needed to assist the regulatory authority to determine the eligibility of an applicant to conduct surface coal mining operations on Federal lands.

DATES: Interested persons are invited to submit comments on or before November 14, 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 1029–0027 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 July 6, 2018 (83 FR 31567). 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 of Collection: 30 CFR part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands.

OMB Control Number: 1029–0027.

Abstract: Section 523 of the Surface Mining Control and Reclamation Act of 1977 requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. The information is needed to assist the regulatory authority to determine the eligibility of an applicant to conduct coal mining on Federal lands.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Applicants for surface coal mine permits on Federal lands, and State Regulatory Authorities.

Total Estimated Number of Annual Respondents: 5 applicants and 5 States.

Total Estimated Number of Annual Responses: 6 applicants and 6 States.

Estimated Completion Time per Response: Varies from 1 to 244 hours for applicants depending on the activity, and 285 hours for each State regulatory authority.

Total Estimated Number of Annual Burden Hours: 1,225 hours for applicants and 1,425 hours for States.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

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.

Authority: The authorities for this action are the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1201 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–22332 Filed 10–12–18; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1046]

Certain Non-Volatile Memory Devices and Products Containing Same Notice of the Commission's Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 in this investigation and has issued a limited exclusion order prohibiting importation of infringing non-volatile memory devices and products containing the same and issued cease and desist orders directed to the domestic respondents Toshiba America, Inc. and its subsidiaries, Toshiba America Electronic Components, Inc. and Toshiba America Information Systems, Inc. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–1046 on April 12, 2017, based on a complaint filed by Macronix International Co., Ltd. of Hsin-chu, Taiwan and Macronix America, Inc. of Milpitas, California (collectively, ''Macronix''). 82 FR 17687–88 (Apr. 12, 2017). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the

importation into the United States, the sale for importation, and the sale within the United States after importation of certain non-volatile memory devices and products containing the same that infringe one or more of claims 1–8 of U.S. Patent No. 6,552,360 (''the '360 patent''); claims 1–12 and 16 of U.S. Patent No. 6,788,602 (''the '602 patent''); and claims 1–7, 11–16, and 18 of U.S. Patent No. 8,035,417 (''the '417 patent''). The notice of investigation named the following respondents: Toshiba Corporation of Tokyo, Japan; Toshiba America, Inc. of New York, New York; Toshiba America Electronic Components, Inc. of Irvine, California; Toshiba America Information Systems, Inc. of Irvine, California; and Toshiba Information Equipment (Philippines), Inc. of Binan, Philippines (collectively, ''Toshiba''). The Office of Unfair Import Investigations is a party to the investigation.

On June 16, 2017, the Commission determined not to review the ALJ's order (Order No. 11) granting an unopposed motion to amend the Notice of investigation to add Toshiba Memory Corporation of Tokyo, Japan as a respondent. *See* Order No. 11, Comm'n Notice of Non-Review (June 16, 2017).

On October 17, 2017, the Commission determined not to review the ALJ's order (Order No. 20) granting an unopposed motion to terminate the investigation as to claims 11, 12, and 16 of the '602 patent. *See* Order No. 20, Comm'n Notice of Non-Review (Oct. 17, 2017).

On October 4, 2017, the ALJ held a *Markman* hearing to construe certain disputed claim terms. On December 5, 2017, the ALJ issued Order No. 23 (*Markman* Order), setting forth her construction of the disputed claim terms.

On January 18, 2018, the Commission determined not to review the ALJ's order (Order No. 24) granting an unopposed motion to terminate the investigation as to claims 1–7 and 18 of the '417 patent. Order No. 24; Comm'n Notice of Non-Review (Jan. 18, 2018).

The ALJ held an evidentiary hearing from February 8, 2018, through February 14, 2018, and thereafter received post-hearing briefs.

On April 27, 2018, the ALJ issued her final ID, finding no violation of section 337 by Toshiba in connection with the remaining claims, *i.e.,* claims 1–8 of the '360 patent; claims 1–10 of the '602 patent; and claims 11–16 of the '417 patent. Specifically, the ALJ found that the Commission has subject matter jurisdiction, *in rem* jurisdiction over the accused products, and *in personam* jurisdiction over Toshiba. ID at 15–17. The ALJ also found that Macronix satisfied the importation requirement of section 337 (19 U.S.C. 1337(a)(1)(B)). *Id.* The ALJ, however, found that the accused products do not infringe the asserted claims of the '360 patent and '417 patent. *See* ID at 19–65, 118–130. The ALJ also found that Toshiba failed to establish that the asserted claims of the '417 patent are invalid for obviousness. ID at 132–141. Toshiba did not challenge the validity of the '360 patent. ID at 70. With respect to the '602 patent, the ALJ found that certain accused products infringe asserted claims 1–10, but that claims 1–5 and 7–10 are invalid for obviousness. ID at 71–88, 91–117. Finally, the ALJ found that Macronix failed to establish the existence of a domestic industry that practices the asserted patents under 19 U.S.C. 1337(a)(2) and also failed to show a domestic industry in the process of being established. *See* ID at 257–261, 288–294.

On May 10, 2018, the ALJ issued her recommended determination on remedy and bonding. Recommended Determination on Remedy and Bonding (''RD''). The ALJ recommends that in the event the Commission finds a violation of section 337, the Commission should issue a limited exclusion order prohibiting the importation of Toshiba's accused products that infringe the asserted claims of the asserted patents. RD at 1–5. The ALJ also recommends issuance of cease and desist orders against the domestic Toshiba respondents based on the presence of commercially significant inventory in the United States. RD at 5. With respect to the amount of bond that should be posted during the period of Presidential review, the ALJ recommends that the Commission set a bond in the amount of 100 percent of entered value for Toshiba flash memory devices and solid state drives, and a bond in the amount of six percent of entered value for Toshiba PCs imported during the period of Presidential review. RD at 6–9.

On May 14, 2018, Macronix filed a petition for review challenging the ID's finding of no violation of section 337. The IA also filed a petition for review that day, challenging the ID's finding that Macronix failed to establish a domestic industry in the process of being established and certain findings as to the '602 patent. Also on May 14, 2018, Toshiba filed a contingent petition for review of the ID ''in the event that the Commission decides to review the ID.'' On May 22, 2018, Macronix and Toshiba filed their respective responses to the petitions for review. On May 23, 2018, the IA filed a response to the private parties' petitions for review. The Chairman granted the IA's motion for leave to file the response one day late.

On June 28, 2018, the Commission determined to review the final ID in part and requested the parties to brief certain issues. *See* 83 FR 31416–18 (July 5, 2018). Specifically, the Commission determined to review the following: (1) The finding that Macronix failed to satisfy the domestic industry requirement; and (2) the findings of infringement and invalidity as to the '602 patent. On July 12, 2018, the parties filed submissions to the Commission's questions and also briefed the issues of remedy, the public interest and bonding. On July 19, 2018, the parties filed responses to the initial submissions.

Having examined the record of this investigation, including the final ID, and the parties' submissions, the Commission has determined to (1) reverse the ALJ's finding that the accused products do not directly infringe the asserted claims of the '602 patent; (2) affirm the ALJ's indirect infringement and invalidity findings as to the '602 patent; and (3) reverse the ALJ's finding that Macronix failed to establish a domestic industry in the process of being established. The Commission adopts the ID's findings to the extent they are not inconsistent with the Commission opinion issued herewith. The Commission action results in a violation of section 337 as to claim 6 of the '602 patent.

Having found a violation of section 337 in this investigation, the Commission has determined that the appropriate form of relief is: (1) A limited exclusion order prohibiting the unlicensed entry of non-volatile memory devices and products containing the same that infringe claim 6 of the '602 patent that are manufactured by, or on behalf of, or are imported by or on behalf of Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the '602 patent except under license of the patent owner or as provided by law; and (2) cease and desist orders prohibiting domestic respondents Toshiba America, Inc. and its subsidiaries, Toshiba America Electronic Components, Inc. and Toshiba America Information Systems, Inc. from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, transferring

(except for exportation), and soliciting U.S. agents or distributors for, non-volatile memory device and products containing same covered by claim 6 of the '602 patent.

The Commission has also determined that the public interest factors enumerated in section 337(d) and (f) (19 U.S.C. 1337(d) and (f)) do not preclude issuance of the limited exclusion order or cease and desist orders. Finally, the Commission has determined that a bond in the amount of 100 percent of entered value for Toshiba flash memory devices, solid-state drives, USB flash drives, and microcontroller units; and a bond in the amount of six percent of entered value for Toshiba personal computers, multi-function printers, and air conditioners is required to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)) of products that are subject to the remedial orders. The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 9, 2018

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2018–22325 Filed 10–12–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Phillip O. Rawlings, Jr., M.D.; Decision and Order

On March 8, 2018, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Phillip O. Rawlings, Jr., M.D. (Registrant), of Mobile, Alabama. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration No. FR0024997 on the ground that he has ''no state authority to handle controlled substances.'' Order to Show Cause, Government Exhibit (GX) 8, at 1 (citing 21 U.S.C. 824(a)(3)). For the same reason, the Order also proposed the denial of any of Registrant's ''applications for renewal or modification of such registration and any applications for any other DEA registrations.'' *Id.*

Regarding the Agency's jurisdiction, the Show Cause Order alleged that Registrant holds DEA Certificate of Registration No. FR0024997, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V at the registered address of Providence Family Physicians, 8833 Cottage Hill Road, Mobile, Alabama. *Id.* The Order also alleged that this registration was set to expire by its terms on April 30, 2018. *Id.*

The substantive ground for the proceeding set forth in the Show Cause Order is that Registrant is ''currently without authority to practice medicine or handle controlled substances in the State of Alabama, the state in which [he is] registered with the DEA'' because Registrant's Alabama Medical License and Alabama Controlled Substances Certificate have been in ''Inactive-By Request'' status since December 31, 2016 . *Id.* As a consequence, the Order alleged that ''DEA must revoke your DEA registration.'' *Id.* at 2.

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Order also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

On April 26, 2018, my office received the Government's Second Request for Final Agency Action (SRFAA) [1] describing Diversion Investigators' attempts to serve the Show Cause Order and seeking a final order revoking Registrant's registration. SRFAA, at 2, 6. The Government also submitted a Certification of Registration History, which was sworn to on December 28, 2017 by the Associate Chief of the Registration and Program Support Section. GX 1. In that Certification, she stated that DEA Registration No. FR0024997 ''expires on April 30, 2018.'' *Id.* at 1. The Associate Chief further stated that ''Phillip O. Rawlings, Jr., M.D., has no other pending or valid DEA registration(s) in Alabama.'' *Id.* According to the Agency's current registration records for Registrant, of which I take official notice,[2] DEA Registration No. FR0024997 expired on April 30, 2018, and he has not submitted an application to renew his registration or for any other registration in the State of Alabama. Thus, I find that Registrant's registration expired on April 30, 2018, and that there is no application upon which to act.[3]

DEA has long held that '' 'if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.' '' *Donald Brooks Reece II, M.D.,* 77 FR 35054, 35055 (2012) (quoting *Ronald J. Riegel,* 63 FR 67312, 67133 (1998)); *see also Greg N. Rampey, D.O.,* 83 FR

[1] On January 10, 2018, the Government submitted a Request for Final Agency Action seeking to revoke Registrant's same DEA registration based on an October 31, 2017 Order to Show Cause. GX 6. In that Request, the Government represented that Registrant did not request a hearing and ''ha[d] not otherwise corresponded or communicated with DEA regarding the Order served on him . . . within 30 days of receipt of the Order.'' *Id.* at 1–2. However, on February 6, 2018, the then-Acting Administrator issued an Order noting that, ''although the Government is clearly in possession of information suggesting that Registrant now lives in California, it has offered no explanation for why it did not attempt to obtain Registrant's address from the Board of Medical Examiners and serve Registrant at that address.'' GX 7, at 1. As a result, the then-Administrator denied the Government's Request for Final Agency Action without prejudice. *Id.* at 2. *See also* SRFAA, at 1–2. By that time, the December 26, 2017 hearing date listed in the 2017 Show Cause Order had passed. SRFAA, at 2 n.1. As a result, the Agency issued the pending Show Cause Order on March 8, 2018, with a new hearing date of April 24, 2018. *Id.;* GX 8, at 1. It is this new Show Cause Order for which the Government now seeks final agency action.

[2] Under the Administrative Procedure Act (APA), an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Registrant is ''entitled on timely request to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of service of this order which shall commence on the date this order is mailed.

[3] As already noted, my Office received the Government's Second Request for Final Agency Action on April 26, 2018. This filing arrived in my office too late for me to issue a final decision and order before the registration would expire on April 30, 2018. DEA regulation 21 CFR 1316.67 requires that I issue a final order that takes effect not less than 30 days from the date of publication in the **Federal Register** unless the public interest necessitates an earlier effective date. The record before me fails to include facts supporting a finding that ''the public interest in the matter necessitates an earlier effective date.'' 21 CFR 1316.67. Thus, even if I had submitted a final order in this case to the **Federal Register** on the same day (April 26, 2018) that my office received the SRFAA to revoke Registrant's registration, I could not have issued an order that would have taken effect by April 30, 2018 because the **Federal Register** would not have been able to publish it 30 days before the registration's April 30, 2018 expiration. And as the Agency has previously noted, there is no point in issuing a ruling on a Show Cause Order where, as here, that ruling would constitute an advisory opinion subject to vacation on judicial review. *See, e.g., Josip Pasic, M.D.,* 82 FR 24146, 24147 (2017) (''As the requested factual findings and legal conclusions would be subject to vacation on judicial review, there is no point in making them.'').