX processed approximately twice the number of trading messages as PSX in 2017, and, as of February 2017, BX had nearly 5 times more add/remove liquidity than PSX. These differences in usage are reflected in significantly different growth rates: The peak one second transaction rate for BX increased by 78 percent between 2012 and 2017, while the same measure for PSX increased by only 20 percent over the same period.

BX also has invested in two network enhancements that are unique to that Exchange:

• *Price Improvement Indicator.* In 2014, the Exchange introduced a Price Improvement Indicator (''PII'') [17] message. The purpose of this indicator is to denote when a Retail Price Improvement order better than the best displayed bid and/or offer price for a given security is available.[18]

• Additional Data Feed at Carteret. In 2017, the Exchange added a new source IP address for the BX data feeds at its Carteret facility, providing additional redundancy to ensure data continuity.[19]

The proposed price increases are also justified by the fact that, while usage of the BX exchange increased and the Exchange invested in a number of enhancements to its data feed, fees for BX fell in real terms as a result of price inflation.[20] The proposed increase to the monthly non-display usage fee amounts to an annual increase of approximately 4.65 percent over the relevant period, and the proposed enterprise license fee increase translates to an annual increase of approximately 3.24 percent over the relevant period, both of which are partially offset by inflation.

As a result of these substantial upgrades, the Exchange proposes two substantive changes to the BX TotalView fee schedule: (i) Introduce a monthly non-display usage fee of $55 per Subscriber based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage based upon Direct Access from $16,000 to $20,000.[21]

The current fee structure allows firms to purchase BX TotalView for all issues for display or non-display usage by professionals for a per Subscriber monthly charge of $40 ($20 for Nasdaq issues and $20 for NYSE and regional issues). The Exchange proposes to remove non-display usage based upon Direct Access from those fees, and institute a separate fee for non-display usage based upon Direct Access for all Nasdaq, NYSE and regional issues.[22] Fees for non-professionals will not change. The effect of this proposal would be to leave the total fees for display usage and non-display usage not based upon Direct Access by professionals for all issues unchanged at $40, but to increase the monthly fee to $55 per month for non-display usage by professionals based upon Direct Access.[23] With this change, the pricing structure for BX TotalView will conform to the pricing structure for Nasdaq TotalView (which has differential fees for display and non-display usage),[24] the proposed pricing structure for PSX TotalView (proposed in a separate filing for the PSX Exchange),[25] as well as the non-display fee structure for NYSE and other exchanges.[26] As noted elsewhere, differential pricing for display and non-display usage has become the industry norm.

The second proposal will increase the monthly enterprise license fee for internal non-display usage based upon Direct Access from $16,000 to $20,000.

BX TotalView is optional in that the Exchange is not required to offer it and broker-dealers are not required to purchase it. Firms can discontinue use at any time and for any reason, including an assessment of the fees charged.

The proposed change does not change the cost of any other Exchange product.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[27] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[28] 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 Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [29]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [30] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[31] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [32]

Further, ''[n]o one disputes that competition for order flow is 'fierce.'

[17] *See* Securities Exchange Act Release No. 73410 (October 23, 2014), 79 FR 64447 (October 29, 2014) (SR–BX–2014–048).

[18] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2014-18.*

[19] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2017-16.*

[20] The Consumer Price Index indicates a price increase of approximately 13 percent between April 2010 and November 2017. *See https://www.bls.gov/data/inflation_calculator.htm.*

[21] In addition to these two substantive changes, the Exchange proposes four technical changes. First, the Exchange proposes to add the phrase ''for display usage'' to Rule 7023(a)(1) to distinguish between display usage fees, which shall remain unchanged, and non-display usage fees, which will increase. Second, the Exchange proposes to change the reference to per Subscriber fees in new Rule 7023(a)(3) from (a)(1) to (a)(2) because non-display fees have been moved from section (a)(1) to (a)(2) for Professionals that take the feed through Direct Access. Third, the Exchange proposes to renumber former Rules 7023(a)(2) and (a)(3) to Rules 7023(a)(3) and (a)(4), respectively, to reflect the introduction of new Rule 7023(a)(2). Fourth, the Exchange proposes to revise proposed Rule 7023(a)(4) (''Free-Trial Offers'') to reflect the new fee set forth in proposed Rule 7023(a)(2).

[22] Any Subscriber within a firm that obtains Exchange data through a Subscriber from that same firm with Direct Access has obtained such data ''based upon Direct Access.''

[23] ''Direct Access'' means a telecommunications interface with the Exchange for receiving Exchange data, or receiving an Exchange data feed within the Exchange co-location facility, or receiving Exchange data via an Extranet access provider or other such provider that is fee-liable under Rule 7025. *See* BX Rule 7019(c).

[24] *See* Nasdaq Rule 7023(b)(2).

[25] *See* SR–PHLX–2018–10. BX fees are higher than PSX fees because of differences in usage between the two exchanges, as well as differences in infrastructure investments, as described above.

[26] *See, e.g.,* NYSE PDP Market Data Pricing (November 3, 2017), found at *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf.*

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(4) and (5).

[29] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[30] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[31] *See NetCoalition,* at 534–535.

[32] *Id.* at 537.

. . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [33]

The Exchange believes that the proposed fee changes are equitable allocations of reasonable dues, fees and other charges in accordance with Section 6(b)(4) of the Act, and not designed to permit unfair discrimination between customers, issuers, brokers, or dealers in accordance with Section 6(b)(5) of the Act. Both the monthly non-display per Subscriber usage fee and the monthly enterprise license fee for non-display usage are equitable allocations because, as has been widely recognized, display and non-display functions provide different value to the consumer, and it has become standard industry practice to charge differing fees for these two different modes of data consumption. In addition, discounts based on high levels of usage such as the enterprise license for non-display usage have routinely been adopted by exchanges and approved as equitable allocations of reasonable dues, fees and other charges.[34] As such, the proposed fees vary solely based on reasonable and well-established industry norms regarding types of data usage, as discussed above.

The proposed changes do not permit unfair discrimination between customers, issuers, brokers, or dealers because the Exchange makes all services and products subject to these fees available on a non-discriminatory basis to similarly-situated recipients. The proposed fees are structured in a manner comparable to the corresponding fees of Nasdaq already in effect, and compare favorably to fees charged by Nasdaq for the same product. The fees are uniform except with respect to reasonable and well-established distinctions among classes of data as discussed above.

The Exchange also distinguishes between usage based on Direct Access and other methods of connection: Non-display usage that is based upon Direct Access will be charged $55 per month, while other non-display usage will be charged a total of $40 per month for all issues. This distinction is an equitable allocation of reasonable dues, fees and other charges because Direct Access provides the customer with source information in the original raw format, which provides customers with certainty that they are receiving data without conflation or manipulation. This distinction does not permit unfair discrimination between customers, issuers, brokers, or dealers because the price differential is based on the difference in value to the customer.

In addition, the Exchange proposes to introduce clarifying language stating that the enterprise license for non-display data will be available only to firms with Direct Access. This is an equitable allocation of reasonable dues, fees and other charges because firms with sufficient activity to purchase an enterprise license have a Direct Access connection. As such, the proposed language simply clarifies how the enterprise license will be used with respect to Direct Access, in a similar manner to the way that Direct Access is addressed in proposed Rules 7023(a)(1) and (a)(2), without affecting the service of any specific customer. This proposed change does not permit unfair discrimination between customers, issuers, brokers, or dealers for the same reason: The proposed language is simply a clarification that will not lead to any actual difference in usage.

The Act does not prohibit all distinctions among customers, but rather discrimination that is unfair. As the Commission has recognized, ''[i]f competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior.'' [35] Accordingly, ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [36] The proposed fees, like all market data fees, are constrained by the Exchange's need to compete for order flow as discussed below, and are subject to competition from other exchanges and among broker-dealers for customers. If the Exchange is incorrect in its assessment of price, it may lose market share as a result.

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 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.

BX TotalView is a type of depth-of-book product, which consists of ''outstanding limit orders to buy stock at prices lower than, or to sell stocks at prices higher than, the best prices on each exchange.'' [37] The question of whether the prices of depth-of-book products are constrained by competitive forces was examined in 2016 by an Administrative Law Judge in an application for review by the Securities Industry and Financial Markets Association of actions taken by Self-Regulatory Organizations.[38] After a four-day hearing and presentation of substantial evidence, the administrative law judge stated that ''competition plays a significant role in restraining exchange pricing of depth-of-book products'' [39] because ''depth-of-book products from different exchanges function as substitutes for each other,'' [40] and, as such, ''the threat of substitution from depth-of-book customers constrains their depth-of-book prices.'' [41] As a result, ''[s]hifts in order flow and threats of shifting order flow provide a significant competitive force in the

[33] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[34] For example, the Commission has approved pricing discounts for market data under Nasdaq Rule 7023.

[35] Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21).

[36] *Id.*

[37] *Securities Industry and Financial Markets Association,* Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 at 4 (A.L.J. June 1, 2016) (quoting *NetCoalition* v. *SEC,* 615F3d 525, 529–30 (D.C. Cir. 2010)).

[38] *Id.*

[39] *Id.* at 92.

[40] *Id.*

[41] *Id.* at 93.

pricing of . . . depth-of-book data.'' [42] The judge concluded that ''[u]nder the standards articulated by the Commission and D.C. Circuit, the Exchanges have shown that they are subject to significant competitive forces in setting fees for depth-of-book data: The availability of alternatives to the Exchanges' depth-of-book products, and the Exchanges' need to attract order flow from market participants constrains prices.'' [43]

The proposed changes will: (i) Introduce a monthly non-display usage fee of $55 per Subscriber for BX TotalView based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage of BX TotalView based upon Direct Access from $16,000 to $20,000. These proposed price changes will not impose any burden on competition because market data fees are but one aspect of the overall competition among exchanges to solicit order flow; if the overall price of interacting with the Exchange rises above competitive levels because of market data fees, market forces would cause the Exchange to lose market share.

Market forces constrain fees for BX TotalView, as well as other market data fees, in the competition among exchanges and other entities to attract order flow and in the competition among Distributors for customers. Order flow is the ''life blood'' of the exchanges. Broker-dealers currently have numerous alternative venues for their order flow, including self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (''TRFs'') compete to attract internalized transaction reports. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs, which may readily reduce costs by directing orders toward the lowest-cost trading venues.

The level of competition and contestability in the market for order flow is demonstrated by the numerous examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume. For a variety of reasons, competition from new entrants, especially for order execution, has increased dramatically over the last decade.

Each SRO, TRF, ATS, and BD that competes for order flow is permitted to produce proprietary data products. Many currently do or have announced plans to do so, including NYSE, NYSE American, NYSE Arca, CBOE, and IEX. This is because Regulation NMS deregulated the market for proprietary data. While BDs had previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Order routers and market data vendors can facilitate production of proprietary data products for single or multiple BDs. The potential sources of proprietary products are virtually limitless.

The markets for order flow and proprietary data are inextricably linked: A trading platform cannot generate market information unless it receives trade orders. As a result, the competition for order flow constrains the prices that platforms can charge for proprietary data products. Firms make decisions on how much and what types of data to consume based on the total cost of interacting with BX and other exchanges. Data fees are but one factor in a total platform analysis. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. A supracompetitive increase in the fees charged for either transactions or proprietary data has the potential to impair revenues from both products. In this manner, the competition for order flow will constrain prices for proprietary data products.

Competition among Distributors provides another form of price discipline for proprietary data products. If the price of BX TotalView were set above competitive levels, Distributors purchasing BX TotalView would be at a disadvantage relative to their competitors, and would therefore either curtail their purchase or forego the product altogether.

Market forces constrain the price of depth-of-book data such as BX TotalView through the competition for order flow and in the competition among vendors for customers. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. 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.[44]

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–BX–2018–005 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–BX–2018–005. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the

[42] *Id.* at 104.

[43] *Id.* at 86.

[44] 15 U.S.C. 78s(b)(3)(A)(ii).

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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–005 and should be submitted on or before February 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01534 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32974; 812–14847]

Salt Financial, LLC, et al.

January 23, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: Salt Financial, LLC (the ''Initial Adviser''), a Delaware limited liability company that is to be registered as an investment adviser under the Investment Advisers Act of 1940, ETF Series Solutions (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC (the ''Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATE: The application was filed on November 29, 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 February 20, 2018 and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the 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, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Salt Financial, LLC, 79 Madison Avenue, 8th Floor, New York, New York 10016; ETF Series Solutions, 615 East Michigan Street, Milwaukee, Wisconsin 53202; Quasar Distributors, LLC, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website 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.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

[1] Applicants request that the order apply to Salt Financial US Large Cap Magnified Exposure ETF, a new series of the Trust, and any additional series of the Trust and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser or its successor (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested Order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing

Continued

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01549 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–425 OMB Control No. 3235–0468]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:
Rule 10A–1.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 10A–1 (17 CFR 240.10A–1) implements the reporting requirements in Section 10A of the Exchange Act (15 U.S.C. 78j–1), which was enacted by Congress on December 22, 1995 as part of the Private Securities Litigation Reform Act of 1995, Public Law 104–67, 109 Stat 737. Under section 10A and Rule 10A–1 reporting occurs only if a registrant's board of directors receives a report from its auditor that (1) there is an illegal act material to the registrant's financial statements, (2) senior

management and the board have not taken timely and appropriate remedial action, and (3) the failure to take such action is reasonably expected to warrant the auditor's modification of the audit report or resignation from the audit engagement. The board of directors must notify the Commission within one business day of receiving such a report. If the board fails to provide that notice, then the auditor, within the next business day, must provide the Commission with a copy of the report that it gave to the board.

Likely respondents are those registrants filing audited financial statements under the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*) and the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*).

It is estimated that Rule 10A–1 results in an aggregate additional reporting burden of 5 hours per year. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

There are no recordkeeping retention periods in Rule 10A–1. Because of the one business day reporting periods, recordkeeping retention periods should not be significant.

Filing the notice or report under Rule 10A–1 is mandatory once the conditions noted above have been satisfied. Because these notices and reports discuss potential illegal acts, they are considered to be investigative records and are 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 control number.

The public may view the information discussed in this notice at *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, 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.

Dated: January 24, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01602 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–613, OMB Control No. 3235–0712]

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Credit Risk Retention—Regulation RR.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Credit Risk Retention (''Regulation RR'') (17 CFR 246.1 through 246.22) recordkeeping and disclosure requirements implement Section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11) Section 15G clarifies the scope and application of Section 306(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7244(a)). Section 306(a) of the Sarbanes-Oxley Act requires, among other things, an issuer to provide timely notice to its directors and executive officers and to the Commission of the imposition of a blackout period that would trigger a trading prohibition under Section 306(a)(1) of the Sarbanes-Oxley Act. Section 306(a)(1) prohibits any director or executive officer of an issuer of any equity security, from directly or indirectly, purchasing, selling or otherwise acquiring or transferring any equity security of that issuer during the blackout period with respect to such equity security, if the director or executive officer acquired the equity security in connection with his or her service or employment. Approximately 1,647 issuers file using Regulation RR responses and it takes approximately 14.389 hours per response. We estimate that 75% of the 14.389 hours per response (10.792 hours) is prepared by the registrant for a total annual reporting burden of 17,774 hours (10.792 hours per response × 1,647 responses).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to 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.*

Dated: January 24, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01600 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–305, OMB Control No. 3235–0346]

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 34b–1.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 34b–1 under the Investment Company Act (17 CFR 270.34b–1) governs sales material that accompanies or follows the delivery of a statutory

prospectus (''sales literature''). Rule 34b–1 deems to be materially misleading any investment company (''fund'') sales literature required to be filed with the Securities and Exchange Commission (''Commission'') by Section 24(b) of the Investment Company Act (15 U.S.C. 80a–24(b)) that includes performance data, unless the sales literature also includes the appropriate uniformly computed data and the legend disclosure required in investment company advertisements by rule 482 under the Securities Act of 1933 (17 CFR 230.482). Requiring the inclusion of such standardized performance data in sales literature is designed to prevent misleading performance claims by funds and to enable investors to make meaningful comparisons among funds.

The Commission estimates that on average approximately 208 respondents file 13,004 [1] responses that include the information required by rule 34b–1 each year. The burden resulting from the collection of information requirements of rule 34b–1 is estimated to be 2 hours per response. The total hourly burden for rule 34b–1 is approximately 26,008 hours per year in the aggregate.[2]

The collection of information under rule 34b–1 is mandatory. The information provided under rule 34b–1 is not 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 control number.

The public may view the background documentation for this information collection at the following website, *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.

[1] The estimated number of responses to rule 34b–1 is composed of 12,772 responses filed with FINRA and 232 responses filed with the Commission in 2016.

[2] 13,004 responses × 2 hours per response = 26,008 hours.

Dated: January 24, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01603 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82569; File No. SR–Phlx–2018–10]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section VIII of the Exchange's Pricing Schedule

January 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 16, 2018, 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 amend Section VIII of the Exchange's Pricing Schedule, Nasdaq PSX Fees, to modify the fee schedule for PSX TotalView to reflect substantial enhancements to the product since the current fees were set in 2010. Specifically, the Exchange proposes to: (i) Introduce a monthly non-display usage fee of $50 per Professional Subscriber for PSX TotalView based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage of PSX TotalView from $16,000 to $17,000 based upon Direct Access. The proposal is described in further detail below.

The text of the proposed rule change is available on the Exchange's website 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adjust the fee schedule for PSX TotalView to reflect substantial enhancements to the product since the current fees were set in 2010.[3] Specifically, the Exchange proposes to: (i) Introduce a monthly non-display usage [4] fee of $50 per Professional Subscriber [5] for PSX TotalView based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage of PSX TotalView based upon Direct Access from $16,000 to $17,000.[6]

PSX TotalView

PSX TotalView, like Nasdaq and BX TotalView, is a real-time market data feed that provides access to every displayed quote and order at every price level in Nasdaq-, NYSE-, NYSE American-, NYSE Arca-, CBOE- and IEX-listed securities.[7] PSX TotalView also provides anonymous interest and administrative messages relating to trading halts and symbol directory messages.[8] The PSX TotalView entitlement today is available for a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62876 (September 9, 2010), 75 FR 56624 (September 16, 2010) (SR–Phlx–2010–120).

[4] ''Non-display usage'' refers to the usage of Exchange data by a computer for calculations and routing decisions that does not provide a means to display data on a screen. *See* Securities Exchange Act Release No. 62876 (September 9, 2010), 75 FR 56624 (September 16, 2010) (SR\Phlx–2010–120).

[5] A ''Subscriber'' is a method of accessing data, defined as ''any access that a distributor of the data entitlement package(s) provides to: (1) Access the information in the data entitlement package(s); or (2) communicate with the distributor so as to cause the distributor to access the information in the data entitlement package(s).'' *See* Phlx Pricing Schedule, Section VIII, PSX TotalView (d).

[6] The Exchange filed the proposed pricing changes on January 3, 2018 (SR–Phlx–2018–04). On January 16, 2018, the Exchange withdrew that filing and submitted this filing.

[7] In contrast with Nasdaq and BX TotalView, all displayed orders for PSX TotalView are displayed without attribution to the entering market participant.

[8] Symbol directory messages include basic security data such as the market tier and financial status indicator.

monthly charge of $40 per Subscriber.[9] A ''Subscriber'' is ''any access that a distributor of the data entitlement package(s) provides to: (1) Access the information in the data entitlement package(s); or (2) communicate with the distributor so as to cause the distributor to access the information in the data entitlement package(s).'' [10] The current monthly charge is based on the number of Subscribers, without regard to whether a Subscriber is used for non-display or display usage.

For firms that utilize PSX TotalView internally for non-display purposes, the product may also be purchased through an enterprise license fee of $16,000 per month for unlimited internal use of non-display data. This enterprise license, which provides an alternative to monthly per Subscriber fees, is designed to relieve firms with a large number of internal Subscribers from the administrative burden of identifying, tracking and reporting such Subscribers.

Proposed Changes

PSX TotalView is one of a number of market information services offered by the Exchange. Such services are inextricably connected to trade execution: Market information services require trade orders to provide useful information, and investors use market information to make trading decisions. Over the seven years that have elapsed since the current fee schedule for non-display usage and enterprise licenses for PSX TotalView were introduced,[11] the Exchange has invested in an array of upgrades to both its trade execution and market information services, which have increased the value of these services overall, and PSX TotalView in particular.[12]

The Exchange proposes to adjust its fee schedule for PSX TotalView to reflect the value of the many investments improving the product, which include:

• *Glimpse Snapshot Facility.* In 2013, the Exchange substantially updated the Glimpse snapshot facility, which allows firms to obtain a snapshot of the Exchange's order book at any point during the trading day. The service may be used to validate order book displays or to recover from data gaps during the trading day.[13]

• *Enhanced Data Feed.* In 2014, the Exchange enhanced the PSX TotalView data feed by: (i) Converting to binary codes to make more efficient use of bandwidth and to provide greater timestamp granularity; (ii) adding a symbol directory message to identify a security and its key characteristics; and (iii) adding the Market Wide Circuit Breaker (''MWCB'') Decline Level message to inform recipients of the setting for MWCB breach points for the trading day, and an MWCB Status Level Message to inform data recipients when an MWCB has breached an established level.[14]

• *Geographic Diversity.* In 2015, all of the Nasdaq Exchanges moved their Disaster Recovery (''DR'') center from Ashburn, Virginia, to Chicago, Illinois. As a result, customers can both receive market data and send orders through the Chicago facility, potentially reducing overall networking costs. Adding such geographic diversity helps protect the market in the event of a catastrophic event impacting the entire East Coast.[15]

• *Chicago ''B'' Feeds.* In 2017, all of the Nasdaq exchanges added a multicast IP address for proprietary equity and options data feeds in Chicago, allowing firms the choice of having additional redundancy to ensure data continuity.[16]

• *Extended Transmission Hours.* In 2014, the Exchange began to transmit data between 3:00 and 4:00 a.m. Eastern, approximately three hours earlier than previously,[17] to provide customers with an opportunity to test connectivity before pre-market sessions open at 8:00 a.m. Eastern.[18]

While these many changes were in the process of implementation, fees for PSX TotalView were falling in real terms as a result of price inflation. Indeed, the proposed increase in the enterprise license fee from $16,000 to $17,000 remains below the rate of inflation of that period.[19] Moreover, the proposed non-display fee increase from $40 to $50 is largely offset by inflation, and only represents an approximately 3.24 percent annual increase over the course of seven years.

As a result of these substantial upgrades and the impact of overall price inflation, the Exchange proposes two substantive changes to the PSX TotalView fee schedule: (i) Introduce a monthly non-display usage fee of $50 per Subscriber based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage based upon Direct Access from $16,000 to $17,000.[20]

The current fee structure allows firms to purchase PSX TotalView for display or non-display usage by professionals for a monthly charge of $40 per Subscriber. The Exchange proposes to separate this fee into two distinct fees: One for display usage and non-display usage not based upon Direct Access by professionals, and another for non-display usage based upon Direct Access.[21] The fee for display usage for professionals will remain unchanged at $40 per month, as will the fee for non-display usage without Direct Access, while the new non-display usage fee based upon Direct Access will be set at $50 per month.[22] With this change, the pricing structure for PSX TotalView will conform to the pricing structure for Nasdaq TotalView (which has differential fees for display and non-display usage),[23] and the proposed pricing structure for BX TotalView (proposed in a separate filing for the BX Exchange), albeit at a lower rate than the

[9] The PSX fee of $40 applies to all securities; the BX Exchange charges separate fees of $20 for Nasdaq-listed securities and $20 for securities listed on NYSE and regional exchanges.

[10] *See* Note 5.

[11] *See* Securities Exchange Act Release No. 62876 (September 9, 2010), 75 FR 56624 (September 16, 2010) (SR–Phlx–2010–120).

[12] Many of these upgrades are common to several Nasdaq-affiliated exchanges, as improvements to the products and services of one exchange are reproduced in other exchanges.

[13] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2013-33.*

[14] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2013-45* and *http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2013-33.*

[15] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2015-17.*

[16] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2017-02.*

[17] The extended schedule for data transmission did not extend pre-market trading hours.

[18] *See http://www.nasdaqtrader.com/TraderNews.aspx?id=dtn2014-08.*

[19] The Consumer Price Index indicates price increases of approximately 13 percent between September 2010 and November 2017. *See https://www.bls.gov/data/inflation_calculator.htm.*

[20] In addition to these two substantive changes, the Exchange proposes five sets of technical changes. First, the Exchange proposes to add the phrase ''for display usage'' to Paragraph (a)(1) to distinguish between display usage fees, which shall remain unchanged, and non-display usage fees, which will increase. Second, the Exchange proposes to change the reference to per Subscriber fees in new paragraph (a)(3) from (a)(1) to (a)(2) because non-display fees for Professionals that take the feed through Direct Access have been moved from paragraph (a)(1) to (a)(2). Third, the Exchange proposes to renumber former paragraph (a)(2) to (a)(3) to reflect the introduction of new paragraph (a)(2). Fourth, the Exchange proposes to delete the unnecessary word ''in'' from the phrase ''as provided [in]elsewhere in this rule . . . .'' from paragraph (a)(1) as a grammatical correction. Fifth, the Exchange proposes to revise paragraph (c) (''Free-Trial Offers) to reflect the new fees set forth in paragraphs (a)(2) and (a)(3).

[21] Any Subscriber within a firm that obtains Exchange data through a Subscriber with Direct Access from that same firm has obtained such data ''based upon Direct Access.''

[22] ''Direct Access'' refers to the method for receiving Exchange data. A firm may have Direct Access to receive Exchange data through: (i) A telecommunications interface with the Exchange for receiving Exchange data, (ii) an Exchange data feed within the Exchange co-location facility, or (iii) via an extranet access provider. *See* Phlx Pricing Schedule, Section VIII, Market Data Distributor Fees (c).

[23] *See* Nasdaq Rule 7023(b)(2).

two other exchanges. The PSX TotalView pricing structure will also be similar to the non-display fee structure for NYSE and other exchanges, as differential pricing for display and non-display usage has become the industry norm.[24]

The second proposed substantive change will increase the monthly enterprise license fee for internal non-display usage of PSX TotalView based upon Direct Access from $16,000 to $17,000.

PSX TotalView is optional in that the Exchange is not required to offer it and broker-dealers are not required to purchase it. Firms can discontinue use at any time and for any reason, including an assessment of the fees charged.

The proposed change does not change the cost of any other Exchange product.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[26] 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 Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and self-regulatory organization (''SRO'') revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [27]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [28] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[29] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [30]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'' [31]

The Exchange believes that the proposed fee changes are equitable allocations of reasonable dues, fees and other charges in accordance with Section 6(b)(4) of the Act, and not designed to permit unfair discrimination between customers, issuers, brokers, or dealers in accordance with Section 6(b)(5) of the Act. Both the monthly non-display per Subscriber usage fee and the monthly enterprise license fee for non-display usage are equitable allocations because, as has been widely recognized, display and non-display functions provide different value to the consumer because of differences in speed and efficiency between the two modes of distribution, and it has become standard industry practice to charge differing fees for these two different modes of data consumption. Non-Display Usage provides greater value to the customer because the computer systems utilizing Non-Display data are able to analyze trading information thousands of times faster than their human counterparts, hundreds of different securities can be analyzed simultaneously, trading strategies can be executed much more quickly, error rates are lower, and each hour of the trading day can be used more efficiently. In addition, discounts based on high levels of usage such as the enterprise license for non-display usage have routinely been adopted by exchanges and approved as equitable allocations of reasonable dues, fees and other charges.[32] As such, the proposed fees vary solely based on reasonable and well-established industry norms regarding types of data usage, as discussed above.

The Exchange also distinguishes between usage based on Direct Access and other methods of connection: Non-display usage that is based upon Direct Access will be charged $50 per month, while other non-display usage will be charged $40 per month. This distinction is an equitable allocation of reasonable dues, fees and other charges because Direct Access provides the customer with source information in the original raw format, which provides customers with the certainty that they are receiving data without conflation or manipulation. This distinction does not permit unfair discrimination between customers, issuers, brokers, or dealers because the price differential is based on the difference in value to the customer.

In addition, the Exchange proposes to introduce clarifying language stating that the enterprise license for non-display data will be available only to firms with Direct Access. This is an equitable allocation of reasonable dues, fees and other charges because firms with sufficient activity to purchase an enterprise license have a Direct Access connection. As such, the proposed language simply clarifies how the enterprise license will be used with respect to Direct Access, in a similar manner to the way that Direct Access is addressed in paragraphs (a)(1) and (a)(2), without affecting the service of any specific customer. This proposed change does not permit unfair discrimination between customers, issuers, brokers, or dealers for the same reason: The proposed language is simply a clarification that will not lead to any actual difference in usage.

The proposed changes do not permit unfair discrimination between customers, issuers, brokers, or dealers because the Exchange makes all services and products subject to these fees available on a non-discriminatory basis to similarly-situated recipients. The proposed fees are structured in a manner comparable to the corresponding fees of Nasdaq already in effect, and compare favorably to fees charged by Nasdaq and BX for the same product. The fees are uniform except with respect to reasonable and well-established distinctions between display and non-display data discussed above.

[24] *See, e.g.,* NYSE PDP Market Data Pricing (November 3, 2017), found at *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf.*

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(4) and (5).

[27] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[28] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[29] *See NetCoalition,* at 534–535.

[30] *Id.* at 537.

[31] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[32] For example, the Commission has approved pricing discounts for market data under Nasdaq Rule 7023.

The Act does not prohibit all distinctions among customers, but rather discrimination that is unfair. As the Commission has recognized, ''[i]f competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior.'' [33] Accordingly, ''the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory.'' [34] The proposed fees, like all market data fees, are constrained by the Exchange's need to compete for order flow, and are subject to competition from other exchanges and among broker-dealers for customers. If the Exchange is incorrect in its assessment of price, it may lose market share as a result.

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 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.

PSX TotalView is a type of depth-of-book product, which consists of ''outstanding limit orders to buy stock at prices lower than, or to sell stocks at prices higher than, the best prices on each exchange.'' [35] The question of whether the prices of depth-of-book products are constrained by competitive forces was examined in 2016 by an Administrative Law Judge in an application for review by the Securities Industry and Financial Markets Association of actions taken by Self-Regulatory Organizations.[36] After a four-day hearing and presentation of substantial evidence, the administrative law judge stated that ''competition plays a significant role in restraining exchange pricing of depth-of-book products'' [37] because ''depth-of-book products from different exchanges function as substitutes for each other,'' [38] and, as such, ''the threat of substitution from depth-of-book customers constrains their depth-of-book prices.'' [39] As a result, ''[s]hifts in order flow and threats of shifting order flow provide a significant competitive force in the pricing of . . . depth-of-book data.'' [40] The judge concluded that ''[u]nder the standards articulated by the Commission and D.C. Circuit, the Exchanges have shown that they are subject to significant competitive forces in setting fees for depth-of-book data: The availability of alternatives to the Exchanges' depth-of-book products, and the Exchanges' need to attract order flow from market participants constrains prices.'' [41]

The proposed changes will: (i) Introduce a monthly non-display usage fee of $50 per Professional Subscriber based upon Direct Access; and (ii) increase the monthly enterprise license fee for non-display usage based upon Direct Access from $16,000 to $17,000. These proposed price changes will not impose any burden on competition because market data fees are but one aspect of the overall competition among exchanges to solicit order flow; if the overall price of interacting with the Exchange rises above competitive levels because of market data fees, market forces would cause the Exchange to lose market share.

Market forces constrain fees for PSX TotalView, as well as other market data fees, in the competition among exchanges and other entities to attract order flow and in the competition among Distributors for customers. Order flow is the ''life blood'' of the exchanges. Broker-dealers currently have numerous alternative venues for their order flow, including SRO markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (''TRFs'') compete to attract internalized transaction reports. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs, which may readily reduce costs by directing orders toward the lowest-cost trading venues.

The level of competition and contestability in the market for order flow is demonstrated by the numerous examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume. For a variety of reasons, competition from new entrants, especially for order execution, has increased dramatically over the last decade.

Each SRO, TRF, ATS, and BD that competes for order flow is permitted to produce proprietary data products. Many currently do or have announced plans to do so, including NYSE, NYSE American, NYSE Arca, CBOE, and IEX. This is because Regulation NMS deregulated the market for proprietary data. While BDs had previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Order routers and market data vendors can facilitate production of proprietary data products for single or multiple BDs. The potential sources of proprietary products are virtually limitless.

The markets for order flow and proprietary data are inextricably linked: A trading platform cannot generate market information unless it receives trade orders. As a result, the competition for order flow constrains the prices that platforms can charge for proprietary data products. Firms make decisions on how much and what types of data to consume based on the total cost of interacting with PSX and other exchanges. Data fees are but one factor in a total platform analysis. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. A supracompetitive increase in the fees charged for either

[33] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21).

[34] *Id.*

[35] *See Securities Industry and Financial Markets Association,* Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 at *4 (A.L.J. June 1, 2016) (quoting *NetCoalition* v. *SEC,* 615 F3d 525, 529–30 (D.C. Cir. 2010)).

[36] *Id.*

[37] *Id.* at *92.

[38] *Id.*

[39] *Id.* at *93.

[40] *Id.* at *104.

[41] *Id.* at *86.

transactions or proprietary data has the potential to impair revenues from both products. In this manner, the competition for order flow will constrain prices for proprietary data products.

Competition among Distributors provides another form of price discipline for proprietary data products. If the price of PSX TotalView were set above competitive levels, Distributors purchasing PSX TotalView would be at a disadvantage relative to their competitors, and would therefore either curtail their purchase or forego the product altogether.

Market forces constrain the price of depth-of-book data such as PSX TotalView through the competition for order flow and in the competition among vendors for customers. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. 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.[42]

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–2018–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–10 and should be submitted on or before February 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01536 Filed 1–26–18; 8:45 am]

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[42] 15 U.S.C. 78s(b)(3)(A)(ii).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82574; File No. SR–BX–2018–004]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IV, Section 3

January 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 16, 2018, Nasdaq BX, Inc. (''BX'' 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 Chapter IV, Section 3 (Criteria for Underlying Securities) to modify the criteria for listing an option on an underlying covered security.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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 Chapter IV, Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

3 to modify the criteria for listing options on an underlying security as defined in Section 18(b)(1)(A) of the Securities Act of 1933 (hereinafter ''covered security'' or ''covered securities''). In particular, the Exchange proposes to modify Section 3(b)v.1) to permit the listing of an option on an underlying covered security that has a market price of at least $3.00 per share for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation (''OCC'') for listing and trading. The Exchange does not intend to amend any other criteria for listing options on an underlying security in Chapter IV, Section 3.

This proposed rule change is identical to a recently-approved rule change by the Exchange's affiliate, Nasdaq PHLX LLC (''Phlx''), to its initial listing standards,[3] and serves to align the rules of Phlx and the Exchange.

Currently the underlying covered security must have a closing market price of $3.00 per share for the previous five consecutive business days preceding the date on which the Exchange submits a listing certificate to OCC. In the proposed amendment, the market price will still be measured by the closing price reported in the primary market in which the underlying covered security is traded, but the measurement will be the price over the prior three consecutive business day period preceding the submission of the listing certificate to OCC, instead of the prior five business day period.

The Exchange acknowledges that the Options Listing Procedures Plan [4] requires that the listing certificate be provided to OCC no earlier than 12:01 a.m. and no later than 11:00 a.m. (Chicago time) on the trading day prior to the day on which trading is to begin.[5] The proposed amendment will still comport with that requirement. For example, if an initial public offering (''IPO'') occurs at 11 a.m. on Monday, the earliest date the Exchange could submit its listing certificate to OCC would be on Thursday by 12:01 a.m. (Chicago time), with the market price determined by the closing price over the three-day period from Monday through Wednesday. The option on the IPO would then be eligible for trading on the Exchange on Friday. The proposed amendment would essentially enable options trading within four business days of an IPO becoming available instead of six business days (five consecutive days plus the day the listing certificate is submitted to OCC).

The Exchange's initial listing standards for equity options in Chapter IV, Section 3 (including the current price/time standard of $3.00 per share for five consecutive business days) are substantially similar to the initial listing standards adopted by other options exchanges.[6] At the time the options industry adopted the ''look back'' period of five consecutive business days, it was determined that the five-day period was sufficient to protect against attempts to manipulate the market price of the underlying security and would provide a reliable test for stability.[7] Surveillance technologies and procedures concerning manipulation have evolved since then to provide adequate prevention or detection of rule or securities law violations within the proposed time frame, and the Exchange represents that its existing trading surveillances are adequate to monitor the trading in the underlying security and subsequent trading of options on the Exchange.[8]

Furthermore, the Exchange notes that the scope of its surveillance program also includes cross market surveillance for trading that is not just limited to the Exchange. In particular, the Financial Industry Regulatory Authority (''FINRA''), pursuant to a regulatory services agreement, operates a range of cross-market equity surveillance patterns on behalf of the Exchange to look for potential manipulative behavior, including spoofing, algorithm gaming, marking the close and open, and momentum ignition strategies, as well as more general, abusive behavior related to front running, wash sales, quoting/routing, and Reg SHO violations. These cross-market patterns incorporate relevant data from various markets beyond the Exchange and its affiliates, including data from the New York Stock Exchange (''NYSE'').

Additionally for options, the Nasdaq Options Surveillance team utilizes an array of patterns that monitor manipulation of options, or manipulation of equity securities (regardless of venue) for the purpose of impacting options prices on any of the six Nasdaq HoldCo-operated options markets (*i.e.,* mini-manipulation strategies). Surveillance coverage is initiated once options begin trading on any of Nasdaq HoldCo's six options markets, including the Exchange. Accordingly, the Exchange believes that the cross market surveillance performed by FINRA on behalf of the Exchange, coupled with Exchange staff's real-time monitoring of similarly violative activity on BX and its affiliated markets as described herein, reflects a comprehensive surveillance program that is adequate to monitor for manipulation of the underlying security and overlying option within the proposed three-day look back period.

Furthermore, the Exchange notes that the proposed listing criteria would still require that the underlying security be listed on NYSE, the American Stock Exchange (now known as NYSE American), or the National Market System of The Nasdaq Stock Market (now known as the Nasdaq Global Market) (collectively, the ''Named Markets''), as provided for in the definition of ''covered security'' from Section 18(b)(1)(A) of the 1933 Act.[9] Accordingly, the Exchange believes that the proposed rule change would still ensure that the underlying security meets the high listing standards of a Named Market, and would also ensure

[3] *See* Securities Exchange Act Release No. 82474 (January 9, 2018) (SR–Phlx–2017–75) (Order Granting Approval of a Proposed Rule Change) (''Phlx Filing''). The Exchange, together with its affiliates, The Nasdaq Stock Market LLC (''Nasdaq'') and Nasdaq ISE, LLC (''ISE''), all of which are wholly owned subsidiaries of Nasdaq, Inc. (''Nasdaq HoldCo''), have filed identical rule change proposals based on the Phlx Filing.

[4] The Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11a(2)(3)(B) of the Securities Exchange Act of 1934 (a/k/a the Options Listing Procedures Plan (''OLPP'')) is a national market system plan that, among other things, sets forth procedures governing the listing of new options series. *See* Securities Exchange Act Release No. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001) (Order approving OLPP). The sponsors of OLPP include BX; OCC; BATS Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated Chicago Board Options Exchange, Incorporated; EDGX Exchange Inc.; Miami International Securities Exchange, LLC; MIAX PEARL, LLC; Nasdaq PHLX LLC; The Nasdaq Stock Market LLC; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; NYSE American, LLC; and NYSE Arca, Inc.

[5] *See* OLPP at page 3.

[6] *See, e.g.,* Phlx Rule 1009, Commentary .01.

[7] *See* Securities Exchange Act Release Nos. 47190 (January 15, 2003), 68 FR 3072 (January 22, 2003) (SR–CBOE–2002–62); 47352 (February 11, 2003), 68 FR 8319 (February 20, 2003) (SR–PCX–2003–06); 47483 (March 11, 2003), 68 FR 13352 (March 19, 2003) (SR–ISE–2003–04); 47613 (April 1, 2003), 68 FR 17120 (April 8, 2003) (SR–Amex–2003–19); and 47794 (May 5, 2003), 68 FR 25076 (May 9, 2003) (SR–Phlx–2003–27).

[8] Such surveillance procedures generally focus on detecting securities trading subject to opening price manipulation, closing price manipulation, layering, spoofing or other unlawful activity impacting an underlying security, the option, or both. As it relates to IPOs, the Exchange has price movement alerts, unusual market activity and order book alerts active for all trading symbols. These real-time patterns are active for the new security as soon as the IPO begins trading. The Nasdaq MarketWatch group, which provides such real-time surveillance on the Exchange and its affiliated markets, monitors trading activity in IPOs to see whether the new issue moves substantially above or below the public offering price in the first day or several days of trading.

[9] *See* 15 U.S.C. 77r(b)(1)(A).

that the underlying is covered by the regulatory protections (including market surveillance, investigation and enforcement) offered by these exchanges for trading in covered securities conducted on their facilities.

In addition, The Nasdaq Stock Market LLC, the Exchange's affiliated listing market, had no cases within the past five years where an IPO-related issue for which it had pricing information qualified for the $3.00 price requirement during the first three days of trading and did not qualify for the $3.00 price requirement during the first five days.[10] In other words, none of these qualifying issues fell below the $3.00 threshold within the first three or five days of trading. As such, the Exchange believes that its existing surveillance program, coupled with its findings related to the IPO-related issues on Nasdaq as described herein, adequately address potential concerns regarding possible manipulation or price stability within the proposed timeframe.

The Exchange also believes that the proposed look back period can be implemented in connection with the other initial listing criteria for underlying covered securities. In particular, the Exchange recognizes that it may be difficult to verify the number of shareholders in the days immediately following an IPO due to the fact that stock trades generally clear within two business days (T+2) of their trade date and therefore the shareholder count will generally not be known until T+2.[11] The Exchange notes that the current T+2 settlement cycle was recently reduced from T+3 on September 5, 2017 in connection with the Commission's amendments to Exchange Rule 15c6–1(a) to adopt the shortened settlement cycle,[12] and the look back period of three consecutive business days proposed herein reflects this shortened T+2 settlement period. As proposed, stock trades would clear within T+2 of their trade date (*i.e.,* within three business days) and therefore the number of shareholders could be verified within three business days, thereby enabling options trading within four business days of an IPO (three consecutive business days plus the day the listing certificate is submitted to OCC).

Furthermore, the Exchange notes that it can verify the shareholder count with various brokerage firms that have a large retail customer clientele. Such firms can confirm the number of individual customers who have a position in the new issue. The earliest that these firms can provide confirmation is usually the day after the first day of trading (T+1) on an unsettled basis, while others can confirm on the third day of trading (T+2). The Exchange has confirmed with some of these brokerage firms who provide shareholder numbers to the Exchange that they are able to provide these numbers within T+2 after an IPO. For the foregoing reasons, the Exchange believes that basing the proposed three business day look back period on the T+2 settlement cycle would allow for sufficient verification of the number of shareholders.

The proposed rule change will apply to all covered securities that meet the relevant criteria in Chapter IV, Section 3. Pursuant to Section 3(b), BX Regulation establishes guidelines to be considered in evaluating potential underlying securities for BX Options transactions. However, the fact that a particular security may meet the standards established by BX Regulation does not necessarily mean that it will be selected as an underlying security.[13] As part of the established criteria, the issuer must be in compliance with any applicable requirements of the Act and the rules thereunder.[14] Additionally, in considering the underlying security, BX Regulation relies on information made publicly available by the issuer and/or the markets in which the security is traded.[15] The Exchange believes that these measures, together with its existing surveillance procedures, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the timeframe contained in this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] 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 that the proposed changes to its listing standards for covered securities would allow the Exchange to more quickly list options on a qualifying covered security that has met the $3.00 eligibility price without sacrificing investor protection. As discussed above, the Exchange believes that its existing trading surveillances provide a sufficient measure of protection against potential price manipulation within the proposed three consecutive business day timeframe. The Exchange also believes that the proposed three consecutive business day timeframe would continue to be a reliable test for price stability in light of its findings that none of the IPO-related issues on Nasdaq within the past five years that qualified for the $3.00 per share price standard during the first three trading days fell below the $3.00 threshold during the fourth or fifth trading day. Furthermore, the established guidelines to be considered by the Exchange in evaluating the potential underlying securities for Exchange option transactions,[18] together with existing trading surveillances, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the proposed timeframe.

In addition, the Exchange believes that basing the proposed timeframe on the T+2 settlement cycle adequately addresses the potential difficulties in confirming the number of shareholders of the underlying covered security. Having some of the largest brokerage firms that provide these shareholder counts to the Exchange confirm that they are able to provide these numbers within T+2 further demonstrates that the 2,000 shareholder requirement can be sufficiently verified within the proposed timeframe. For the foregoing reasons, the Exchange believes that the proposed amendments will remove and perfect the mechanism of a free and open market and a national market system by providing an avenue for investors to swiftly hedge their investment in the stock in a shorter amount of time than what is currently in place.[19]

[10] There were over 750 IPO-related issues on Nasdaq within the past five years. Out of all of the issues with pricing information, there was only one issue that had a price below $3 during the first five consecutive business days. The Exchange notes, however, that Nasdaq allows for companies to list on the Nasdaq Capital Market at $2.00 or $3.00 per share in some instances, which was the case for this particular issue. *See* Nasdaq Rule 5500 Series for initial listing standards on the Nasdaq Capital Market.

[11] The number of shareholders of record can be verified from large clearing agencies such as The Depository Trust and Clearing Corporation (''DTCC'') upon the settlement date (*i.e.,* T+2).

[12] *See* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7–22–16).

[13] *See* Chapter IV, Section 3(b).

[14] *See* Chapter IV, Section 3(b)iii.

[15] *See* Chapter IV, Section 3(d).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* notes 13–15 above.

[19] This proposed rule change does not alter any obligations of issuers or other investors of an IPO that may be subject to a lock-up or other restrictions on trading related securities.

Finally, it should be noted that a price/time standard for the underlying security was first adopted when the listed options market was in its infancy, and was intended to prevent the proliferation of options being listed on low-priced securities that presented special manipulation concerns and/or lacked liquidity needed to maintain fair and orderly markets.[20] When options trading commenced in 1973, the Commission determined that it was necessary for securities underlying options to meet certain minimum standards regarding both the quality of the issuer and the quality of the market for a particular security.[21] These standards, including a price/time standard, were imposed to ensure that those issuers upon whose securities options were to be traded were widely-held, financially sound companies whose shares had trading volume and float substantial enough so as not to be readily susceptible to manipulation.[22] At that time, the Commission determined that the imposition of these standards was reasonable in view of the pilot nature of options trading and the limited experience of investors with options trading.[23]

Now more than 40 years later, the listed options market has evolved into a mature market with sophisticated investors. In view of this evolution, the Commission has approved various exchange proposals to relax some of these initial listing standards throughout the years,[24] including reducing the price/time standard in 2003 from $7.50 per share for the majority of business days over a three month period to the current $3.00 per share/five business day standard (''2003 Proposal'').[25] It has been almost fifteen years since the Commission approved the 2003 Proposal, and both the listed options market and exchange technologies have continued to evolve since then. In this instance, Nasdaq is only proposing a modest reduction of the current five business day standard to three business days to correspond to the securities industry's move to a T+2 standard settlement cycle.[26] The $3.00 per share standard and all other initial options listing criteria in Chapter IV, Section 3 will remain unchanged by this proposal. For the reasons discussed herein, the Exchange therefore believes that the proposed three business day period will be beneficial to the marketplace without sacrificing investor protections.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change reduces the number of days to list options on an underlying security, and is intended to bring new options listings to the marketplace quicker.

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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[27] and Rule 19b–4(f)(6) thereunder.[28]

A proposed rule change filed under Rule 19b–4(f)(6)[29] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[30] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to align its initial options listing standards with that of its affiliates, and the Exchange's proposal does not raise new issues. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[31]

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–BX–2018–004 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–BX–2018–004. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

[20] *See* Securities Exchange Act Release No. 29628 (August 29, 1991), 56 FR 43949–01 (September 5, 1991) (SR–AMEX–86–19; SR–CBOE–86–15; SR–NYSE–86–20; SR–PSE–86–15; and SR–PHLX–86–21) (''1991 Approval Order'') at 43949 (discussing the Commission's concerns when options trading initially commenced in 1973).

[21] *See* 1991 Approval Order at 43949.

[22] *Id.*

[23] *Id.*

[24] *See e.g.,* 1991 Approval Order (modifying a number of initial listing criteria, including the reduction of the price/time standard from $10 per share each day during the preceding three calendar months to $7.50 per share for the majority of days during the same period).

[25] *See* note 7 above.

[26] *See* note 12 above.

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] 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).

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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–004, and should be submitted on or before February 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01542 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82572; File No. SR–ISE–2018–06]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 502

January 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 16, 2018, 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, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 502 (Criteria for Underlying Securities) to modify the criteria for listing an option on an underlying covered security.

The text of the proposed rule change is available on the Exchange's website at *http://ise.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 ISE Rule 502 to modify the criteria for listing options on an underlying security as defined in Section 18(b)(1)(A) of the Securities Act of 1933 (hereinafter ''covered security'' or ''covered securities''). In particular, the Exchange proposes to modify Section (b)(5)(i) of Rule 502 to permit the listing of an option on an underlying covered security that has a market price of at least $3.00 per share for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation (''OCC'') for listing and trading. The Exchange does not intend to amend any other criteria for listing options on an underlying security in Rule 502.

This proposed rule change is identical to a recently-approved rule change by the Exchange's affiliate, Nasdaq PHLX LLC (''Phlx''), to its initial listing standards,[3] and serves to align the rules of Phlx and the Exchange.

Currently the underlying covered security must have a closing market price of $3.00 per share for the previous five consecutive business days preceding the date on which the Exchange submits a listing certificate to OCC. In the proposed amendment, the market price will still be measured by the closing price reported in the primary market in which the underlying covered security is traded, but the measurement will be the price over the prior three consecutive business day period preceding the submission of the listing certificate to OCC, instead of the prior five business day period.

The Exchange acknowledges that the Options Listing Procedures Plan[4] requires that the listing certificate be provided to OCC no earlier than 12:01 a.m. and no later than 11:00 a.m. (Chicago time) on the trading day prior to the day on which trading is to begin.[5] The proposed amendment will still comport with that requirement. For example, if an initial public offering (''IPO'') occurs at 11 a.m. on Monday, the earliest date the Exchange could submit its listing certificate to OCC would be on Thursday by 12:01 a.m. (Chicago time), with the market price determined by the closing price over the three-day period from Monday through Wednesday. The option on the IPO would then be eligible for trading on the Exchange on Friday. The proposed amendment would essentially enable options trading within four business days of an IPO becoming available instead of six business days (five consecutive days plus the day the listing certificate is submitted to OCC).

[3] *See* Securities Exchange Act Release No. 82474 (January 9, 2018) (SR–Phlx–2017–75) (Order Granting Approval of a Proposed Rule Change) (''Phlx Filing''). The Exchange, together with its affiliates, The Nasdaq Stock Market LLC (''Nasdaq'') and Nasdaq BX, Inc. (''BX''), have filed identical rule change proposals based on the Phlx Filing. The Exchange notes that Chapter 5 of the ISE Rulebook, including Rule 502, is incorporated by reference into the rulebooks of Nasdaq GEMX, LLC (''GEMX'') and Nasdaq MRX, LLC (''MRX''). As such, the amendments to ISE Rule 502 will also impact GEMX and MRX Rules 502. ISE, GEMX, MRX, Nasdaq, Phlx and BX are all wholly owned subsidiaries of Nasdaq, Inc. (''Nasdaq HoldCo'').

[4] The Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11a(2)(3)(B) of the Securities Exchange Act of 1934 (a/k/a the Options Listing Procedures Plan (''OLPP'')) is a national market system plan that, among other things, sets forth procedures governing the listing of new options series. *See* Securities Exchange Act Release No. 44521 (July 6, 2001), 66 FR 36809 (July 13, 2001) (Order approving OLPP). The sponsors of OLPP include ISE; OCC; BATS Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; EDGX Exchange, Inc.; Miami International Securities Exchange, LLC; MIAX PEARL, LLC; Nasdaq BX, Inc.; Nasdaq PHLX LLC; The Nasdaq Stock Market LLC; Nasdaq GEMX, LLC; Nasdaq MRX, LLC; NYSE American, LLC; and NYSE Arca, Inc.

[5] *See* OLPP at page 3.

At the time the Exchange adopted the ''look back'' period of five consecutive business days, it determined that the five-day period was sufficient to protect against attempts to manipulate the market price of the underlying security and would provide a reliable test for stability.[6] Surveillance technologies and procedures concerning manipulation have evolved since then to provide adequate prevention or detection of rule or securities law violations within the proposed time frame, and the Exchange represents that its existing trading surveillances are adequate to monitor the trading in the underlying security and subsequent trading of options on the Exchange.[7]

Furthermore, the Exchange notes that the scope of its surveillance program also includes cross market surveillance for trading that is not just limited to the Exchange. In particular, the Financial Industry Regulatory Authority (''FINRA''), pursuant to a regulatory services agreement, operates a range of cross-market equity surveillance patterns on behalf of the Exchange to look for potential manipulative behavior, including spoofing, algorithm gaming, marking the close and open, and momentum ignition strategies, as well as more general, abusive behavior related to front running, wash sales, quoting/routing, and Reg SHO violations. These cross-market patterns incorporate relevant data from various markets beyond the Exchange and its affiliates, including data from the New York Stock Exchange (''NYSE'').

Additionally for options, the Nasdaq Options Surveillance team utilizes an array of patterns that monitor manipulation of options, or manipulation of equity securities (regardless of venue) for the purpose of impacting options prices on any of the six Nasdaq HoldCo-operated options markets (*i.e.,* mini-manipulation strategies). Surveillance coverage is initiated once options begin trading on any of Nasdaq HoldCo's six options markets, including the Exchange. Accordingly, the Exchange believes that the cross market surveillance performed by FINRA on behalf of the Exchange, coupled with Exchange staff's real-time monitoring of similarly violative activity on ISE and its affiliated markets as described herein, reflects a comprehensive surveillance program that is adequate to monitor for manipulation of the underlying security and overlying option within the proposed three-day look back period.

Furthermore, the Exchange notes that the proposed listing criteria would still require that the underlying security be listed on NYSE, the American Stock Exchange (now known as NYSE American), or the National Market System of The Nasdaq Stock Market (now known as the Nasdaq Global Market) (collectively, the ''Named Markets''), as provided for in the definition of ''covered security'' from Section 18(b)(1)(A) of the 1933 Act.[8] Accordingly, the Exchange believes that the proposed rule change would still ensure that the underlying security meets the high listing standards of a Named Market, and would also ensure that the underlying is covered by the regulatory protections (including market surveillance, investigation and enforcement) offered by these exchanges for trading in covered securities conducted on their facilities.

In addition, The Nasdaq Stock Market LLC, the Exchange's affiliated listing market, had no cases within the past five years where an IPO-related issue for which it had pricing information qualified for the $3.00 price requirement during the first three days of trading and did not qualify for the $3.00 price requirement during the first five days.[9] In other words, none of these qualifying issues fell below the $3.00 threshold within the first three or five days of trading. As such, the Exchange believes that its existing surveillance program, coupled with its findings related to the IPO-related issues on Nasdaq as described herein, adequately address potential concerns regarding possible manipulation or price stability within the proposed timeframe.

The Exchange also believes that the proposed look back period can be implemented in connection with the other initial listing criteria for underlying covered securities. In particular, the Exchange recognizes that it may be difficult to verify the number of shareholders in the days immediately following an IPO due to the fact that stock trades generally clear within two business days (T+2) of their trade date and therefore the shareholder count will generally not be known until T+2.[10] The Exchange notes that the current T+2 settlement cycle was recently reduced from T+3 on September 5, 2017 in connection with the Commission's amendments to Exchange Rule 15c6–1(a) to adopt the shortened settlement cycle,[11] and the look back period of three consecutive business days proposed herein reflects this shortened T+2 settlement period. As proposed, stock trades would clear within T+2 of their trade date (*i.e.,* within three business days) and therefore the number of shareholders could be verified within three business days, thereby enabling options trading within four business days of an IPO (three consecutive business days plus the day the listing certificate is submitted to OCC).

Furthermore, the Exchange notes that it can verify the shareholder count with various brokerage firms that have a large retail customer clientele. Such firms can confirm the number of individual customers who have a position in the new issue. The earliest that these firms can provide confirmation is usually the day after the first day of trading (T+1) on an unsettled basis, while others can confirm on the third day of trading (T+2). The Exchange has confirmed with some of these brokerage firms who provide shareholder numbers to the Exchange that they are able to provide these numbers within T+2 after an IPO. For the foregoing reasons, the Exchange believes that basing the proposed three business day look back period on the T+2 settlement cycle would allow for sufficient verification of the number of shareholders.

The proposed rule change will apply to all covered securities that meet the relevant criteria in Rule 502. Pursuant to Rule 502(b), the Exchange establishes guidelines to be considered in evaluating potential underlying securities for Exchange options transactions. However, the fact that a particular security may meet the

[6] *See* Securities Exchange Act Release No. 47483 (March 11, 2003), 68 FR 13352 (March 19, 2003) (SR–ISE–2003–04).

[7] Such surveillance procedures generally focus on detecting securities trading subject to opening price manipulation, closing price manipulation, layering, spoofing or other unlawful activity impacting an underlying security, the option, or both. As it relates to IPOs, the Exchange has price movement alerts, unusual market activity and order book alerts active for all trading symbols. These real-time patterns are active for the new security as soon as the IPO begins trading. The Nasdaq MarketWatch group, which provides such real-time surveillance on the Exchange and its affiliated markets, monitors trading activity in IPOs to see whether the new issue moves substantially above or below the public offering price in the first day or several days of trading.

[8] *See* 15 U.S.C. 77r(b)(1)(A).

[9] There were over 750 IPO-related issues on Nasdaq within the past five years. Out of all of the issues with pricing information, there was only one issue that had a price below $3 during the first five consecutive business days. The Exchange notes, however, that Nasdaq allows for companies to list on the Nasdaq Capital Market at $2.00 or $3.00 per share in some instances, which was the case for this particular issue. *See* Nasdaq Rule 5500 Series for initial listing standards on the Nasdaq Capital Market.

[10] The number of shareholders of record can be verified from large clearing agencies such as The Depository Trust and Clearing Corporation (''DTCC'') upon the settlement date (*i.e.,* T+2).

[11] *See* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7–22–16).

standards established by the Exchange does not necessarily mean that it will be selected as an underlying security.[12] As part of the established criteria, the issuer must be in compliance with any applicable requirements of the Act.[13] Additionally, in considering the underlying security, the Exchange relies on information made publicly available by the issuer and/or the markets in which the security is traded.[14] The Exchange believes that these measures, together with its existing surveillance procedures, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the timeframe contained in this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] 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 that the proposed changes to its listing standards for covered securities would allow the Exchange to more quickly list options on a qualifying covered security that has met the $3.00 eligibility price without sacrificing investor protection. As discussed above, the Exchange believes that its existing trading surveillances provide a sufficient measure of protection against potential price manipulation within the proposed three consecutive business day timeframe. The Exchange also believes that the proposed three consecutive business day timeframe would continue to be a reliable test for price stability in light of its findings that none of the IPO-related issues on Nasdaq within the past five years that qualified for the $3.00 per share price standard during the first three trading days fell below the $3.00 threshold during the fourth or fifth trading day. Furthermore, the established guidelines to be considered by the Exchange in evaluating the potential underlying securities for Exchange option transactions,[17] together with existing trading surveillances, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the proposed timeframe.

In addition, the Exchange believes that basing the proposed timeframe on the T+2 settlement cycle adequately addresses the potential difficulties in confirming the number of shareholders of the underlying covered security. Having some of the largest brokerage firms that provide these shareholder counts to the Exchange confirm that they are able to provide these numbers within T+2 further demonstrates that the 2,000 shareholder requirement can be sufficiently verified within the proposed timeframe. For the foregoing reasons, the Exchange believes that the proposed amendments will remove and perfect the mechanism of a free and open market and a national market system by providing an avenue for investors to swiftly hedge their investment in the stock in a shorter amount of time than what is currently in place.[18]

Finally, it should be noted that a price/time standard for the underlying security was first adopted when the listed options market was in its infancy, and was intended to prevent the proliferation of options being listed on low-priced securities that presented special manipulation concerns and/or lacked liquidity needed to maintain fair and orderly markets.[19] When options trading commenced in 1973, the Commission determined that it was necessary for securities underlying options to meet certain minimum standards regarding both the quality of the issuer and the quality of the market for a particular security.[20] These standards, including a price/time standard, were imposed to ensure that those issuers upon whose securities options were to be traded were widely-held, financially sound companies whose shares had trading volume and float substantial enough so as not to be readily susceptible to manipulation.[21] At that time, the Commission determined that the imposition of these standards was reasonable in view of the pilot nature of options trading and the limited experience of investors with options trading.[22]

Now more than 40 years later, the listed options market has evolved into a mature market with sophisticated investors. In view of this evolution, the Commission has approved various exchange proposals to relax some of these initial listing standards throughout the years,[23] including reducing the price/time standard in 2003 from $7.50 per share for the majority of business days over a three month period to the current $3.00 per share/five business day standard (''2003 Proposal'').[24] It has been almost fifteen years since the Commission approved the 2003 Proposal, and both the listed options market and exchange technologies have continued to evolve since then. In this instance, Nasdaq is only proposing a modest reduction of the current five business day standard to three business days to correspond to the securities industry's move to a T+2 standard settlement cycle.[25] The $3.00 per share standard and all other initial options listing criteria in Rule 502 will remain unchanged by this proposal. For the reasons discussed herein, the Exchange therefore believes that the proposed three business day period will be beneficial to the marketplace without sacrificing investor protections.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change reduces the number of days to list options on an underlying security, and is intended to bring new options listings to the marketplace quicker.

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.

[12] *See* Rule 502(b).

[13] *See* Rule 502(b)(3).

[14] *See* Rule 502(d).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* notes 12–14 above.

[18] This proposed rule change does not alter any obligations of issuers or other investors of an IPO that may be subject to a lock-up or other restrictions on trading related securities.

[19] *See* Securities Exchange Act Release No. 29628 (August 29, 1991), 56 FR 43949–01 (September 5, 1991) (SR–AMEX–86–19; SR–CBOE–86–15; SR–NYSE–86–20; SR–PSE–86–15; and SR–PHLX–86–21) (''1991 Approval Order'') at 43949 (discussing the Commission's concerns when options trading initially commenced in 1973).

[20] *See* 1991 Approval Order at 43949.

[21] *Id.*

[22] *Id.*

[23] *See e.g.,* 1991 Approval Order (modifying a number of initial listing criteria, including the reduction of the price/time standard from $10 per share each day during the preceding three calendar months to $7.50 per share for the majority of days during the same period).

[24] *See* Securities Exchange Act Release Nos. 47190 (January 15, 2003), 68 FR 3072 (January 22, 2003) (SR–CBOE–2002–62); 47352 (February 11, 2003), 68 FR 8319 (February 20, 2003) (SR–PCX–2003–06); 47483 (March 11, 2003), 68 FR 13352 (March 19,2003) (SR–ISE–2003–04); 47613 (April 1, 2003), 68 FR 17120 (April 8, 2003) (SR–Amex–2003–19); and 47794 (May 5, 2003), 68 FR 25076 (May 9, 2003) (SR–Phlx–2003–27).

[25] *See* note 11 above.

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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6) thereunder.[27]

A proposed rule change filed under Rule 19b–4(f)(6) [28] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[29] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to align its initial options listing standards with that of its affiliates, and the Exchange's proposal does not raise new issues. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[30]

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–2018–06 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–ISE–2018–06. 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 website (*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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–06, and should be submitted on or before February 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–01540 Filed 1–26–18; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6)(iii).

[30] 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).

[31] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before March 30, 2018.

ADDRESSES: Send all comments to Gina Beyer, Supervisory Administrative Specialist, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gina Beyer, Program Analyst, Disaster Assistance, *gina.beyer@sba.gov,* 202–205–6458, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA is required to survey affected disaster areas within a state upon request by the Governor of that state to determine if there is sufficient damage to warrant a disaster declaration. Information is obtained from individuals, businesses, and public officials.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Disaster Survey Worksheet.

Description of Respondents: Disaster effected individuals and businesses.

Form Number: SBA Form 987.

Total Estimated Annual Responses: 2,400.

Total Estimated Annual Hour Burden: 199.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01559 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Military Reservist Economic Injury Disaster Loans; Interest Rate for Second Quarter FY 2018

The Small Business Administration publishes an interest rate for Military Reservist Economic Injury Disaster Loans (13 CFR 123.512) on a quarterly basis. The rate will be 3.580 for loans approved on or after January 19, 2018.

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–01510 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before March 30, 2018.

ADDRESSES: Send all comments to Jermanne Perry, Surety Bond Guarantee Specialist, Office of Surety Guarantee, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jermanne Perry, Surety Bond Specialist, Office of Surety Guarantee, *Jermanne.perry@sba.gov,* 202–401–8275, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: Small Business Administration (SBA) Surety Bond Guarantee Program was created to encourage surety companies to provide bonding for small contractors. The information collected on this form from small businesses and surety companies will be used to evaluate the eligibility of applicants for contracts up to $400,000.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Quick Bond Guarantee Application and Agreement.

Description of Respondents: Surety Companies.

Form Number: SBA Form 990A.

Total Estimated Annual Responses: 3,900.

Total Estimated Annual Hour Burden: 98.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01555 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before March 30, 2018.

ADDRESSES: Send all comments to Rachel Newman Karton, Program Analyst, Office of Entrepreneurial Development, Small Business Administration, 409 3rd Street SW, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Rachel Newman Karton, Program Analyst, Office of Entrepreneurial Development, *Rachel.newman@sba.gov* 202–619–1816, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: Each form is used to notify recipients of grant awards and cooperative agreement awards. Form 1222 is used also to document logistical and budgetary information gathered from the awardees application and proposal. Awardees/Respondents are universities, colleges, state and local government, for-profit and non-profit organizations. Form 1224 is used to certify the cost sharing by the recipient.

Solicitation of Public Comments:

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection:

(1) Title: Notice of Award and Grant/Cooperative Agreement Cost Sharing Proposal.

Description of Respondents: SBA Grant Recipients.

Form Number: SBA Forms 1222 and 1224.

Total Estimated Annual Responses: 2,338.

Total Estimated Annual Hour Burden: 187,040.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01565 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of

information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before March 30, 2018.

ADDRESSES: Send all comments to Janet Moorman, Business Development Specialist, Office of Veterans, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Janet Moorman, Business Development Specialist, Office of Veterans, *janet.moorman@sba.gov* 202–205–7419, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: OMB Memorandums M–14–06 and M–13–17 provide guidance for agencies to leverage data for statistical purposes in an effort to provide a foundation for evaluation and analysis of programmatic work. The SBA's performance evaluation project will evaluate the performance of VBOCs in an effort to standardize performance across all partners. The methodology of this evaluation includes conducting a VBOC director survey, a client outcome survey, and on-site, in-person interviews with directors, staff, and clients.

Solicitation of Public Comments:

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections:

Title: Evaluation of the Veterans Business Outreach Centers.

Description of Respondents: Transitioning Service Members.

Form Number: N/A.

Estimated Annual Respondents: 15,000.

Estimated Annual Responses: 2,251.

Estimated Annual Hour Burden: 2,313.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01567 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15391 and #15392; New York Disaster Number NY–00179]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of New York

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New York (FEMA–4348–DR), dated 11/14/2017.

Incident: Flooding.

Incident Period: 05/02/2017 through 08/06/2017.

DATES: Issued on 01/19/2018.

Physical Loan Application Deadline Date: 01/16/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 08/14/2018.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New York, dated 11/14/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Cayuga, Monroe

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–01516 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before March 30, 2018.

ADDRESSES: Send all comments to Michael Donadieu, Director, Office of Small Business Investment Companies, Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Michael Donadieu, Director, Office of Small Business Investment Companies, 202–205–7281, *michael.donadieu@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: Small Business Administration (SBA) Forms 856 and 856A are used by SBA examiners as part of their examination of licensed small business investment companies (SBICs). This information collection obtains representations from an SBIC's management regarding certain obligations, transactions and relationships of the SBIC and helps SBA to evaluate the SBIC's financial condition and compliance with applicable laws and regulations.

Solicitation of Public Comments:

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection:

Title: Disclosures Statement Leveraged Licensees; Disclosure Statement Non-leveraged Licensees.

Description of Respondents: SBA Examiners.

Form Numbers: SBA Forms 856 and 856A.

Total Estimated Annual Responses: 598.

Total Estimated Annual Hour Burden: 276.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01558 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before March 30, 2018.

ADDRESSES: Send all comments to Renee Mascarenas, Financial Specialist, Denver Finance Center, Small Business Administration, 721 19th Street, 3rd Floor, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Renee Mascarenas, Financial Specialist, Denver Finance Center, *renee.mascarenas@sba.gov* 303–844–7179, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA Form 172 is only used by lenders for loans that have been purchased by SBA and are being serviced by approved SBA lending partners. The lenders use the SBA Form 172 to report loan payment data to SBA on a monthly basis. The purpose of this reporting is to (1) show the remittance due SBA on a loan serviced by participating lending institutions (2) update the loan receivable balances.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

(1) Title: Transaction Report on Loans Serviced by Lender.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 172.

Total Estimated Annual Responses: 1,012.

Total Estimated Annual Hour Burden: 9,636.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2018–01563 Filed 1–26–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10287]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Before the Fall: German and Austrian Art of the 1930s'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Before the Fall: German and Austrian Art of the 1930s,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Neue Galerie New York, in New York, New York, from on or about March 8, 2018, until on or about June 4, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2018–01597 Filed 1–26–18; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10289]

Defense Trade Advisory Group; Notice of Membership

AGENCY: Department of State.

ACTION: Notice.

The U.S. Department of State's Bureau of Political-Military Affairs' Defense Trade Advisory Group (DTAG) is accepting membership applications. The Bureau of Political-Military Affairs is interested in applications from subject matter experts from the United States defense industry, relevant trade and labor associations, academic, and foundation personnel.

The DTAG was established as an advisory committee under the authority of 22 U.S.C. Sections 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. App. (''FACA''). The purpose of the DTAG is to provide the Bureau of Political-Military Affairs with a formal channel for regular consultation and coordination with U.S. private sector defense exporters and defense trade organizations on issues involving U.S. laws, policies, and regulations for munitions exports. The DTAG advises the Bureau on its support for and regulation of defense trade to help ensure that impediments to legitimate exports are reduced while the foreign policy and national security interests of the United States continue to be protected and advanced in accordance with the Arms Export Control Act (AECA), as amended. Major topics addressed by the DTAG include (a) policy issues on commercial defense trade and technology transfer; (b) regulatory and licensing procedures applicable to defense articles, services, and technical data; (c) technical issues involving the U.S. Munitions List (USML); and (d) questions relating to actions designed to carry out the AECA and International Traffic in Arms Regulations (ITAR).

Members are appointed by the Assistant Secretary of State for Political-Military Affairs on the basis of individual substantive and technical expertise and qualifications, and must be representatives of United States defense industry, relevant trade and labor associations, academic, and foundation personnel. In accordance with the DTAG Charter, all DTAG members must be U.S. citizens, and DTAG members will represent the views of their organizations. All DTAG members shall be aware of the Department of State's mandate that arms transfers must further U.S. national security and foreign policy interests.

DTAG members also shall be versed in the complexity of commercial defense trade and industrial competitiveness, and all members must be able to advise the Bureau on these matters. While members are expected to use their expertise and provide candid advice, national security and foreign policy interests of the United States, as well as the interests of the entities they represent, shall be the bases for all policy and technical recommendations.

DTAG members' responsibilities include:

- Service for a consecutive two-year term which may be renewed or terminated at the discretion of the Assistant Secretary of State for Political-Military Affairs (membership shall automatically terminate for members who fail to attend two consecutive DTAG plenary meetings).
- Making recommendations in accordance with the DTAG Charter and the FACA.
- Making policy and technical recommendations within the scope of the U.S. commercial export control regime as mandated in the AECA, the ITAR, and appropriate directives.

Please note that DTAG members may not be reimbursed for travel, per diem, and other expenses incurred in connection with their duties as DTAG members. How to apply: Applications in response to this notice must contain the following information: (1) Name of applicant; (2) affirmation of U.S. citizenship; (3) organizational affiliation and title, as appropriate; (4) mailing address; (5) work telephone number; (6) email address; (7) resumé; and (8) summary of qualifications for DTAG membership.

This information may be provided via two methods:

- *Emailed to the following address: DTAG@State.Gov.* In the subject field, please write, ''*DTAG Membership Application.*''
- *Send in hardcopy to the following address:* Mr. Glenn E. Smith, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political Military Affairs, U.S. Department of State, Washington, DC 20522–0112.

All applications must be postmarked by March 2, 2018.

Anthony Dearth,

Alternate Designated Federal Officer, Defense Trade Advisory Group, Department of State.

[FR Doc. 2018–01530 Filed 1–26–18; 8:45 am]

BILLING CODE 4710–25–P

TENNESSEE VALLEY AUTHORITY

Shawnee Fossil Plant New Coal Combustion Residual Landfill

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of Record of Decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations and Tennessee Valley Authority's (TVA) procedures for implementing the National Environmental Policy Act (NEPA). TVA has decided to construct and operate an onsite landfill at the Shawnee Fossil Plant (SHF). A notice of availability (NOA) of the Final EIS for Shawnee Fossil Plant Coal Combustion Residual (CCR) Management was published in the **Federal Register** on December 8, 2017. The Final EIS identified TVA's preferred alternative as Alternative B—Construction of an Onsite CCR Landfill, Closure-in-Place of Ash Impoundment 2 with a reduced footprint, and Closure-in-Place of the former Special Waste Landfill. TVA's current decision pertains only to the construction of a new onsite CCR landfill, and would achieve part of the project purpose and need by providing additional long-term disposal for dry CCR materials produced at SHF. TVA is electing to further consider the alternatives for closure of Ash Impoundment 2 and the former Special Waste Landfill (SWL) before making a decision.

FOR FURTHER INFORMATION CONTACT: Ashley Pilakowski, Project Environmental Planning, NEPA Specialist, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, TN 37902; telephone 865–632–2256, or by email *aapilakowski@tva.gov.* The Final EIS, this Record of Decision and other project documents are available on TVA's website *https://www.tva.gov/nepa.*

SUPPLEMENTARY INFORMATION: Currently, SHF consumes an average of 2.7 million cubic yards of coal per year and generates approximately 8 billion kilowatt-hours of electricity a year (enough to supply 540,000 homes). Until December 2017, SHF produced approximately 183,000 cubic yards of coal combustion residuals (CCR) a year. In December 2017, newly installed selective catalytic reduction (SCR) and flue gas desulfurization (FGD) systems became operational on SHF Units 1 and 4, increasing the amount of CCR to an estimated 490,000 cubic yards per year. All CCR currently are managed in the existing onsite landfill and Ash Impoundment 2. The CCR generated by the plant include fly ash, bottom ash and dry scrubber product.

The existing onsite landfill, formerly the Special Waste Landfill (SWL), had a state landfill permit. However, it is now considered a CCR Landfill under a Registered Permit-by-Rule with the Kentucky Division of Waste Management effective September 21, 2017. The estimated remaining capacity for the former SWL is approximately 5.2 million cubic yards. Due to current and projected SHF operations, it is expected the former SWL will reach capacity by 2027. To accommodate the need for additional dry CCR storage at SHF, TVA is proposing to design, build, and operate a new CCR Landfill that would accommodate up to 20 additional years of storage capacity. SHF is expected to produce approximately 490,000 to 910,000 cubic yards of CCR per year until 2040. The low-end of this range is based on the current plant configuration, including the use of SCR and FGD systems on SHF Units 1 and 4. The higher-end of this range provides the maximum CCR output that could be anticipated should TVA elect to explore the option of installing similar emission controls on the other SHF units in the future. At present, TVA has no plans to install such systems. Approximately 10 to 20 million cubic yards of disposal capacity is desired for the 20-year SHF comprehensive disposal plan.

The purpose of this action is to support the need for additional capacity for the long-term management of CCR at SHF. Additional storage capacity would also enable TVA to continue operations at SHF as planned and would be consistent with TVA's voluntary commitment to convert wet CCR management systems to dry systems.

Alternatives Considered

In 2015, TVA performed a siting study to evaluate onsite and offsite alternatives for the construction of a landfill for storage of dry CCR from SHF. The siting study identified six alternative sites (Options 1 through 6), within 5 to 10 miles of the plant, for the construction and operation of a new CCR Landfill. The siting study also considered the offsite transport of CCR to one of three existing permitted third-party landfills as a potential alternative. The impacts of development and/or use of each of the landfill alternatives were further evaluated against environmental and engineering factors to determine those sites that should be carried forward for further analysis in the study. Ultimately, one site for construction and operation of a new CCR Landfill (Option 1) and one existing permitted third-party landfill (Freedom Waste Landfill)

were identified as potential alternatives to be carried forward for further evaluation.

TVA used results of the preliminary alternatives analysis to identify two feasible action alternatives for onsite disposal of CCR at SHF, in addition to a No-Action alternative (Alternative A), which served as a baseline.

Alternative A—No Action. Under the No Action Alternative, TVA would not construct and operate the proposed CCR Landfill at or near SHF, or haul CCR to an existing offsite permitted landfill. Since there is limited capacity for additional CCR disposal onsite, at some point in the future, capacity to store CCR onsite will become a limiting factor for continued SHF operations. TVA's 2015 Integrated Resource Plan (TVA 2015c) identifies SHF as a facility that will continue to operate in the near term as part of its balanced portfolio of energy resources. However, SHF cannot continue to operate if it is not compliant with the CCR Rule. Under the No Action Alternative, SHF's operations would not comply with the CCR Rule; therefore, this alternative would not meet the Purpose and Need for the proposed action and is not considered viable or reasonable. It does, however, provide a benchmark for comparing the environmental impacts of implementation of Action Alternatives B and C.

Alternative B—Construction and Operation of an Onsite Landfill. Under Alternative B, TVA would build and operate a new CCR Landfill on a portion of the original Option 1 site known as the Shawnee East Site. The Shawnee East Site consists of about 205 acres that TVA acquired in 2016 next to the eastern boundary of SHF. This site would also be used for borrow material for both construction of the new CCR Landfill and potentially for the closures of Ash Impoundment 2 and the former SWL.

Alternative C—CCR Disposal at Permitted Offsite Landfill. Under Alternative C, dry CCR produced by daily operations at SHF would be transported by truck to the Freedom Waste Landfill in Mayfield, Kentucky (approximately 32 miles from SHF) along public roadways. No landfill would be constructed on the Shawnee East Site, but borrow materials from that site potentially would be used in the closures of Ash Impoundment 2 and the former SWL. Barge and rail transport were not considered feasible options for this EIS given the lack of existing infrastructure.

Environmentally Preferable Alternative

TVA has concluded that Alternative A, the No Action Alternative, is the environmentally preferable alternative as it would result in fewer environmental impacts than Alternatives B and C. Under Alternative A, no additional land area would be required for CCR disposal. Eventually, the former SWL would reach capacity which could force reduced operations at SHF potentially eliminating the long-term impacts associated with air emissions.

However, Alternative A (No Action) does not meet the purpose and need for the project. Because SHF provides base-load power for a large portion of TVA's service territory, stopping operations at SHF is not consistent with TVA's mission or its 2015 Integrated Resource Plan. Continuing current operations would not comply with the CCR Rule therefore the No Action Alternative is not consistent with this proposed project's purpose and need. Implementation of Alternative B would result in minimal unmitigated impacts to the environment, most of which would be related to construction activities that would be temporary in nature and minimized with implementation of best management practices.

Potential impacts associated with the discharge of storm water from the new landfill would be mitigated as needed to ensure compliance with the Clean Water Act. There would be moderate impacts to visual resources associated with changes in the viewshed around the new landfill. Additionally, there would be minor to moderate noise impacts in the vicinity of the new landfill as a result of construction and operational noise. The visual resources and noise impacts would be partially mitigated by the construction and maintenance of a vegetative barrier around the boundaries of the new landfill. Tree removal would result in a loss of potentially suitable foraging and roosting habitat for endangered bat species. Any tree removal would be scheduled so that all tree clearing would be conducted between October 15 and March 31, outside the breeding season. Impacts to wetlands would be mitigated through the U.S. Army Corps of Engineers Clean Water Act Section 404 permit. The proposed CCR Landfill would have no significant impact on floodplains, which would be consistent with E.O. 11988. TVA consulted with the Tennessee State Historic Preservation Officer (SHPO) on the proposed actions. In fall 2017, the SHPO concurred with TVA's recommendation that there would be no adverse effect to archaeological resources and no adverse effect to historic properties as a result of the proposed CCR landfill.

Under Alternative C, impacts to air quality, transportation, solid waste and hazardous waste and hazardous materials, and public health and safety would be higher than under Alternative B because of the transportation of CCR materials from SHF to an offsite landfill. The use of an existing, permitted landfill would result in no other additional impacts to the natural environment beyond those described for Alternative B.

Public Involvement

On November 1, 2016, TVA published a Notice of Intent (NOI) in the **Federal Register** announcing the plan to prepare an EIS to address the potential environmental effects associated with ceasing operations at the former SWL and Ash Impoundment 2 and constructing, operating, and maintaining a new CCR Landfill at SHF. The 30-day public scoping period concluded on December 1, 2016. TVA also sent the NOI to local and state government entities and federal agencies; published notices regarding this effort in local newspapers; issued a press release to media; posted the news release on the TVA website; and notified residents within a three-mile radius of the plant.

TVA hosted an open house scoping meeting on November 15, 2016, at the Robert Cherry Civic Center in Paducah, Kentucky. Comments were received in relation to the project purpose and need, alternatives, impact analysis, cumulative impacts, groundwater and surface water, aquatic ecology and threatened and endangered species, general environmental concerns, transportation, the NEPA Process and Scoping Meeting, and other general topics.

The Draft EIS was released to the public on June 9, 2017, and a notice of availability including a request for comments on the Draft EIS was published in the **Federal Register** on June 16, 2017. In association with the publication of the Draft EIS, TVA hosted a public meeting on June 22, 2017, at the Robert Cherry Civic Center in Paducah, Kentucky. Notification of the public meeting was sent to local residents adjacent to the SHF plant, and also published in local newspapers. Local and regional stakeholders, governments, and other interested parties were also informed of the publication of the Draft EIS and provided information about the public meeting. TVA received a total of 83

comments from eight commenters in relation to the Draft EIS.

The NOA for the Final EIS was published in the **Federal Register** on December 8, 2017.

Decision

TVA has chosen a phased decision-making approach for CCR Management at SHF. TVA has decided to construct and operate an onsite CCR Landfill at SHF. This decision would achieve a portion of the purpose and need of the project and avoid offsite transfer of CCR along public roads, thus eliminating the long-term impacts associated with air emissions, increased traffic and associated safety risks, and disruptions to the public that would be associated with such offsite transport under Alternative C—CCR Disposal at a Permitted Offsite Landfill.

TVA is continuing to review and consider the alternatives regarding closure of Ash Impoundment 2 and the former SWL and will issue a decision and any additional documentation at a future date.

Mitigation Measures

TVA would use appropriate best management practices during all phases of construction and operation of the landfill. Mitigation measures, actions taken to reduce adverse impacts associated with proposed action, include:

- Due to the loss of potentially suitable foraging and roosting habitat for endangered bat species, TVA completed Section 7 consultation with the United States Fish and Wildlife Service (USFWS). Any tree removal would be scheduled so that all tree clearing would be conducted between October 15 and March 31, outside of the bats' breeding season.
- Prior to disturbing a 0.7-acre wetland on the Shawnee East Site, TVA would obtain a Clean Water Act Section 404 permit for impacts that could occur in conjunction with clearing, excavating, or grading during landfill construction. Where impacts to wetlands cannot be avoided, TVA would mitigate impacts in accordance with the Section 404 permit, as determined in consultation with the USACE.
- To minimize visual and noise impacts, TVA would plant and maintain a vegetative buffer around the proposed CCR Landfill as a natural screen.
- TVA would avoid the sites in the vicinity of the Shawnee East Site that are eligible for the National Register of Historic Places.

Dated: January 16, 2018.

Robert M. Deacy, Sr.,

Senior Vice President, Generation Construction, Projects & Services.

[FR Doc. 2018–01621 Filed 1–26–18; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty Second RTCA SC–217 Aeronautical Databases Joint Plenary With EUROCAE Working Group #44

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Thirty Second RTCA SC–217 Aeronautical Databases Joint Plenary with EUROCAE Working Group #44.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirty Second RTCA SC–217 Aeronautical Databases Joint Plenary with EUROCAE Working Group #44.

DATES: The meeting will be held February 27—March 2, 2018 9:00 a.m.—5:00 p.m.

ADDRESSES: The meeting will be held at: EUROCONTROL—Rue de la Fusée, 96 1130, Brussels (Haren), Belgium. Registration is required to attend.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW, Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or website at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Thirty Second RTCA SC–217 Aeronautical Databases Joint Plenary with EUROCAE Working Group #44. The agenda will include the following:

Tuesday, February 27, 2018, 9:00 a.m.–5:00 p.m.

1. Housekeeping & Meeting Logistics
2. DFO Statement and RTCA/EUROCAE IP and Membership Policies
3. Approve Minutes From 30th Meeting of SC–217/WG–44
4. Review and Approve Meeting Agenda for 30th Meeting of SC–217/WG–44
5. Action Item List Review
6. Working Group Sessions

Wednesday, February 28, 2018, 9:00 a.m.–5:00 p.m.

7. Working Group Sessions

Thursday, March 1, 2018, 9:00 a.m.–5:00 p.m.

8. Working Group Sessions

Friday, March 2, 2018, 9:00 a.m.–12:00 p.m.

9. Working Group Sessions
10. Approve Draft ED–77A/DO–201B for FRAC Process
11. Meeting Wrap-Up: Main Conclusions and Way Forward
12. Review of Action Items
13. Next Meetings
14. Any Other Business
15. Adjourn

Attendance is open to the interested public but limited to space availability. Registration is required to attend. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to attend, present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time. Issued in Washington, DC on January 24, 2018.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2018–01560 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

One Hundredth RTCA SC–159 Navigation Equipment Using the Global Navigation Satellite System (GNSS) Plenary

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: One Hundredth RTCA SC–159 Navigation Equipment Using the Global Navigation Satellite System (GNSS) Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of One Hundredth RTCA SC–159 Navigation Equipment Using the Global Navigation Satellite System (GNSS) Plenary.

DATES: The meeting will be held March 16, 2018 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW, Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA

Secretariat, 1150 18th Street NW, Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or website at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the One Hundredth RTCA SC–159 Navigation Equipment Using the Global Navigation Satellite System (GNSS) Plenary. The agenda will include the following:

1. Introductory Remarks: DFO, RTCA and Co-Chairs
2. Approval of Summaries of Previous Meetings
   A. Ninety-Nineth Meeting Held October 27, 2017, RTCA Paper No. 012–18/SC159–1067.
3. Final Review and Comment (FRAC) Activities
   A. DO–235() Update
   B. GNSS L1/L5 Antenna MOPS
4. Review Working Group (WG) Progress and Identify Issues for Resolution.
   A. GPS/WAAS (WG–2)
   B. GPS/GLONASS (WG–2A)
   C. GPS/Inertial (WG–2C)
   D. GPS/Precision Landing Guidance (WG–4)
   E. GPS/Interference (WG–6)
   —Discussion Regarding Taking Draft DO–292 Revision Into Final Review and Comment (FRAC)
   F. GPS/Antennas (WG–7)
5. Review of EUROCAE Activities and Discussion of Joint Activity With EUROCAE on a Dual-Frequency, Multi-Constellation GNSS Receiver MOPS
6. Update on ICAO/Navigation Systems Panel Dual Frequency/Multi-Constellation Concept of Operations (CONOPS)
7. Discussion of Terms of Reference Updates
8. Action Item Review
9. Assignment/Review of Future Work
10. Other Business
11. Date and Place of Next Meeting
12. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on January 24, 2018.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2018–01562 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty Eighth RTCA SC–216 Aeronautical Systems Security Plenary

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Thirty Eighth RTCA SC–216 Aeronautical Systems Security Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirty Eighth RTCA SC–216 Aeronautical Systems Security Plenary.

DATES: The meeting will be held March 19–23, 2018 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: EUROCAE, 9–23 rue Paul Lafargue, ''Le Trangle'' building, 93200, Saint-Denis, France.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW, Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or website at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Thirty Eighth RTCA SC–216 Aeronautical Systems Security Plenary. The agenda will include the following:

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Meeting-Minutes Review
5. Review Joint Action List
6. Review/Resolution of DO–356A/ED–203A Final Review and Comment(FRAC)/Open Consultation Comments
7. Approve Release of DO–356A/ED–203A for Presentation to PMC and Council
8. Schedule Update
9. Date, Place and Time of Next Meeting
10. New Business
11. Adjourn Plenary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on January 24, 2018.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2018–01561 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent To Prepare an Environmental Impact Statement: Dane County, Wisconsin

AGENCY: Wisconsin Department of Transportation (WisDOT), Federal Highway Administration (FHWA),DOT.

ACTION: Notice to Rescind a Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: A Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) was published in the **Federal Register** Vol. 80, No. 65, April 6, 2015 to advise the public that FHWA and WisDOT would prepare an Environmental Impact Statement (EIS) for a proposed freeway interchange improvement project on Interstate I–39/90 at the I–39/90 and US 12/18 interchange (Beltline Interchange) and adjacent local road systems in the City of Madison, Dane County, Wisconsin. The FHWA is issuing this notice to advise the public that FHWA and WisDOT will no longer prepare an EIS for this interchange improvement project. FHWA and WisDOT will prepare an Environmental Assessment (EA) for a proposed improvement project with reduced scope and impacts.

FOR FURTHER INFORMATION CONTACT: Johnny Gerbitz, Field Operations Engineer, Federal Highway Administration, 525 Junction Road, Suite 8000, Madison, Wisconsin 53717–2157, Telephone: (608) 829–7500. You may also contact Jay Waldschmidt, Environmental Process and Documentation Section, Bureau of Technical Services, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin 53707–7965, Telephone: (608) 267–9800.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT), will no longer be preparing an EIS for proposed improvements at the I–39/90 and US 12/18 interchange (Beltline Interchange) and adjacent local road systems. This change occurred because of a change in priorities at WisDOT. An EA will be prepared for a proposed improvement project at this location with reduced scope. The agency coordination process outlined in 23 CFR 771.119 will be followed for the EA. Comments and questions concerning this action should be directed to FHWA or WisDOT at the addresses provided above.

Authority: This notice is published in accordance with the Federal-Aid Highway Act, as amended (23 U.S.C. 109 *et seq.*), the Council on Environmental Quality's Regulations (40 CFR parts 1500—1508) implementing the procedural requirements of the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and FHWA's NEPA implementing regulations (23 CFR part 771).

Issued on: January 22, 2018.

Timothy Marshall,

Acting Division Administrator, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 2018–01569 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0126]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 6, 2017, the Denton County Transportation Authority (DCTA), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from several provisions of the Federal railroad safety regulations. Specifically, DCTA requests relief from certain provisions of 49 CFR part 240, Qualification and Certification of Locomotive Engineers, and part 242, Qualification and Certification of Conductors. The request was assigned Docket Number FRA–2017–0126.

The relief is requested as part of DCTA's proposed implementation of and participation in FRA's Confidential Close Call Reporting System (C3RS) pilot project. DCTA seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in 49 CFR 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2) and 242.407. The C3RS pilot project encourages certified operating crew members to report close calls and protect the employees and the railroad from discipline or sanctions arising from the incidents reported per the C3RS Implementing Memorandum of Understanding (IMOU).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 15, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Safety Chief Safety Officer.

[FR Doc. 2018–01580 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0127]

Petition for Waiver of Compliance

Under Part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on December 7, 2017, Dakota, Missouri Valley & Western Railroad, Inc. (DMVW), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 229. FRA assigned the petition Docket Number FRA–2017–0127.

Specifically, DMVW seeks a waiver of compliance from a portion of 49 CFR 229.47, *Emergency brake valve,* for five SD50 locomotive units (Numbers 5408, 5418, 5439, 5451, and 5454) and three SD60 locomotive units (Numbers 5500, 5501, and 5544). The five SD50 units were purchased from Canadian National Railway (CN) on December 4, 2008, and the three SD60 units were also purchased from CN on September 15, 2017. Upon purchase of the three SD60 units, DMVW discovered that CN had a previous waiver of compliance from 49 CFR 229.47 for these units.

The eight units now owned and operated by DMVW are all of the same car body type and all are not equipped with the rear conductor brake valve. Each of the units have rear walkways and switch style steps, thus allowing the engineer to see the person riding on the back along with radio communication. These units will be used in road service and will always be paired together. DMVW has been operating the SD50 units for almost 10 years and have not had any incident or reason to need the rear brake valve. DMVW believes that 49 CFR 229.47 pertains to covered car body units with no rear walkway or switch style steps. Therefore, DMVW is requesting a waiver from the requirement that an emergency brake

pipe valve be installed adjacent to the rear door for these eight units.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 15, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–01581 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0003]

Petition for Waiver of Compliance

Under Part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on December 26, 2017, Caltrain petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238. FRA assigned the petition Docket Number FRA–2018–0003.

Specifically, Caltrain seeks a waiver of compliance from portions of 49 CFR 238.113(a)(3), *Emergency window exits,* and 238.114(a)(3), *Rescue access windows,* for four cars of their new six-car Electric Multiple Unit (EMU) trainsets. The six-car trainsets consist of two cab cars (A and B) and four coach cars (C, D, E, and F). Each is a multi-level car and contains three types of levels: A lower level, two intermediate levels (on each end), and an upper level. In addition, each car contains both intermediate level doors and lower level doors. However, Caltrain will initially be utilizing only the lower level doors to serve their existing 8-inch platforms. The intermediate level doors will be utilized at some point in the future at high level platforms. Until such time that the intermediate doors are placed in service, passenger flip-up type seats mounted to the floor will be placed adjacent (in front of) to these doors.

Since the intermediate levels will be used for passenger seating, each intermediate level is required to have a minimum of two emergency window exits and a minimum of two rescue access windows. Two cars (D and F) are equipped with two windows (one on each side) on the intermediate level that serve as dual-function emergency exit and rescue access windows. The remaining four cars (A, B, C, and E) do not have windows on the intermediate levels due to propulsion equipment occupying space on that level. However, all cars in the EMU trainset are designed with exterior side doors on the intermediate levels (one per side per intermediate level). These doors will be locked and non-operational, and equipped with emergency release handles to allow for manual opening of the doors for emergency egress and rescue access through the doorway.

Caltrain states that the intermediate level door arrangement will meet the requirements of 49 CFR 231.112, *Door emergency egress and rescue access systems.* In addition, emergency exit paths exist by way of the stairs at the intermediate level, which can lead passengers to either the lower level where there are additional doors and emergency exit/access windows, or the upper levels where there are also additional emergency exit/access windows. Lastly, there is an aisle way that leads to the adjacent car that can be used for egress (with exception of the cab car, cab end). Because the intermediate levels are equipped with these features, Caltrain believes that the intent of the emergency egress/access requirements of 49 CFR 238.113 and 238.114 are met and provide an equivalent level of safety to passengers.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 15, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2018–01582 Filed 1–26–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Credit Risk Retention

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, ''Credit Risk Retention.''

DATES: You should submit written comments by March 30, 2018.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0249, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.tress.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

Title: Credit Risk Retention.

OMB Control No.: 1557–0249.

Affected Public: Business or other for-profit.

Type of Review: Regular review.

Abstract: This information collection request relates to 12 CFR part 43, which implemented section 941(b) of the Dodd-Frank Act.[1] Section 941(b) of the Dodd-Frank Act required the OCC, Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Securities and Exchange Commission (SEC), and, in the case of the securitization of any residential mortgage asset, the Federal Housing Finance Agency (FHFA), and the Department of Housing and Urban Development (HUD) to issue rules that, subject to certain exemptions: Require a securitizer to retain not less than 5% of the credit risk of any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; and prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain under the statute and implementing regulations.

Part 43 sets forth permissible forms of risk retention for securitizations that involve issuance of asset-backed securities. Section 15G of the Exchange Act also exempts certain types of securitization transactions from these risk retention requirements and authorizes the agencies to exempt or establish a lower risk retention requirement for other types of securitization transactions. Section 15G also states that the agencies must permit a securitizer to retain less than five percent of the credit risk of commercial mortgages, commercial loans, and automobile loans that are transferred, sold, or conveyed through the issuance of ABS by the securitizer if the loans meet underwriting standards established by the federal banking agencies.[2]

Part 43 sets forth permissible forms of risk retention for securitizations that involve issuance of asset-backed securities, as well as exemptions from the risk retention requirements, and contains requirements subject to the PRA.

Section 43.4 sets forth the conditions that must be met by sponsors electing to use the standard risk retention option, which may consist of an eligible vertical interest or an eligible horizontal residual interest, or any combination thereof. Sections 43.4(c)(1) and 43.4(c)(2) specify the disclosures required with respect to eligible horizontal residual interests and eligible vertical interests, respectively.

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (July 21, 2010)).

[2] 15 U.S.C. 78o–11(c)(1)(B)(ii) and (2).

A sponsor retaining any eligible horizontal residual interest (or funding a horizontal cash reserve account) is required to disclose: The fair value (or a range of fair values and the method used to determine such range) of the eligible horizontal residual interest that the sponsor expects to retain at the closing of the securitization transaction (§ 43.4(c)(1)(i)(A)); the material terms of the eligible horizontal residual interest (§ 43.4(c)(1)(i)(B)); the methodology used to calculate the fair value (or range of fair values) of all classes of ABS interests (§ 43.4(c)(1)(i)(C)); the key inputs and assumptions used in measuring the estimated total fair value (or range of fair values) of all classes of ABS interests (§ 43.4(c)(1)(i)(D)); the reference data set or other historical information used to develop the key inputs and assumptions (§ 43.4(c)(1)(i)(G)); the fair value of the eligible horizontal residual interest retained by the sponsor (§ 43.4(c)(1)(ii)(A)); the fair value of the eligible horizontal residual interest required to be retained by the sponsor (§ 43.4(c)(1)(ii)(B)); a description of any material differences between the methodology used in calculating the fair value disclosed prior to sale and the methodology used to calculate the fair value at the time of closing (§ 43.4(c)(1)(ii)(C)); and the amount placed by the sponsor in the horizontal cash reserve account at closing, the fair value of the eligible horizontal residual interest that the sponsor is required to fund through such account, and a description of such account (§ 43.4(c)(1)(iii)).

For eligible vertical interests, the sponsor is required to disclose: The form of the eligible vertical interest (§ 43.4(c)(2)(i)(A)); the percentage that the sponsor is required to retain (§ 43.4(c)(2)(i)(B)); a description of the material terms of the vertical interest and the amount the sponsor expects to retain at closing (§ 43.4(c)(2)(i)(C)); and the amount of vertical interest retained by the sponsor at closing ((§ 43.4(c)(2)(ii)).

Section 43.4(d) requires a sponsor to retain the certifications and disclosures required in paragraphs (a) and (c) of this section in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate federal banking agency, if any, until three years after all ABS interests are no longer outstanding.

Section 43.5(k) requires sponsors relying on the master trust (or revolving pool securitization) risk retention option to disclose: The material terms of the seller's interest and the percentage of the seller's interest that the sponsor expects to retain at the closing of the transaction (§ 43.5(k)(1)(i)); the percentage of the seller's interest that the sponsor retained at closing (§ 43.5(k)(1)(ii)); the material terms of any horizontal risk retention offsetting the seller's interest under § 43.5(g), § 43.5(h) and § 43.5(i) (§ 43.5(k)(1)(iii)); and the fair value of any horizontal risk retention retained by the sponsor (§ 43.5(k)(1)(iv)). Additionally, a sponsor must retain the disclosures required in § 43.5(k)(1) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§ 43.5(k)(3)).

Section 43.6 addresses the requirements for sponsors utilizing the eligible ABCP conduit risk retention option. The requirements for the eligible ABCP conduit risk retention option include disclosure to each purchaser of ABCP and periodically to each holder of commercial paper issued by the ABCP conduit of the name and form of organization of the regulated liquidity provider that provides liquidity coverage to the eligible ABCP conduit, including a description of the material terms of such liquidity coverage, and notice of any failure to fund; and with respect to each ABS interest held by the ABCP conduit, the asset class or brief description of the underlying securitized assets, the standard industrial category code for each originator-seller that retains an interest in the securitization transaction, and a description of the percentage amount and form of interest retained by each originator-seller (§ 43.6(d)(1)). An ABCP conduit sponsor relying upon this section shall provide, upon request, to the Commission and the sponsor's appropriate Federal banking agency, if any, the information required under § 43.6(d)(1), in addition to the name and form of organization of each originator-seller that retains an interest in the securitization transaction (§ 43.6(d)(2)).

A sponsor relying on the eligible ABCP conduit risk retention option shall maintain and adhere to policies and procedures to monitor compliance by each originator-seller which is satisfying a risk retention obligation in respect to ABS interests acquired by an eligible ABCP conduit (§ 43.6(f)(2)(i)). If the ABCP conduit sponsor determines that an originator-seller is no longer in compliance, the sponsor must promptly notify the holders of the ABCP, and upon request, the Commission and the sponsor's appropriate federal banking agency, in writing of the name and form of organization of any originator-seller that fails to retain, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§ 43.6(f)(2)(ii)(A)(1)); the name and form of organization of any originator-seller that hedges, directly or indirectly through an intermediate SPV, its risk retention in violation of the rule, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§ 43.6(f)(2)(ii)(A)(2)); and any remedial actions taken by the ABCP conduit sponsor or other party with respect to such ABS interests (§ 43.6(f)(2)(ii)(A)(3)).

Section 43.7 sets forth the requirements for sponsors relying on the commercial mortgage-backed securities risk retention option, and includes disclosures of: The name and form of organization of each initial third-party purchaser (§ 43.7(b)(7)(i)); each initial third-party purchaser's experience in investing in commercial mortgage-backed securities (§ 43.7(b)(7)(ii)); other material information (§ 43.7(b)(7)(iii)); the fair value and purchase price of the eligible horizontal residual interest retained by each third-party purchaser, and the fair value of the eligible horizontal residual interest that the sponsor would have retained if the sponsor had relied on retaining an eligible horizontal residual interest under the standard risk retention option (§ 43.7(b)(7)(iv) and (v)); a description of the material terms of the eligible horizontal residual interest retained by each initial third-party purchaser, including the same information as is required to be disclosed by sponsors retaining horizontal interests pursuant to § 43.4 (§ 43.7(b)(7)(vi)); the material terms of the applicable transaction documents with respect to the Operating Advisor (§ 43.7(b)(7)(vii)); and representations and warranties concerning the securitized assets, a schedule of any securitized assets that are determined not to comply with such representations and warranties, and the factors used to determine that such securitized assets should be included in the pool notwithstanding that they did not comply with the representations and warranties (§ 43.7(b)(7)(viii)). A sponsor relying on the commercial mortgage-backed securities risk retention option is also required to provide in the underlying securitization transaction documents certain provisions related to the Operating Advisor (§ 43.7(b)(6)), to maintain and adhere to policies and procedures to monitor compliance by third-party purchasers with regulatory requirements (§ 43.7(c)(2)(A)), and to

notify the holders of the ABS interests in the event of noncompliance by a third-party purchaser with such regulatory requirements (§ 43.7(c)(2)(B)).

Section 43.8 requires that a sponsor relying on the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation risk retention option must disclose a description of the manner in which it has met the credit risk retention requirements (§ 43.8(c)).

Section 43.9 sets forth the requirements for sponsors relying on the open market CLO risk retention option, and includes disclosures of a complete list of, and certain information related to, every asset held by an open market CLO (§ 43.9(d)(1)), and the full legal name and form of organization of the CLO manager (§ 43.9(d)(2)).

Section 43.10 sets forth the requirements for sponsors relying on the qualified tender option bond risk retention option, and includes disclosures of the name and form of organization of the qualified tender option bond entity, a description of the form and subordination features of the retained interest in accordance with the disclosure obligations in section 43.4(d), the fair value of any portion of the retained interest that is claimed by the sponsor as an eligible horizontal residual interest, and the percentage of ABS interests issued that is represented by any portion of the retained interest that is claimed by the sponsor as an eligible vertical interest (§ 43.10(e)(1)–(4)). In addition, to the extent any portion of the retained interest claimed by the sponsor is a municipal security held outside of the qualified tender option bond entity, the sponsor must disclose the name and form of organization of the qualified tender option bond entity, the identity of the issuer of the municipal securities, the face value of the municipal securities deposited into the qualified tender option bond entity, and the face value of the municipal securities retained outside of the qualified tender option bond entity by the sponsor or its majority-owned affiliates (§ 43.10(e)(5)).

Section 43.11 sets forth the conditions that apply when the sponsor of a securitization allocates to originators of securitized assets a portion of the credit risk the sponsor is required to retain, including disclosure of the name and form of organization of any originator that acquires and retains an interest in the transaction, a description of the form, amount and nature of such interest, and the method of payment for such interest (§ 43.11(a)(2)). A sponsor relying on this section is required to maintain and adhere to policies and procedures that are reasonably designed to monitor originator compliance with retention amount and hedging, transferring and pledging requirements (§ 43.11(b)(2)(A)), and to promptly notify the holders of the ABS interests in the transaction in the event of originator non-compliance with such regulatory requirements (§ 43.11(b)(2)(B)).

Sections 43.13 and 43.19(g) provide exemptions from the risk retention requirements for qualified residential mortgages and qualifying 3-to-4 unit residential mortgage loans that meet certain specified criteria, including that the depositor with respect to the securitization transaction certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that the controls are effective (§§ 43.13(b)(4)(i) and 43.19(g)(2)), and that the sponsor provide a copy of the certification to potential investors prior to sale of asset-backed securities in the issuing entity (§§ 43.13(b)(4)(iii) and 43.19(g)(2)). In addition, §§ 43.13(c)(3) and 43.19(g)(3) provide that a sponsor that has relied upon the exemptions will not lose the exemptions if, after closing of the transaction, it is determined that one or more of the residential mortgage loans does not meet all of the criteria; provided that the depositor complies with certain specified requirements, including prompt notice to the holders of the asset-backed securities of any loan that is required to be repurchased by the sponsor, the amount of such repurchased loan, and the cause for such repurchase.

Section 43.15 provides exemptions from the risk retention requirements for qualifying commercial loans that meet the criteria specified in § 43.16, qualifying CRE loans that meet the criteria specified in § 43.17, and qualifying automobile loans that meet the criteria specified in § 43.18. Section 43.15 also requires the sponsor to disclose a description of the manner in which the sponsor determined the aggregate risk retention requirement for the securitization transaction after including qualifying commercial loans, qualifying CRE loans, or qualifying automobile loans with 0 percent risk retention (§ 43.15(a)(4)). In addition, the sponsor is required to disclose descriptions of the qualifying commercial loans, qualifying CRE loans, and qualifying automobile loans (''qualifying assets''), and descriptions of the assets that are not qualifying assets, and the material differences between the group of qualifying assets and the group of assets that are not qualifying assets with respect to the composition of each group's loan balances, loan terms, interest rates, borrower credit information, and characteristics of any loan collateral (§ 43.15(b)(3)). Additionally, a sponsor must retain the disclosures required in §§ 43.15(a) and (b) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§ 43.15(d)).

Sections 43.16, 43.17 and 43.18 each require that: The depositor of the asset-backed security certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that its internal supervisory controls are effective (§§ 43.16(a)(8)(i), 43.17(a)(10)(i), and 43.18(a)(8)(i)); the sponsor is required to provide a copy of the certification to potential investors prior to the sale of asset-backed securities in the issuing entity (§§ 43.16(a)(8)(iii), 43.17(a)(10)(iii), and 43.18(a)(8)(iii)); and the sponsor must promptly notify the holders of the asset-backed securities of any loan included in the transaction that is required to be cured or repurchased by the sponsor, including the principal amount of such loan and the cause for such cure or repurchase (§§ 43.16(b)(3), 43.17(b)(3), and 43.18(b)(3)). Additionally, a sponsor must retain the disclosures required in §§ 43.16(a)(8), 43.17(a)(10) and 43.18(a)(8) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§ 43.15(d)).

Estimated Number of Respondents: 35 sponsors; 182 annual offerings per year.

Total Estimated Annual Burden: 3,139 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 23, 2018.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2018–01521 Filed 1–26–18; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 IRS is soliciting comments concerning, Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or (202) 317–6009 or, through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

OMB Number: 1545–1356.

Regulation Project Number: TD 8725.

Abstract: Under Internal Revenue Code section 7430 a prevailing party may recover the reasonable administrative or litigation costs incurred in an administrative or civil proceeding that relates to the determination, collection, or refund of any tax, interest, or penalty. Section 301.7430–2(c) of the regulation provides that the IRS will not award administrative costs under section 7430 unless the taxpayer files a written request in accordance with the requirements of the regulation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations, not-for-profit institutions, farms, and the Federal government.

Estimated Number of Respondents: 38.

Estimated Time per Respondent: 2 hours, 16 minutes.

Estimated Total Annual Burden Hours: 86.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01661 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8802

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 IRS is soliciting comments concerning Form 8802, Application for United States Residency Certification.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317–6009 or, through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for United States Residency Certification.

OMB Number: 1545–1817.

Form Number: Form 8802.

Abstract: An entity must use Form 8802 to apply for United States Residency Certification. All requests for U.S. residency certification must be received on Form 8802, Application for United States Residency Certification. As proof of residency in the United States and of entitlement to the benefits of a tax treaty, U.S. Government certification that you are a U.S. citizen, U.S. corporation, U.S. partnership, or resident of the United States for purposes of taxation.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organization, and not-for-profit institution.

Estimated Number of Respondents: 130,132.

Estimated Time per Respondent: 3 hours, 38 minutes.

Estimated Total Annual Burden Hours: 472,380.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01647 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4029

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 IRS is soliciting comments concerning Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317–6009 or, through the internet at *Lanita.VanDyke@irs.gov* .

SUPPLEMENTARY INFORMATION:

Title: Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits.

OMB Number: 1545–0064.

Form Number: 4029.

Abstract: Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under Internal Revenue Code sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Current Actions: There are no changes being made to the Form 4029 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,754.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 3,792.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01654 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8938

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Statement of Specified Foreign Financial Assets.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Martha R. Brinson, at (202) 317–5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Statement of Specified Foreign Financial Assets.

OMB Number: 1545–2195.

Form Number: 8938.

Abstract: The collection of information in Form 8938 will be the means by which taxpayers will comply with self-reporting obligations imposed under section 6038D with respect to foreign financial assets. The IRS will use the information to determine whether to audit this taxpayer or transaction, including whether to impose penalties. The information is also required to begin the running of the statute of limitations under section 6501.

Current Actions: There are no changes being made to Form 8938 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 350,000.

Estimated Time per Respondent: 4 hours 37 minutes.

Estimated Total Annual Burden Hours: 1,627,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 16, 2018.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01657 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 IRS is soliciting comments concerning safe harbor for valuation and Mark to Market Accounting Method for Dealers under section 475.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317–6009 or, through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Safe Harbor for Valuation and Mark to Market Accounting Method for Dealers under Section 475.

OMB Number: 1545–1945.

Regulation Project Number: TD 9328 and TD 8700.

Abstract: These documents set forth an elective safe harbor that permits dealers in securities and dealers in commodities to elect to use the values of positions reported on certain financial statements as the fair market values of those positions for purposes of section 475 of the Internal Revenue Code (Code). This safe harbor is intended to reduce the compliance burden on taxpayers and to improve the administrability of the valuation requirement of section 475 for the IRS. TD 8700 contains final regulations providing guidance to enable taxpayers to comply with the mark-to-market requirements applicable to dealers in securities.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 15,708.

Estimated Average Time per Respondent: 3 hours, 19 minutes.

Estimated Total Annual Burden Hours: 52,182.

The following paragraph applies to all the collections of information covered by this notice.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01664 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information return for tax credit bonds.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return for Tax Credit Bonds.

OMB Number: 1545–2160.

Regulation Project Number: Form 8038–TC.

Abstract: Form 8038–TC is used by issuers of qualified tax-exempt credit bonds, including tax credit bonds enacted under American Recovery and Reinvestment Act of 2009, to capture information required by IRC section 149(e) using a schedule approach. For applicable types of bond issues, filers will this form instead of Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Not for profit institutions.

Estimated Number of Respondents: 540.

Estimated Time per Respondent: 37.58 hours.

Estimated Total Annual Burden Hours: 20,294.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2018.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01660 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8952

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 IRS is soliciting comments concerning Form 8952, Applications for Voluntary Classification Settlement Program.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317–6009 or, through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Voluntary Classification Settlement Program.

OMB Number: 1545–2215.

Form Number: 8952.

Abstract: Form 8952 was created by the IRS in conjunction with the development of a new program to permit taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes and obtain similar relief to that obtained in the current Classification Settlement Program. To participate in the program, taxpayers must meet certain eligibility requirements, apply to participate in VCSP, and enter into closing agreements with the IRS.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 1,700.

Estimated Time per Respondent: 9 Hours, 51 minutes.

Estimated Total Annual Burden Hours: 16,745.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01658 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 IRS is soliciting comments concerning employers' qualified educational assistance programs.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317–6009 or, through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employers' Qualified Educational Assistance Programs.

OMB Number: 1545–0768.

Regulation Project Number: EE–178–78 (TD 7898).

Abstract: Internal Revenue Code section 127(a) provides that the gross income of an employee does not include amounts paid or expenses incurred by an employer if furnished to the employee pursuant to a qualified educational assistance program. This regulation requires that a qualified educational assistance program must be a separate written plan of the employer and that employees must be notified of the availability and terms of the program. Also, substantiation may be required to verify that employees are entitled to exclude from their gross income amounts paid or expenses incurred by the employer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 5,200.

Estimated Time per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 615.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01653 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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. The IRS is soliciting comments concerning information collection requirements related to real estate mortgage conduits; reporting requirements and other administrative matters; and allocation of allocable investment expense; original issue discount reporting requirements.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317–6009 or, through the internet, at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: T.D. 8366, Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters. T.D. 8431, Allocation of Allocable Investment Expense; Original Issue Discount Reporting Requirements.

OMB Number: 1545–1018.

Regulation Project Number: T.D. 8366 and T.D. 8431.

Abstract: T.D. 8366 contains temporary and final regulations relating to real estate mortgage investment conduits (REMICS). T.D. 8431 contains final regulations relating to reporting requirements with respect to single-

class real estate mortgage investment conduits (REMICs) and the market discount fraction reported with other REMIC information. This document also contains final regulations that require an issuer of publicly offered debt instruments with original issue discount (OID) to file an information return with the Internal Revenue Service. The relevant provisions in the Internal Revenue Code were added or amended by the Tax Reform Act of 1984, the Tax Reform Act of 1986, and by the Technical and Miscellaneous Revenue Act of 1988.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 9,725.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 978.

The following paragraph applies to all of the collections of information covered by this notice:

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Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 23, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01652 Filed 1–26–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning credits for affected disaster area employers.

DATES: Written comments should be received on or before March 30, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credits for Affected Disaster Area Employers.

OMB Number: 1545–1978.

Regulation Project Number: Form 5884–A.

Abstract: Form 5884–A is used to figure the employee retention credit that an eligible employer who conducted an active trade or business in the Hurricane Harvey, Irma, or Maria disaster zones may claim. The credit is equal to 40 percent of qualified wages for each eligible employee (up to a maximum of $6,000 in qualified wages per employee).

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and farms.

Estimated Number of Respondents: 250,000.

Estimated Time per Respondent: 3.04 hours.

Estimated Total Annual Burden Hours: 760,000.

The following paragraph applies to all of the collections of information covered by this notice.

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Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 16, 2018.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–01656 Filed 1–26–18; 8:45 am]

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