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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1024

[Docket No. CFPB–2017–0031]

RIN 3170–AA77

Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act (Regulation X)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interim final rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing an interim final rule amending a provision of the Regulation X mortgage servicing rules issued in 2016 relating to the timing for servicers to provide modified written early intervention notices to borrowers who have invoked their cease communication rights under the Fair Debt Collection Practices Act. The Bureau requests public comment on this interim final rule.

DATES: This interim final rule is effective on October 19, 2017. Comments must be received on or before November 15, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2017–0031 or RIN 3170–AA77, by any of the following methods:

- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2017–0031 or RIN 3170–AA77 in the subject line of the email.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Joel L. Singerman, Counsel; or William R. Corbett or Laura A. Johnson, Senior Counsels, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Interim Final Rule

On August 4, 2016, the Bureau issued the Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (2016 Mortgage Servicing Final Rule) amending certain of the Bureau's mortgage servicing rules.[1] The Bureau has learned, through its outreach in support of industry's implementation of the 2016 Mortgage Servicing Final Rule, that certain technical aspects of the rule relating to the timing for servicers to provide modified written early intervention notices to borrowers who have invoked their cease communication rights under the Fair Debt Collection Practices Act (FDCPA) may create unintended challenges in implementation. To alleviate any unintended challenges and facilitate timely provision of written early intervention notices to these borrowers, the Bureau is issuing this interim final rule to address the provision in Regulation X, which would otherwise become effective October 19, 2017.[2]

Among other things, the 2016 Mortgage Servicing Final Rule addresses Regulation X's provision regarding early intervention requirements when a borrower has invoked the cease communication right under the FDCPA.[3] Under that provision (and with certain exceptions not applicable here), a servicer subject to the FDCPA with respect to that borrower's loan must provide a modified written early intervention notice to that borrower on a periodic basis but is prohibited from doing so more than once during any 180-day period.

Based on feedback received through its efforts to support industry implementation of the 2016 Mortgage Servicing Final Rule, the Bureau understands that there is concern among some servicers that this 180-day prohibition in § 1024.39(d)(3)(iii), read in conjunction with the early intervention provision's other timing requirements regarding written notices, requires servicers to provide the notice exactly on the 180th day after providing a prior notice. The Bureau did not intend this result and is concerned that the provision imposes too narrow a window for compliance and may provide insufficient guidance as to when and how servicers comply with the timing requirements under certain circumstances. Thus (and as explained in further detail below), the Bureau is issuing this interim final rule to amend § 1024.39(d)(3)(iii) to give servicers a 10-day window to provide the modified notice at the end of the 180-day period.

The Bureau believes that the interim final rule provides clearer and more flexible standards than the timing requirements adopted in the 2016 Mortgage Servicing Final Rule, offering greater certainty for implementation and compliance, without undermining important borrower protections relating

[1] 81 FR 72160 (Oct. 19, 2016).

[2] The Bureau is addressing in a separate proposed rule another disclosure timing provision of the 2016 Mortgage Servicing Final Rule that would otherwise become effective April 19, 2018.

[3] The provisions of Regulation X discussed herein were amended by the 2016 Mortgage Servicing Final Rule but are not effective until October 19, 2017. To simplify review of this document and differentiate between those amendments and this rule, this document generally refers to the 2016 amendments as though they already are in effect.

to early intervention. The Bureau seeks public comment on this interim final rule.

II. Background

A. 2016 Mortgage Servicing Final Rule and Implementation Support

In August 2016, the Bureau issued the 2016 Mortgage Servicing Final Rule, which amends certain of the Bureau's mortgage servicing rules in Regulations X and Z.[4] Most of these rules become effective on October 19, 2017, except that the provisions relating to bankruptcy periodic statements and successors in interest become effective on April 19, 2018. The Bureau has worked to support implementation by providing an updated compliance guide, other implementation aids, a technical corrections final rule,[5] policy guidance regarding early compliance,[6] and informal guidance in response to regulatory inquiries. Information regarding the Bureau's implementation support initiative and available implementation resources can be found on the Bureau's regulatory implementation Web site at *https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/mortserv/.* Based on its ongoing outreach, the Bureau believes that industry has made substantial implementation progress regarding the 2016 Mortgage Servicing Final Rule. However, as discussed herein, the Bureau believes that a limited disclosure timing provision under Regulation X from the 2016 Mortgage Servicing Final Rule may pose unintended implementation challenges and is appropriate to address in an interim final rule before it goes into effect.

B. Purpose and Scope of Interim Final Rule

As a result of feedback and questions received from servicers, the Bureau has decided to issue an interim final rule amending Regulation X relating to the timing for servicers to provide modified written early intervention notices to borrowers who have invoked their cease communication rights under the FDCPA. The Bureau believes this interim final rule provides clearer and more flexible standards than the timing requirements adopted in the 2016 Mortgage Servicing Final Rule, offering greater certainty for implementation and compliance, while also not undermining borrower protections.

III. Legal Authority

The Bureau is issuing this interim final rule pursuant to its authority under RESPA and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[7] including the authorities discussed below. This interim final rule amends a provision previously adopted by the Bureau in the 2016 Mortgage Servicing Final Rule. In doing so, the Bureau relied on one or more of the authorities discussed below, as well as other authority. The Bureau is issuing this interim final rule in reliance on the same authority and for the same reasons relied on in adopting the relevant provisions of the 2016 Mortgage Servicing Final Rule, as discussed in detail in the Legal Authority and Section-by-Section Analysis parts of the 2016 Mortgage Servicing Final Rule.

A. RESPA

Section 19(a) of RESPA, 12 U.S.C. 2617(a), authorizes the Bureau to prescribe such rules and regulations, to make such interpretations, and to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of RESPA, which include its consumer protection purposes. In addition, section 6(j)(3) of RESPA, 12 U.S.C. 2605(j)(3), authorizes the Bureau to establish any requirements necessary to carry out section 6 of RESPA, and section 6(k)(1)(E) of RESPA, 12 U.S.C. 2605(k)(1)(E), authorizes the Bureau to prescribe regulations that are appropriate to carry out RESPA's consumer protection purposes. The amendments or clarifications to Regulation X in the interim final rule are intended to achieve some or all these purposes.

B. The Dodd-Frank Act

Section 1022(b)(1) of the Dodd-Frank Act, 12 U.S.C. 5512(b)(1), authorizes the Bureau to prescribe rules ''as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.'' RESPA and title X of the Dodd-Frank Act are Federal consumer financial laws.

Section 1032(a) of the Dodd-Frank Act, 12 U.S.C. 5532(a), provides that the Bureau ''may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.'' The authority granted to the Bureau in section 1032(a) of the Dodd-Frank Act is broad and empowers the Bureau to prescribe rules regarding the disclosure of the ''features'' of consumer financial products and services generally. Accordingly, the Bureau may prescribe rules containing disclosure requirements even if other Federal consumer financial laws do not specifically require disclosure of such features.

Section 1032(c) of the Dodd-Frank Act, 12 U.S.C. 5532(c), provides that, in prescribing rules pursuant to section 1032 of the Dodd-Frank Act, the Bureau ''shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.'' Accordingly, in issuing the interim final rule to amend provisions authorized under section 1032(a) of the Dodd-Frank Act, the Bureau has considered available studies, reports, and other evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

IV. Administrative Procedure Act

To the extent that notice and comment would otherwise be required, the Bureau finds that there is good cause to publish this interim final rule without notice and comment and for the rule to be effective less than 30 days after publication. *See* 5 U.S.C. 553(b)(3)(B), (d)(3). As explained elsewhere in this rule, the Bureau has heard concerns from servicers that the 180-day prohibition in current

[4] 81 FR 72160 (Oct. 19, 2016). The amendments cover nine major topics and focus primarily on clarifying, revising, or amending provisions regarding force-placed insurance notices, policies and procedures, early intervention, and loss mitigation requirements under Regulation X's servicing provisions; and prompt crediting and periodic statement requirements under Regulation Z's servicing provisions. The amendments also address proper compliance regarding certain servicing requirements when a person is a potential or confirmed successor in interest, is a debtor in bankruptcy, or sends a cease communication request under the FDCPA.

[5] Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z); Correction, 82 FR 30947 (July 5, 2017).

[6] Policy Guidance on Supervisory and Enforcement Priorities Regarding Early Compliance With the 2016 Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z), 82 FR 29713 (June 30, 2017).

[7] Public Law 111–203, 1245 Stat. 11376 (2010).

§ 1024.39(d)(3)(iii) requires them to provide the modified early intervention notice to delinquent borrowers who have invoked their right to cease communication under the FDCPA exactly on the 180th day after providing a prior notice. The Bureau did not intend this result and is concerned that current § 1024.39(d)(3)(iii) imposes too narrow a window for compliance and could cause legal risk for servicers, particularly when the 180th day falls on a Saturday, Sunday, or public holiday. This interim final rule amends § 1024.39(d)(3)(iii) to give servicers a 10-day window to provide the modified notice at the end of the 180-day period. The Bureau believes that this amendment will offer greater certainty for implementation and compliance, while also not undermining borrower protections. The Bureau finds that it would be impracticable to provide notice and comment before finalizing this rule because § 1024.39(d)(3)(iii) would otherwise become effective on October 19, 2017, and could cause unintended challenges in the implementation of the notice requirement. For similar reasons, the Bureau finds that it is impracticable to provide a 30-day period between publication of this rule and its effective date. The Bureau is requesting comment on this rule. Based on any comments received (and mindful of the need to avoid market disruption), the Bureau will consider whether to revisit this rule.

V. Section-by-Section Analysis

A. Regulation X

Section 1024.39 Early Intervention Requirements for Certain Borrowers

39(d) Fair Debt Collection Practices Act—Partial Exemption

39(d)(3).

In this interim final rule, the Bureau is amending § 1024.39(d)(3)(iii) to specify in more detail when a servicer must provide the modified written early intervention notice, as required by § 1024.39(b) and (d), at the end of the 180-day period after the servicer provided a prior written notice. In general, § 1024.39(d) provides a partial exemption from the early intervention requirements for servicers that are subject to the FDCPA with respect to borrowers who have invoked their cease communication rights pursuant to section 805(c) of the FDCPA.[8] Section 1024.39(d)(3) requires servicers to provide a modified written early intervention notice to those borrowers under certain circumstances, but § 1024.39(d)(3)(iii) prohibits a servicer from providing the modified notice more than once during any 180-day period. As revised under this interim final rule, § 1024.39(d)(3)(iii) gives servicers a 10-day window to provide the required notices at the end of the 180-day period. In particular, revised § 1024.39(d)(3)(iii) retains the 180-day prohibition and also specifies: (1) If a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 190 days after the provision of the prior written notice, and (2) if a borrower is less than 45 days delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 45 days after the payment due date for which the borrower remains delinquent or 190 days after the provision of the prior written notice, whichever is later.

Section 1024.39(b) generally requires that a servicer provide a written early intervention notice prior to the 45th day of delinquency, and again no later than 45 days after each payment due date so long as the borrower remains delinquent. Section 1024.39(b) further provides that a servicer is not required to provide a notice more than once in any 180-day period, but also that a servicer must provide the written notice no more than 180 days after the servicer has previously provided the notice if the borrower remains delinquent and is 45 days or more delinquent at the end of the 180-day period.

Among other things, § 1024.39(d) modifies the timing requirements for providing the written notice required by § 1024.39(b) when a borrower has invoked the cease communication right under the FDCPA. Under § 1024.39(d)(2), a servicer subject to the FDCPA with respect to that borrower's loan is exempt from the written notice requirements of § 1024.39(b), but only if no loss mitigation option is available, or while any borrower on that mortgage loan is a debtor in bankruptcy. If neither of those conditions is met, § 1024.39(d)(3) provides that the servicer must comply with the written notice requirements of § 1024.39(b), as modified by § 1024.39(d)(3)(i) through (iii).[9] The relevant provision for purposes of this interim final rule is § 1024.39(d)(3)(iii), which prohibits a servicer from providing the written notice more than once during any 180-day period. In the preamble to the 2016 Mortgage Servicing Final Rule, the Bureau noted that this 180-day prohibition reduces the risk that the modified written early intervention notice will be used to undermine a borrower's cease communication right under FDCPA section 805(c).

Concurrently with the 2016 Mortgage Servicing Final Rule, the Bureau issued an interpretive rule constituting an advisory opinion under FDCPA section 813(e), 15 U.S.C. 1692k(e), that, in part, interprets the FDCPA cease communication provisions in relation to the written early intervention requirements in Regulation X.[10] Specifically, the interpretive rule provides a safe harbor from liability under FDCPA section 805(c) where a servicer that is a debt collector with respect to a mortgage loan is required by § 1024.39(d)(3) to provide a modified written early intervention notice to a borrower who has invoked the cease communication right.

After issuing the 2016 Mortgage Servicing Final Rule and the interpretive rule, the Bureau received several inquiries about how § 1024.39(d)(3)(iii) modifies § 1024.39(b)'s timing requirements. Section 1024.39(b) does not require a notice more than once in a 180-day period but, except as otherwise provided in § 1024.39(d)(3)(iii), permits more frequent provision of the written notices. It also provides that, if a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 180 days after the provision of the prior written notice. However, with regard to a loan for which a borrower has invoked the cease communication right as

[8] This section-by-section analysis discusses § 1024.39(d) generally in terms of a borrower's cease communication notification and its effect on a servicer's obligations under the early intervention requirements, but the provision applies equally to a borrower's notice to the servicer that the borrower refuses to pay a debt. *See* FDCPA section 805(c) (''If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt . . . .'').

[9] Section 1024.39(d)(3)(i) requires that the notice include a statement that the servicer may or intends to invoke its specified remedy of foreclosure and states that Model clause MS–4(D) in appendix MS–4 to Regulation X may be used to comply with this requirement. Section 1024.39(d)(3)(ii) provides that the notice may not contain a request for payment.

[10] *See* Bureau of Consumer Fin. Prot., Official Bureau Interpretations: Safe Harbors from Liability under the Fair Debt Collection Practices Act for Certain Actions Taken in Compliance with Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z), 81 FR 71977 (Oct. 19, 2016).

described above, § 1024.39(d)(3)(iii) prohibits a servicer from providing the notice more than once in any 180-day period.

The Bureau is concerned that, as adopted by the 2016 Mortgage Servicing Final Rule, § 1024.39(d)(3)(iii) imposes too narrow a window for compliance and could provide insufficient guidance as to when and how servicers comply with the timing requirements under certain circumstances. The 180-day prohibition in § 1024.39(d)(3)(iii), read in conjunction with § 1024.39(b), provides only one day for a servicer to provide a subsequent written notice.[11] Therefore, where a borrower that has invoked the cease communication right is 45 days or more delinquent at the end of the 180-day period after the servicer provided a prior written notice, a servicer would have to provide the next notice on the 180th calendar day after the prior notice, whether or not this day falls on a Saturday, Sunday, or public holiday. The Bureau narrowly tailored the timing requirements in § 1024.39(d) to prevent a servicer subject to the FDCPA from sending frequent, repeated notices that may undermine a borrower's cease communication right under section 805(c) of the FDCPA. The Bureau did not, however, intend for servicers subject to § 1024.39(d)(3) to have a one-day window to provide a subsequent written early intervention notice to borrowers who have invoked their cease communication rights. Thus, the Bureau is amending § 1024.39(d)(3)(iii).

As amended § 1024.39(d)(3)(iii) retains the general 180-day prohibition but also specifies that, if a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 190 days after the provision of the prior written notice. If a borrower is less than 45 days delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 45 days after the payment due date for which the borrower remains delinquent or 190 days after the provision of the prior written notice, whichever is later. In effect, the interim final rule provides servicers a 10-day window to provide any required notices at the end of the 180-day period. The Bureau believes that a 10-day window at the end of the 180-day period affords servicers sufficient time to provide the notice while also ensuring that servicers provide the subsequent notice in a timely way, maximizing a borrower's opportunities to pursue loss mitigation and avoid further delinquency.

The Bureau seeks comment on whether the interim final rule permits servicers to timely provide the notice at the end of the 180-day period. The Bureau also seeks comment on whether the interim final rule adequately protects consumers who have invoked their cease communication rights while affording them timely access to information about loss mitigation.

VI. Effective Date

Section 1024.39(d), as amended by the 2016 Mortgage Servicing Final Rule, becomes effective October 19, 2017. Thus, this interim final rule, which further amends § 1024.39(d)(3)(iii), also becomes effective October 19, 2017.

VII. Dodd-Frank Act Section 1022(b) Analysis

In developing this interim final rule, the Bureau has considered the potential benefits, costs, and impacts as required by section 1022(b)(2) of the Dodd-Frank Act. Specifically, section 1022(b)(2) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of consumer access to consumer financial products or services, the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act, and the impact on consumers in rural areas. In addition, 12 U.S.C. 5512(b)(2)(B) directs the Bureau to consult, before and during the rulemaking, with appropriate prudential regulators or other Federal agencies, regarding consistency with the objectives those agencies administer. The Bureau consulted, or offered to consult with, the prudential regulators, the Securities and Exchange Commission, the Department of Housing and Urban Development (HUD), the HUD Office of Inspector General, the Federal Housing Finance Agency, the Federal Trade Commission, the Department of the Treasury, the Department of Agriculture, and the Department of Veterans Affairs, including regarding consistency with any prudential, market, or systemic objectives administered by these agencies.

The Bureau previously considered the benefits, costs, and impacts of the 2016 Mortgage Servicing Final Rule's major provisions.[12] The baseline [13] for this discussion is the mortgage servicing market as it would exist ''but for'' this interim final rule; that is, the Bureau considers the benefits, costs, and impacts of this interim final rule on consumers and covered persons relative to the baseline established by the 2016 Mortgage Servicing Final Rule.

In considering the relevant potential benefits, costs, and impacts of this interim final rule, the Bureau has used feedback received to date and has applied its knowledge and expertise concerning consumer financial markets. The discussion below of these potential costs, benefits, and impacts is qualitative, reflecting both the specialized nature of the amendments and the fact that the 2016 Mortgage Servicing Final Rule, which establishes the baseline for the Bureau's analysis, is not yet in effect. The Bureau requests comment on this discussion generally as well as the submission of data or other information that could inform the Bureau's consideration of the potential benefits, costs, and impacts of the interim final rule.

The interim final rule's provisions generally would decrease burden incurred by industry participants by modifying the timing requirements for certain disclosures required under the 2016 Mortgage Servicing Final Rule. As is described in more detail below, the Bureau does not believe that these changes would have a significant enough impact on consumers or covered persons to affect consumer access to consumer financial products and services.

Timing of written early intervention notice for borrowers who have invoked their cease communication rights under the FDCPA. The interim final rule revises § 1024.39(d)(3)(iii) to specify when a servicer must provide the modified written early intervention notice, as required by § 1024.39(b) and (d), at the end of the 180-day period after the servicer provided a prior written notice. Section 1024.39(b) requires that a servicer must provide a written early intervention notice to certain borrowers no more than 180 days after the servicer previously provided the notice. Section 1024.39(d)

[11] The Bureau also understands that some stakeholders instead may be interpreting § 1024.39(b) and (d)(3)(iii) together as permitting a servicer to provide the subsequent written notice required by § 1024.39(b) sometime after the 180th day but before the end of the next 180-day period (*e.g.,* by the 360th day). The Bureau does not believe such a reading of § 1024.39(b) and (d)(3)(iii) together is tenable and is concerned that, if servicers act in accordance, borrowers would be deprived of timely receiving important loss mitigation information.

[12] 81 FR 72160, 72351 (Oct. 19, 2016).

[13] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits, costs, and impacts and an appropriate baseline.

generally provides that servicers that are subject to the FDCPA with respect to borrowers who have invoked their cease communication rights pursuant to section 805(c) of the FDCPA must provide a modified written early intervention notice to those borrowers under certain circumstances. As originally adopted § 1024.39(d)(3)(iii) would have provided that a servicer may not provide the modified notice more than once during any 180-day period. Currently, the 180-day prohibition in § 1024.39(d)(3)(iii), read in conjunction with § 1024.39(b), provides only one day for a servicer to provide a subsequent written notice.

Under the interim final rule, revised § 1024.39(d)(3)(iii) gives servicers a 10-day window to provide the required notices at the end of the 180-day period.[14] This provision will benefit covered persons by modifying the timing requirements for the early intervention notice and providing more than a one-day window. This will benefit servicers by providing additional flexibility in the timing for providing these notices.

The interim final rule may have the effect of delaying the date on which some borrowers receive written early intervention information about loss mitigation options. However, this delay in no case exceeds 10 days, and will affect only a limited subset of delinquent borrowers: Those who have invoked their FDCPA cease communication rights and are 45 days or more delinquent at the end of the 180-day period following provision of a prior written early intervention notice. Given that servicers may not be subject to the FDCPA with respect to many of the loans they service and that many borrowers will not choose to invoke the FDCPA's cease communication rights, the Bureau expects that the number of affected borrowers is small.[15] Given that the delay under the interim final rule is limited and would likely apply to only a small subset of borrowers, the Bureau does not anticipate that the overall effect on consumers will be significant.

Potential specific impacts of the interim final rule. The Bureau believes that a large fraction of depository institutions and credit unions with $10 billion or less in total assets that are engaged in servicing mortgage loans qualify as ''small servicers'' for purposes of the mortgage servicing rules because they service 5,000 or fewer loans, all of which they or an affiliate own or originated. Small servicers are not subject to Regulation X § 1024.39, and so are not affected by the amendments in this interim final rule.

With respect to servicers that are not small servicers as defined in § 1026.41(e)(4), the Bureau believes that the consideration of benefits and costs of covered persons presented above provides a largely accurate analysis of the impacts of the final rule on depository institutions and credit unions with $10 billion or less in total assets that are engaged in servicing mortgage loans.

The Bureau has no reason to believe that the additional timing flexibility offered to covered persons by this interim final rule would differentially impact consumers in rural areas. The Bureau requests comment regarding the impact of the amended provisions on consumers in rural areas and how those impacts may differ from those experienced by consumers generally.

VIII. Regulatory Flexibility Act Analysis

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[16]

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[17] Federal agencies are generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. The collections of information related to the 2016 Mortgage Servicing Final Rule have been reviewed and approved by OMB previously in accordance with the PRA and assigned OMB Control Numbers 3170–0016 (Regulation X) and 3170–0015 (Regulation Z). Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB.

The Bureau has determined that the interim final rule will provide firms with additional flexibility and clarity with respect to what must be disclosed under the 2016 Mortgage Servicing Final Rule; therefore, it will have only minimal impact on the industry-wide aggregate PRA burden relative to the baseline. The Bureau welcomes comments on this determination or any other aspects of this interim final rule for purposes of the PRA. Comments should be submitted to the Bureau as instructed in the **ADDRESSES** part of this document and to the attention of the Paperwork Reduction Act Officer. All comments will become a matter of public record.

List of Subjects in 12 CFR Part 1024

Condominiums, Consumer protection, Housing, Insurance, Mortgages, Mortgagees, Mortgage servicing, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Consumer Financial Protection Bureau amends 12 CFR part 1024 as follows:

PART 1024—REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)

■ 1. The authority citation for part 1024 continues to read as follows:

Authority: 12 U.S.C. 2603–2605, 2607, 2609, 2617, 5512, 5532, 5581.

Subpart C—Mortgage Servicing

■ 2. Amend § 1024.39 by revising paragraph (d)(3)(iii) to read as follows:

§ 1024.39 Early intervention requirements for certain borrowers.

* * * * *

(d) * * *

(3) * * *

(iii) A servicer is prohibited from providing the written notice more than once during any 180-day period. If a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 190 days after the provision of the prior written notice. If a borrower is less than 45 days delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer

[14] In particular, revised § 1024.39(d)(3)(iii) would retain the 180-day prohibition but would also specify: (1) If a borrower is 45 days or more delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 190 days after the provision of the prior written notice, and (2) if a borrower is less than 45 days delinquent at the end of any 180-day period after the servicer has provided the written notice, a servicer must provide the written notice again no later than 45 days after the payment due date for which the borrower remains delinquent or 190 days after the provision of the prior written notice, whichever is later.

[15] Borrowers generally have FDCPA protections only with respect to debt collectors. A servicer is not considered a debt collector for purposes of the FDCPA based on acquiring servicing rights to a mortgage loan before the mortgage loan is in default. Therefore, if a servicer obtains servicing rights to a mortgage loan and the borrower subsequently goes into default on that mortgage loan, the servicer generally is not covered by the FDCPA with respect to that mortgage loan based on its servicing of that loan.

[16] 5 U.S.C. 603(a), 604(a).

[17] 44 U.S.C. 3501 *et seq.*

must provide the written notice again no later than 45 days after the payment due date for which the borrower remains delinquent or 190 days after the provision of the prior written notice, whichever is later.

Dated: October 2, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–21912 Filed 10–13–17; 8:45 am]

BILLING CODE 4810–AM–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Express Bridge Loan Pilot Program; Modification of Lending Criteria

AGENCY: U.S. Small Business Administration.

ACTION: Notification of Express Bridge Loan Pilot Program and impact on regulatory provision.

SUMMARY: The U.S. Small Business Administration (SBA) announces SBA's Express Bridge Loan Pilot Program (Express Bridge Pilot), as described in this document, and its impact on an Agency regulation relating to loan underwriting for loans made under the Express Bridge Pilot. This pilot will provide expedited guaranteed bridge loan financing for disaster-related purposes to small businesses located in communities impacted by a Presidentially-declared disaster, while those small businesses apply for and await long-term financing (including through SBA's direct disaster loan program, if eligible). The modification of the lending criteria will minimize the burden on businesses applying for loans through the Express Bridge Pilot and provide an incentive for SBA Express lenders to participate in the pilot.

DATES: The Express Bridge Pilot, including the modification of lending criteria under 13 CFR 120.150, will be available from October 16, 2017, through September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Dianna Seaborn, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416; Telephone (202) 205–3645; email address: *dianna.seaborn@sba.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to its authority under the Small Business Act, SBA provides assistance to small businesses located in the communities affected by Presidentially-declared disasters. The Agency has announced an initiative called the Express Bridge Pilot, which is designed to supplement the Agency's disaster response capabilities. The Express Bridge Pilot will authorize the Agency's 7(a) Lenders with SBA Express lending authority to deliver expedited SBA-guaranteed financing on an emergency basis for disaster-related purposes to small businesses located in these communities while the businesses apply for and await long-term financing (including through SBA's direct disaster loan program, if eligible).

The Express Bridge Pilot will apply the policies and procedures in place for the Agency's SBA Express program, except as outlined in this document, and include the following:

(1) The maximum loan amount under the pilot is $25,000 and the loans will carry a 50 percent guaranty from the Agency.

(2) Express Bridge Pilot loans in a particular disaster area can only be made by SBA Express lenders that were participants in the SBA Express program as of the date of the applicable disaster.

(3) Eligible small businesses are those that were located, as of the date of the applicable disaster, in the counties that have been Presidentially-declared as disaster areas, plus any contiguous counties.

(4) SBA Express lenders may make loans under the Express Bridge Pilot only to eligible small businesses that had an existing banking relationship with the SBA Express lender as of the date of the applicable disaster. A relationship with any of the SBA Express lender's affiliates will not satisfy this requirement.

(5) SBA Express lenders must certify to SBA, for each Express Bridge Pilot loan, that the loan funds will be used to support the survival and/or reopening of the small business within the affected counties.

(6) The maximum maturity for an Express Bridge Pilot loan is seven years. The SBA Express lender may require a borrower to pay down or pay off the Express Bridge Pilot loan if the borrower is approved for long-term disaster financing (including an SBA direct disaster loan) that allows proceeds to be used for Express Bridge Pilot loan reimbursement.

(7) Express Bridge Pilot loans cannot be sold in SBA's secondary market. Express Bridge Pilot loans are intended to be interim loans, thus SBA has determined pursuant to 13 CFR 120.612(a)(3) that the sale of such loans in SBA's secondary market would not be conducive to the successful operation of the secondary market program.

(8) Loans under the Express Bridge Pilot in a particular disaster area can only be made up to six months after the date of the applicable Presidential disaster declaration.

(9) The Express Bridge Pilot will be available for use starting October 16, 2017, and will expire on September 30, 2020. Express Bridge Pilot loans must be approved on or before such date, as evidenced by the issuance of an SBA loan number.

To maximize the effectiveness of the Express Bridge Pilot, SBA is modifying an Agency regulation (13 CFR 120.150) that applies to loans made in the 7(a) Business Loan Program. (SBA uses the term ''modify'' as contemplated under 13 CFR 120.3.) This modification will also minimize the burdens on the businesses applying for loans through the Express Bridge Pilot and expand the opportunities for SBA Express lenders to participate in the pilot.

Under § 120.150 of SBA's regulations, a small business applicant must be creditworthy and loans must be so sound as to reasonably assure repayment. In making this determination, character, reputation, credit history of the applicant and guarantors, past earnings, projected cash flow, and future prospects, among other things, must be considered. Currently, SBA Express lenders are authorized to make the credit decision using credit analysis processes and procedures (which may include credit scoring) that are consistent with those used for their similarly-sized non-SBA guaranteed commercial loans.

In order to streamline the loan underwriting process for the Express Bridge Pilot, SBA is modifying the requirements of 13 CFR 120.150 to allow SBA Express lenders to underwrite Express Bridge Pilot loans by considering only the following:

(1) A minimum acceptable credit score of 130 for the applicant issued by E-Tran upon submission of the loan application for screening;

(2) a personal credit score for each guarantor; and

(3) Lender must obtain a signed IRS Form 4506–T and an IRS tax transcript. For businesses in operation prior to the disaster but not long enough to have been required to file a tax return, Lender must provide an alternative to verify existence of the business.

The screening credit score is a FICO® Small Business Scoring Service℠ Score. SBA may adjust the minimum acceptable credit score up or down from time to time during the pilot, and will post any such adjusted score on its Web site at *www.sba.gov/for-lenders.*

The modification of this regulation will allow SBA Express lenders to expedite the processing of these small guaranteed loans in order to provide immediate cash to assist the small business with rebuilding and continuing or restarting its operations while awaiting long-term disaster financing. Because an Express Bridge Pilot loan applicant must have had an existing banking relationship with the SBA Express lender, SBA expects this will help mitigate the risk associated with the modification of 13 CFR 120.150. SBA Express lenders are cautioned that the provisions of 13 CFR 120.140 (''What ethical requirements apply to participants?'') continue to apply to the Express Bridge Pilot.

SBA's modification of 13 CFR 120.150 is authorized by 13 CFR 120.3 of its regulations, which provides that the SBA Administrator may suspend, modify or waive rules for a limited period of time to test new programs or ideas. This modification applies only to those loans made under the Express Bridge Pilot and will last only for the duration of the pilot, which expires September 30, 2020. As part of the Express Bridge Pilot, this modification applies only to those small businesses that were located, as of the date of the applicable disaster, in counties that have been Presidentially-declared as disaster areas, plus any contiguous counties. A listing of Presidentially-declared disaster declarations, including primary and contiguous counties can be located at *www.sba.gov/disaster.*

Not more than ten percent of the total number of 7(a) loans guaranteed by SBA in any fiscal year may be made under the Express Bridge Pilot. 15 U.S.C. 636(a)(25). While SBA does not expect the number of Express Bridge Pilot loans to reach that limit, SBA will provide public notice of the need to suspend lending under the pilot for the remainder of the fiscal year if SBA determines that the number of pilot loans is approaching the limit.

SBA will be using the following criteria to evaluate the Express Bridge Pilot to determine how well it is achieving its objectives and other aspects of performance: (1) The measurable objectives to be achieved through the Express Bridge Pilot, including the number of small business concerns served, the percentage of Express Bridge Pilot loans made that were paid off or paid down using lower fixed rate disaster loans versus those that are held to term, and the default rate on the Express Bridge Pilot loans compared to regular SBA Express loans of similar size in the 7(a) portfolio; and (2) the costs and standards of performance which, in order to be acceptable, must not impact the subsidy model for the 7(a) Loan Program. The following method for data collection will be used: All loans will be entered directly using E-Tran or SBA One, which track eligibility by the county in which the small business is located, and which will facilitate tracking of performance on these loans.

Authority: 15 U.S.C. 636(a)(25); 13 CFR 120.3.

Dated: October 6, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–22385 Filed 10–13–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0458; Airspace Docket No. 17–ASW–8]

Amendment of Class E Airspace; Canadian, TX; and Wheeler, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface at Hemphill County Airport, Canadian, TX, and Wheeler Municipal Airport, Wheeler, TX. This action is due to the decommissioning of the Sayre co-located VHF omnidirectional range and tactical air navigation system (VORTAC) facility, which provided navigation guidance for the instrument procedures to these airports. The VORTAC is being decommissioned as part of the VHF omnidirectional range (VOR) Minimum Operational Network (MON) Program. Additionally, the geographic coordinates of the airports are being adjusted to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, February 1, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Hemphill County Airport, Canadian, TX, and Wheeler Municipal Airport, Wheeler, TX, to support IFR operations at these airports.

History

On June 20, 2017, the FAA published in the **Federal Register** (82 FR 28033) Docket No. FAA–2017–0458, a notice of proposed rulemaking (NPRM) to amend Class E airspace extending upward from 700 feet above the surface at Hemphill County Airport, Canadian, TX, and Wheeler Municipal Airport, Wheeler, TX, to enhance the safety and management of IFR operations at these airports. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which

is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface to:

Within a 6.5-mile radius (reduced from a 6.8-mile radius) of Hemphill County Airport with an extension 1 mile either side of the 224° bearing from the airport from the 6.5-mile radius to 6.6 miles south of the airport, and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and

Within a 6.3-mile radius (reduced from a 6.4-mile radius) of Wheeler Municipal Airport and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Sayre VORTAC as part of the VOR MON Program and to bring the airspace in compliance with FAA Order 7400.2L, Procedures for Handling Airspace Matters. Controlled airspace is necessary for the safety and management of IFR operations at these airports.

Except for an editorial change removing ''JO'' where an FAA Order is cited throughout the document, this rule is the same as proposed in the NPRM.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Canadian, TX [Amended]

Canadian, Hemphill County Airport, TX
(Lat. 35°53′42″ N., long. 100°24′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hemphill County Airport, and within 1 mile either side of the 224° bearing from the airport extending from the 6.5-mile radius to 6.6 miles south of the airport.

* * * * *

ASW TX E5 Wheeler, TX [Amended]

Wheeler Municipal Airport, TX
(Lat. 35°27′04″ N., long. 100°12′00″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Wheeler Municipal Airport.

Issued in Fort Worth, Texas, on October 5, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–22232 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9546; Airspace Docket No. 16–AGL–32]

Establishment of Class E Airspace; Onida, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Onida, SD. Controlled airspace is necessary to accommodate new special instrument approach procedures developed at Onida Municipal Airport, for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation

Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace extending upward from 700 feet above the surface at Onida Municipal Airport, Onida, SD, to support standard instrument approach procedures for IFR operations at the airport.

History

The FAA published in the **Federal Register** (82 FR 37369, August 10, 2017) Docket No. FAA–2016–9546 a notice of proposed rulemaking to establish Class E Airspace extending upward from 700 feet above the surface at Onida, Municipal Airport, Onida, SD. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Onida Municipal Airport, Onida, SD, to accommodate new special instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL SD E5 Onida, SD [New]

Onida Municipal Airport, SD
(Lat. 44°42′02″ N., long. 100°06′05″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Onida Municipal Airport.

Issued in Fort Worth, TX, on October 5, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–22238 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0175; Airspace Docket No. 17–ACE–2]

Amendment of Class E Airspace; Hebron, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Hebron Municipal Airport, Hebron, NE. This action is necessary due to the decommissioning of the Hebron non-directional radio beacon (NDB), and cancellation of the NDB approach. This action enhances the safety and management of standard instrument approach procedures for instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting

Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Support Specialist, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Hebron Municipal Airport, Hebron, NE, to support standard instrument approach procedures for IFR operations at the airport.

History

The FAA published in the **Federal Register** (82 FR 18593, April 20, 2017) Docket No. FAA–2017–0175 a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at Hebron Municipal Airport, Hebron, NE. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 respectively of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet or more above the surface within a 6.3-mile radius of Hebron Municipal Airport, Hebron, NE.

Airspace reconfiguration is necessary due to the decommissioning and cancellation of the Hebron NDB, and NDB approaches. This action enhances the safety and management of the standard instrument approach procedures for IFR operations at the airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 7—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE NE E5 Hebron, NE [Amended]

Hebron Municipal Airport, NE
(Lat. 40°09′08″ N., long. 97°35′13″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Hebron Municipal Airport.

Issued in Fort Worth, Texas, on October 5, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–22236 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0536; Airspace Docket No. 17–ACE–10]

Amendment of Class E Airspace; Clarinda, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Schenck Field, Clarinda, IA. This action is required due to the decommissioning of the Clarinda non-directional radio beacon (NDB) and the cancellation of the associated instrument approach procedures. This action enhances the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, February 1, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Schenck Field, Clarinda, IA, to support instrument flight rules (IFR) operations at this airport.

History

On July 21, 2017, the FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (82 FR 33834, Docket No. FAA–2017–0536) to modify Class E airspace extending upward from 700 feet above the surface at Schenck Field, Clarinda, IA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface at Schenck Field, Clarinda, IA, by removing the Clarinda NDB from the legal description; removing the extension south of the airport; and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Clarinda NDB and cancellation of the associated instrument approach procedures at this airport. Controlled airspace is necessary for safety and the management of IFR operations at the airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE IA E5 Clarinda, IA [Amended]

Clarinda, Schenck Field, IA
(Lat. 40°43′20″ N., long. 95°01′36″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Schenck Field.

Issued in Fort Worth, Texas, on October 5, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–22234 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2017–0886; Airspace Docket No. 16–ASO–11]

Amendment of Restricted Areas R–3004A and R–3004B and Establishment of R–3004C; Fort Gordon, GA

Republication

Editorial Note: Rule document 2017–20435 was originally published on pages 44513 through 44514 in the issue of Monday, September 25, 2017. In that publication, on page 44514, in the forty-ninth line of the first column and the thirty-fifth line of the second column, the number 1 was inadvertently deleted from the text. The corrected document is published here in its entirety.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the restricted areas at Fort Gordon, GA to further subdivide the vertical limits of the airspace. The designated altitudes for R–3004A and R–3004B are realigned and a new subarea, designated R–3004C, is established above R–3004B. The FAA is taking this action to allow for more efficient use of the airspace during periods when military activities only require restricted airspace below 3,500 feet MSL. The modifications are fully contained within the existing lateral and vertical boundaries of the restricted airspace.

DATES: Effective date: 0901 UTC, December 7, 2017.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it vertically subdivides the restricted airspace at Fort Gordon, GA, into three sections to enable more efficient use of airspace.

Background

The restricted airspace at Fort Gordon, GA consists of R–3004A, extending from the surface to 7,000 feet MSL; and R–3004B, extending from 7,001 feet MSL to 16,000 feet MSL. The time of designation for both areas is as activated by NOTAM 24 hours in advance.

A FAA review of the utilization of the airspace revealed that most activities being conducted only require restricted airspace below 3,500 feet MSL. However, when R–3004A was activated, restrictions were in effect up to 7,000 feet MSL.

While lateral boundaries of the restricted airspace remain the same as currently charted and the overall vertical limits of the restricted airspace are unchanged, in order to provide for more efficient use of airspace, the FAA and the using agency agreed to further subdivide the restricted airspace vertically. The FAA is realigning the designated altitudes for R–3004A and R–3004B and establishing R–3004C as a third subdivision. The new configuration enables activation of restricted airspace to the lower altitude required for the majority of the using agency's training needs while maintaining the ability to activate additional restricted airspace for missions that require higher altitudes.

The designated altitudes for R–3004A are amended to read ''surface to but not including 3,500 feet MSL'' (decreased from 7,000 feet MSL). The designated altitudes for R–3004B are amended to read ''3,500 feet MSL to but not including 7,000 feet MSL,'' instead of the current ''7,001 feet MSL to 16,000 feet MSL.'' This amendment also established a third subdivision, designated R–3004C, which extends from 7,000 feet MSL to 16,000 feet MSL. These changes accommodate the using agency's requirements while releasing unneeded restricted airspace for access by other users.

In addition, the aircraft activity limitations on use of the areas are amended to clarify the limitations in effect during the annual Masters Golf Tournament.

These changes enhance the efficient use of the National Airspace System by providing for activation of the minimum amount of restricted airspace needed for the specific mission being conducted resulting in the release of unneeded restricted airspace for access by other users.

The Rule

This rule amends Title 14 Code of Federal Regulations (14 CFR) part 73 by further dividing the current restricted airspace at Fort Gordon, GA, into three subareas instead of two. The designated altitudes for R–3004A are amended from the current ''surface to 7,000 feet MSL,'' to ''surface to but not including 3,500 feet MSL.'' The designated altitudes for R–3004B are amended from the current ''7,001 feet MSL to 16,000 feet MSL'' to ''3,500 feet MSL to but not including 7,000 feet MSL.'' A new third subdivision, designated R–3004C, is established and extends from 7,000 feet MSL to 16,000 feet MSL.''

Additionally, the terms and conditions listed in the restricted area legal descriptions for aircraft activities in the restricted areas are revised, in part. Specifically, in order to clarify aircraft operations during the annual Masters Golf tournament, the text of item number 1 is changed from ''1. Aircraft activities may not be conducted on weekends, National holidays, or the entire week of the Masters Golf Tournament'' to: ''1. Aircraft activities must not be conducted on weekends, national holidays, or from the Sunday prior to the Masters Golf Tournament through the Monday after (and subsequent weather days if required).'' The terms and conditions in Items 2 and 3 remain unchanged.

The above modifications enhance the efficient use of airspace and reduce the burden on the public by lessening the amount of restricted airspace at Fort Gordon, GA, that is activated on a routine basis. These modifications do not change the current lateral boundaries, overall designated altitudes, or activities conducted within the restricted areas; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a

''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of vertically subdividing limits of existing restricted airspace within the current lateral and vertical limits qualifies for categorical exclusion under the National Environmental Policy Act and in accordance with FAA Order 1050.1F—Environmental Impacts: Policies and Procedures, Categorical Exclusions for Procedural Actions, paragraph 5–6.5d—Modification of the technical description of special use airspace (restricted areas) that does not alter the dimensions, altitudes, or times of designation of the airspace. Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAAO 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, prohibited areas, restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.30 [Amended]

■ 2. § 73.30 is amended as follows:

* * * * *

R–3004A Fort Gordon, GA [Amended]

By removing the current designated altitudes and aircraft activity limitations and inserting the following in their places:

Designated Altitudes. Surface to but not including 3,500 feet MSL.

Aircraft activity is limited to the following terms and conditions:

1. Aircraft activities must not be conducted on weekends, national holidays, or from the Sunday prior to the Masters Golf Tournament through the Monday after (and subsequent weather days if required).

2. Aircraft activities may only be conducted from the surface to 12,000 feet AGL.

3. Weather conditions required for aircraft activities are 5 miles visibility and with prevailing clouds or obscuring phenomena no greater than five-tenths coverage of the sky and bases no lower than 3,000 feet AGL.

R–3004B Fort Gordon, GA [Amended]

By removing the current designated altitudes and aircraft activity limitations and inserting the following in their places:

Designated Altitudes. 3,500 feet MSL to but not including 7,000 feet MSL.

Aircraft activity is limited to the following terms and conditions:

1. Aircraft activities must not be conducted on weekends, national holidays, or from the Sunday prior to the Masters Golf Tournament through the Monday after (and subsequent weather days if required).

2. Aircraft activities may only be conducted from the surface to 12,000 feet AGL.

3. Weather conditions required for aircraft activities are 5 miles visibility and with prevailing clouds or obscuring phenomena no greater than five-tenths coverage of the sky and bases no lower than 3,000 feet AGL.

R–3004C Fort Gordon, GA [New]

Boundaries. Beginning at lat. 33°21′54″ N., long. 82°12′14″ W.; to lat. 33°19′44″ N., long. 82°12′14″ W.; to lat. 33°16′21″ N., long. 82°17′59″ W.; to lat. 33°17′30″ N., long. 82°22′59″ W.; to lat. 33°21′16″ N., long. 82°18′46″ W.; to lat. 33°22′16″ N., long. 82°16′59″ W.; to the point of beginning.

Designated Altitudes. 7,000 feet MSL to 16,000 feet MSL.

Times of designation. By NOTAM 24 hours in advance.

Controlling agency. FAA, Atlanta ARTCC.

Using agency. U.S. Army, Commanding Officer, Fort Gordon, GA.

Aircraft activity is limited to the following terms and conditions:

1. Aircraft activities must not be conducted on weekends, national holidays, or from the Sunday prior to the Masters Golf Tournament through the Monday after (and subsequent weather days if required).

2. Aircraft activities may only be conducted from the surface to 12,000 feet AGL.

3. Weather conditions required for aircraft activities are 5 miles visibility and with prevailing clouds or obscuring phenomena no greater than five-tenths coverage of the sky and bases no lower than 3,000 feet AGL.

Issued in Washington, DC, on September 19, 2017.

Rodger A. Dean, Jr.,

Manager, Airspace Policy Group.

[FR Doc. R1–2017–20435 Filed 10–13–17; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2017–N–5296]

Medical Devices; Immunology and Microbiology Devices; Classification of the Nucleic Acid-Based Device for the Amplification, Detection, and Identification of Microbial Pathogens Directly From Whole Blood Specimens

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the nucleic acid-based device for the amplification, detection, and identification of microbial pathogens directly from whole blood specimens into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the nucleic acid-based device for the amplification, detection, and identification of microbial pathogens directly from whole blood specimens' classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective October 16, 2017. The classification was applicable on September 22, 2014.

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

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the nucleic acid-based device for the amplification, detection, and identification of microbial pathogens

directly from whole blood specimens as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

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

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

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

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

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

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

II. De Novo Classification

On May 27, 2014, T2 Biosystems, Inc., submitted a request for classification of the T2Candida Panel and T2Dx® Instrument. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on September 22, 2014, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 866.3960. We have named the generic type of device nucleic acid-based device for the amplification, detection, and identification of microbial pathogens directly from whole blood specimens, and it is identified as a qualitative in vitro device intended for the amplification, detection, and identification of microbial-associated nucleic acid sequences from patients with suspected bloodstream infections. This device is intended to aid in the diagnosis of bloodstream infection when used in conjunction with clinical signs and symptoms and other laboratory findings.

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

TABLE 1—NUCLEIC ACID-BASED DEVICE FOR THE AMPLIFICATION, DETECTION, AND IDENTIFICATION OF MICROBIAL PATHOGENS DIRECTLY FROM WHOLE BLOOD SPECIMENS RISKS AND MITIGATION MEASURES

Identified risks	Mitigations measures
Incorrect identification of a pathogenic microorganism by the device can lead to improper patient management.	Special Controls (1), (2), (3), (4), and (5).
Failure to correctly interpret test results	Special Control (6).
Failure to correctly operate the instrument	Special Controls (7) and (8).

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

subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073, and the collections of information in 21 CFR parts 801 and 809, regarding labeling have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

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

■ 2. Add § 866.3960 to subpart D to read as follows:

§ 866.3960 Nucleic acid-based device for the amplification, detection, and identification of microbial pathogens directly from whole blood specimens.

(a) *Identification.* A nucleic acid-based device for the amplification, detection, and identification of microbial pathogens directly from whole blood specimens is a qualitative in vitro device intended for the amplification, detection, and identification of microbial-associated nucleic acid sequences from patients with suspected bloodstream infections. This device is intended to aid in the diagnosis of bloodstream infection when used in conjunction with clinical signs and symptoms and other laboratory findings.

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

(1) Premarket notification submissions must include detailed device description documentation, including the device components, ancillary reagents required but not provided, and a detailed explanation of the methodology, including primer/probe sequence, design, and rationale for sequence selection.

(2) Premarket notification submissions must include detailed documentation from the following analytical and clinical performance studies: Analytical sensitivity (limit of detection), reactivity, inclusivity, precision, reproducibility, interference, cross reactivity, carryover, and cross contamination.

(3) Premarket notification submissions must include detailed documentation from a clinical study. The study, performed on a study population consistent with the intended use population, must compare the device performance to results obtained from well-accepted reference methods.

(4) Premarket notification submissions must include detailed documentation for device software, including, but not limited to, software applications and hardware-based devices that incorporate software.

(5) The device labeling must include limitations regarding the need for culture confirmation of negative specimens, as appropriate.

(6) A detailed explanation of the interpretation of results and acceptance criteria must be included in the device's 21 CFR 809.10(b)(9) compliant labeling.

(7) Premarket notification submissions must include details on an end user device training program that will be offered while marketing the device, as appropriate.

(8) As part of the risk management activities performed as part of your 21 CFR 820.30 design controls, you must document an appropriate end user device training program that will be offered as part of your efforts to mitigate the risk of failure to correctly operate the instrument.

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22287 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2017–N–5714]

Medical Devices; Immunology and Microbiology Devices; Classification of the Automated Image Assessment System for Microbial Colonies on Solid Culture Media

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

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

DATES: This order is effective October 16, 2017. The classification was applicable on October 6, 2016.

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

SUPPLEMENTARY INFORMATION:

I. Background

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

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial

distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

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

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

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

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

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

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

II. De Novo Classification

On December 24, 2015, Clever Culture Systems AG submitted a request for De Novo classification of the APAS Compact. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on October 6, 2016, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 866.2190. We have named the generic type of device automated image assessment system for microbial colonies on solid culture media, and it is identified as a system that is intended to assess the presence or absence of microbial colonies on solid microbiological culture medium, and to interpret their number, and phenotypic and morphologic characteristics through analysis of two dimensional digital images as an aid in diagnosis of infectious disease.

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

TABLE 1—AUTOMATED IMAGE ASSESSMENT SYSTEM FOR MICROBIAL COLONIES ON SOLID CULTURE MEDIA RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures/21 CFR section
False positive results (*i.e.,* incorrect designation of plates for ''Review'' or as ''Positive'').	General controls and special controls: (1), (2), (3), (4), (5), (6), (7) (21 CFR 866.2190(b)(1); 21 CFR 866.2190(b)(2); 21 CFR 866.2190(b)(3); 21 CFR 866.2190(b)(4); 21 CFR 866.2190(b)(5); 21 CFR 866.2190(b)(6); and 21 CFR 866.2190(b)(7)).
False negative results (*i.e.,* failure to detect growth and incorrect designation of plates as ''Negative'').	General controls and special controls: (1), (2), (3), (4), (5), (6), (7) (21 CFR 866.2190(b)(1); 21 CFR 866.2190(b)(2); 21 CFR 866.2190(b)(3); 21 CFR 866.2190(b)(4); 21 CFR 866.2190(b)(5); 21 CFR 866.2190(b)(6); and 21 CFR 866.2190(b)(7)).

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

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, the collections of information in part 820 have been approved under OMB control number 0910–0073, and the collections of information in 21 CFR parts 801 and 809, regarding labeling have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

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

■ 2. Add § 866.2190 to subpart C to read as follows:

§ 866.2190 Automated image assessment system for microbial colonies on solid culture media.

(a) *Identification.* An automated image assessment system for microbial colonies on solid culture media is a system that is intended to assess the presence or absence of microbial colonies on solid microbiological culture medium, and to interpret their number, and phenotypic and morphologic characteristics through analysis of two dimensional digital images as an aid in diagnosis of infectious disease.

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

(1) Premarket notification submissions must include a detailed description of the device, including the technology employed, components and software modules, as well as a detailed explanation of the result algorithms and any expert rules that are used to assess colony characteristics and enumerate colonies from image capture through end result.

(2) Premarket notification submissions must include detailed documentation of the analytical studies performed to characterize device performance to support the intended use, as appropriate.

(3) Premarket notification submissions must include detailed documentation from clinical studies performed on a population that is consistent with the intended use population.

(i) The clinical studies must establish the device performance based on comparison to results obtained by an acceptable reference method, as appropriate.

(ii) The clinical study documentation must include the study protocol with a predefined statistical analysis plan and the final report documenting support for the Indications for Use and the results of the statistical analysis, as appropriate.

(4) Premarket notification submissions must include detailed documentation for device software, including but not limited to software applications and hardware based components that incorporate software, and any decision-making thresholds used to generate results for the device. If a part of a Total Laboratory Automation System, the premarket notification submission must include detailed documentation addressing the instrument and software system integration.

(5) Premarket notification submissions must include detailed documentation of appropriate instructions for use regarding the intended user's device quality control procedures for the instrument system and components, as appropriate.

(6) The 21 CFR 809.10 compliant device labeling must include:

(i) Detailed user instructions to mitigate the risk of failure to operate the instrument correctly.

(ii) A detailed explanation of the interpretation of results and limitations regarding the need for review of culture plates by a qualified microbiologist, as appropriate.

(iii) A summary of performance data obtained from the analytical studies used to support device performance, as appropriate.

(iv) A summary of performance data obtained from clinical studies performed on a population that is consistent with the intended use population, as appropriate.

(7) Under 21 CFR 820.30 compliant design control, device manufacturers must, as appropriate:

(i) Conduct human factors/usability validation testing with the final version of the labeling and related materials to adequately mitigate the risk of failure to operate the instrument correctly.

(ii) Document a device training program that will be offered to the end user to adequately mitigate the risk of failure to operate the instrument correctly.

Dated: October 11, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–22305 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2017–N–5224]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Enzyme Packed Cartridge

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

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

DATES: This order is effective October 16, 2017. The classification was applicable on November 20, 2015.

FOR FURTHER INFORMATION CONTACT: Joshua Silverstein, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1615, Silver Spring, MD, 20993–0002, 301–796–5155, *joshua.silverstein@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the enzyme packed cartridge as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In

addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

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

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

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

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

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

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

II. De Novo Classification

On January 2, 2015, Alcresta, Inc. submitted a request for De Novo classification of the RELIZORB™. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on November 20, 2015, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 876.5985. We have named the generic type of device enzyme packed cartridge, and it is identified as an *ex vivo* prescription device that is used in enzymatic hydrolysis of macronutrients into their essential nutrient forms at the time of delivery. The device consists of an outer casing containing an inert polymer with a covalently bound enzyme through which nutritional formula is directed. The device fits in line with enteral feeding systems.

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

TABLE 1—ENZYME PACKED CARTRIDGE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility testing, Non-clinical testing, *In vivo* testing, and Labeling.
Mechanical failure • Deprivation of care. • Device clogging. • Filter becomes dislodged and releases beads into enteral formula.	Non-clinical testing, Shelf life testing, and Labeling.
Reduced enzymatic effect	Non-clinical testing, *In vivo* testing, Shelf life testing, and Labeling.
Use error	Human factors testing and Labeling.
Infection	Shelf life testing and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this

final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k).

At the time of classification, enzyme packed cartridges are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

■ 1. The authority citation for part 876 continues to read as follows:

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

■ 2. Add § 876.5985 to subpart F to read as follows:

§ 876.5985 Enzyme packed cartridge.

(a) *Identification.* An enzyme packed cartridge is an *ex vivo* prescription device that is used in enzymatic hydrolysis of macronutrients into their essential nutrient forms at the time of delivery. The device consists of an outer casing containing an inert polymer with a covalently bound enzyme through which nutritional formula is directed. The device fits in line with enteral feeding systems.

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

(1) The patient contacting components of the device must be demonstrated to be biocompatible.

(2) *In vivo* testing must be performed and must demonstrate that the device causes neither an adverse tissue response nor adverse performance.

(3) Non-clinical testing must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be demonstrated:

(i) Mechanical testing to demonstrate that the device can withstand clinical forces;

(ii) Flow rate and leakage testing to demonstrate that the device does not impede the flow of enteral formula;

(iii) Demonstration of enzymatic effect on intended macronutrient;

(iv) The amount of enzyme that exits the cartridge must be characterized;

(v) Validation that the device does not adversely impact the nutritional composition of enteral formula; and

(vi) Validation that the device does not impede flow alarms on enteral feeding pumps.

(4) Human factors testing must be performed to characterize use error risks.

(5) Performance data must support shelf life by demonstrating package integrity and device functionality over the identified shelf life.

(6) Labeling must include the following:

(i) A detailed summary of *in vivo* testing pertinent to use of the device, including device-related adverse events;

(ii) A detailed summary of compatible formulas that is supported by non-clinical testing, including the expected enzymatic conversion as a percentage;

(iii) Detailed instructions on how to place the device into an enteral feeding circuit;

(iv) A warning regarding the possibility for misconnections; and

(v) Expiration date or shelf life.

(7) Patient labeling must be provided and must include:

(i) Relevant warnings, precautions, adverse effects, and complications;

(ii) A description of the device and how it operates;

(iii) Instructions on how to correctly use the device; and

(iv) The benefits and risks associated with the use of the device.

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22286 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–402]

Schedules of Controlled Substances: Placement of AB-CHMINACA, AB-PINACA and THJ-2201 Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Drug Enforcement Administration places *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA), and [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, into schedule I of the Controlled Substances Act. This scheduling action is pursuant to the Controlled Substances Act which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. This rule continues the imposition of the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle AB-CHMINACA, AB-PINACA and THJ-2201.

DATES: Effective October 16, 2017.

FOR FURTHER INFORMATION CONTACT: Michael J. Lewis, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

Under the Controlled Substances Act (CSA), each controlled substance is classified into one of five schedules based upon its potential for abuse, its

currently accepted medical use, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, ''add to such a schedule or transfer between such schedules any drug or other substance if he (A) finds that such drug or other substance has a potential for abuse, and (B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed. . . .'' The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General (1) on his own motion; (2) at the request of the Secretary of the Department of Health and Human Services (HHS);[1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). This action was initiated on the Attorney General's own motion, as delegated to the Administrator of the DEA, and is supported by, *inter alia,* a recommendation from the Assistant Secretary for Health of the HHS and an evaluation of all relevant data by the DEA. This action continues the imposition of the regulatory controls and administrative, civil, and criminal sanctions of schedule I controlled substances on any person who handles or proposes to handle AB-CHMINACA, AB-PINACA and THJ-2201.

Background

On January 30, 2015, the DEA published a final order in the **Federal Register** amending 21 CFR 1308.11(h) to temporarily place the three synthetic cannabinoids *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA), and[1-(5-Fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl) methanone (THJ-2201) into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). 80 FR 5042. That final order was effective on the date of publication, and was based on findings by the Administrator of the DEA that the temporary scheduling of these three synthetic cannabinoids was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1). Section 201(h)(2) of the CSA, 21 U.S.C. 811(h)(2), requires that the temporary control of these substances expire two years from the issuance date of the scheduling order, on or before January 29, 2017. However, the CSA also provides that during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, the temporary scheduling of that substance could be extended for up to one year. Accordingly, on January 27, 2017, the DEA extended the temporary scheduling of AB-CHMINACA, AB-PINACA and THJ-2201 by one year, or until January 29, 2018. 82 FR 8590. Also, on January 27, 2017, the DEA published a notice of proposed rulemaking (NPRM) to permanently control AB-CHMINACA, AB-PINACA and THJ-2201 in schedule I of the CSA. 82 FR 8593. Specifically, DEA proposed to add these three synthetic cannabinoids to 21 CFR 1308.11(d), hallucinogenic substances.

DEA and HHS Eight Factor Analyses

On November 14, 2016, the HHS provided the DEA with a scientific and medical evaluation document prepared by the FDA entitled ''Basis for the Recommendation to Place [1-(5-Fluoropentyl)-1H-Indazol-3-yl] (Naphthalen-1-yl) Methanone (THJ-2201), N-[(2S)-1-Amino-3-Methyl-1-Oxo-2-Butanyl]-1-Pentyl-1H-Indazole-3-Carboxamide (AB-PINACA), and N-[(2S)-1-Amino-3-Methyl-1-Oxo-2-Butanyl]-1-(Cyclohexylmethyl)-1H-Indazole-3-Carboxamide (AB-CHMINACA) and their Salts in Schedule I of the Controlled Substances Act.'' After considering the eight factors in 21 U.S.C. 811(c), and also considering each substance's abuse potential, lack of legitimate medical use in the United States, and lack of accepted safety for use under medical supervision pursuant to 21 U.S.C. 812(b), the Assistant Secretary of the HHS recommended that AB-CHMINACA, AB-PINACA and THJ-2201 be controlled in schedule I of the CSA. In response, the DEA conducted its own eightfactor analysis of AB-CHMINACA, AB-PINACA and THJ-2201. The DEA and HHS analyses are available in their entirety in the public docket for this rule (Docket Number DEA–402/DEA–2017–0001) at *http://www.regulations.gov* under ''Supporting Documents.''

Determination to Schedule AB-CHMINACA, AB-PINACA and THJ-2201

After a review of the available data, including the scientific and medical evaluation and the scheduling recommendations from the HHS, the DEA published an NPRM entitled ''Schedules of Controlled Substances: Placement of AB-CHMINACA, AB-PINACA and THJ-2201 into Schedule I,'' proposing to control AB-CHMINACA, AB-PINACA and THJ-2201, and their salts, isomers, and salts of isomers in schedule I of the CSA. 82 FR 8593, January 27, 2017. The proposed rule provided an opportunity for interested persons to file a request for hearing in accordance with the DEA regulations on or before February 27, 2017. No requests for such a hearing were received by the DEA. The NPRM also provided an opportunity for interested persons to submit written comments on the proposal on or before February 27, 2017.

Comments Received

The DEA received five comments on the proposed rule to control AB-CHMINACA, AB-PINACA and THJ-2201 in schedule I of the CSA.

Support for rulemaking: Five commenters gave support for the rulemaking stating in unison that these substances have no medical use and are a danger to the community.

DEA Response: The DEA appreciates the comments in support of this rulemaking.

Scheduling Conclusion

After consideration of the relevant matter presented as a result of public comments, the scientific and medical evaluations and accompanying recommendation of the HHS, and after its own eight-factor evaluation, the DEA finds that these facts and all other relevant data constitute substantial evidence of potential for abuse of AB-CHMINACA, AB-PINACA and THJ-2201. As such, the DEA is permanently scheduling AB-CHMINACA, AB-PINACA and THJ-2201 as controlled substances under the CSA.

Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analyses and

[1] As set forth in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the Department of Health and Human Services (HHS) in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

recommendations of the Assistant Secretary for HHS and review of all other available data, the Administrator of the DEA, pursuant to 21 U.S.C. 811(a) and 21 U.S.C. 812(b)(1), finds that:

(1) *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA) and [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201) have a high potential for abuse that is comparable to other schedule I substances such as delta-9-tetrahydrocannabinol (Δ^9-THC) and JWH-018;

(2) *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA) and [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201) have no currently accepted medical use in treatment in the United States; and

(3) There is a lack of accepted safety for use of *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA) and [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201) under medical supervision.

Based on these findings, the Administrator of the DEA concludes that *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA) and [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201) including their salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible, warrant control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

Requirements for Handling AB-CHMINACA, AB-PINACA and THJ-2201

AB-CHMINACA, AB-PINACA and THJ-2201 will continue [2] to be subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, exporting, research, and conduct of instructional activities, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle AB-CHMINACA, AB-PINACA or THJ-2201, must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312.

2. *Security.* AB-CHMINACA, AB-PINACA or THJ-2201are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b) and in accordance with 21 CFR 1301.71 through 1301.93.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of AB-CHMINACA, AB-PINACA or THJ-2201 must be in compliance with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302.

4. *Quota.* Only registered manufacturers are permitted to manufacture AB-CHMINACA, AB-PINACA or THJ-2201 in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303.

5. *Inventory.* Every DEA registrant who possesses any quantity of AB-CHMINACA, AB-PINACA and THJ-2201 on the effective date of this final rule, must take an inventory of all stocks of these substances on hand as of October 16, 2017, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11 (a) and (d). Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements.

After the initial inventory, every DEA registrant must take a new inventory of all controlled substances (including AB-CHMINACA, AB-PINACA and THJ-2201) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant must maintain records and submit reports with respect to AB-CHMINACA, AB-PINACA and/or THJ-2201 pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304 and 1312.

7. *Order Forms.* Every DEA registrant who distributes AB-CHMINACA, AB-PINACA or THJ-2201 must continue to comply with the order form requirements, pursuant to 21 U.S.C. 828, and 21 CFR part 1305.

8. *Importation and Exportation.* All importation and exportation of AB-CHMINACA, AB-PINACA or THJ-2201 must continue to be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

9. *Liability.* Any activity involving AB-CHMINACA, AB-PINACA or THJ-2201 not authorized by, or in violation of, the CSA or its implementing regulations is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this final scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule does not have tribal implications warranting the application of Executive Order 13175. It 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.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602, has reviewed this final rule and by approving it certifies that it will not have a significant economic impact on a

[2] AB-CHMINACA, AB-PINACA or THJ-2201 are currently subject to schedule I controls on a temporary basis, pursuant to 21 U.S.C. 811(h). 80 FR 5042, Jan. 30, 2015.

substantial number of small entities. On January 30, 2015, the DEA published a final order to temporarily place these three substances into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The DEA estimates that all entities handling or planning to handle these substances have already established and implemented the systems and processes required to handle AB-CHMINACA, AB-PINACA or THJ-2201. There are currently 25 registrations authorized to handle AB-CHMINACA, AB-PINACA and/or THJ-2201 specifically, as well as a number of registered analytical labs that are authorized to handle schedule I controlled substances generally. These 25 registrations represent 18 entities, of which 8 are small entities. Therefore, the DEA estimates eight small entities are affected by this rule.

A review of the 25 registrations indicates that all entities that currently handle AB-CHMINACA, AB-PINACA or THJ-2201 also handle other schedule I controlled substances, and have established and implemented (or maintain) the systems and processes required to handle AB-CHMINACA, AB-PINACA or THJ-2201. Therefore, the DEA anticipates that this rule will impose minimal or no economic impact on any affected entities; and thus, will not have a significant economic impact on any of the eight affected small entities. Therefore, the DEA has concluded that this rule will not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* the DEA has determined and certifies that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year. . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This rule will not result in: ''an annual effect on the economy of $100,000,000 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 U.S.-based companies to compete with foreign based companies in domestic and export markets.'' However, pursuant to the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.11,

■ a. Add paragraphs (d)(69) through (71);

■ b. Remove paragraphs (h)(1) through (3); and

■ c. Redesignate paragraphs (h)(4) through (17) as (h)(1) through (14).

The additions to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(69) *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB-CHMINACA)	(7031)
(70) *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB-PINACA)	(7023)
(71) [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201)	(7024)

* * * * *

Dated: October 6, 2017.

Robert Patterson,

Acting Administrator.

[FR Doc. 2017–22325 Filed 10–13–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0966]

Drawbridge Operation Regulation; Cerritos Channel, Long Beach, 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 Henry Ford Avenue railroad bridge across the Cerritos Channel, mile 4.8, at Long Beach, CA. The deviation is necessary to allow the bridge owner to install necessary electrical equipment inside the bridge machinery room and operator house. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 8 a.m. through noon on October 20, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0966, 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: The Port of Los Angeles has requested a temporary change to the operation of the Henry Ford Avenue railroad bridge, mile 4.8, over the Cerritos Channel, at Long Beach, CA. The drawbridge navigation span provides a vertical clearance of 6 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.147(b). Navigation on the waterway is commercial, search and

rescue, law enforcement, and recreational.

The drawspan will be secured in the closed-to-navigation position from 8 a.m. through noon on October 20, 2017, to allow the bridge owner to install necessary electrical equipment inside the bridge machinery room and operator house. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies. Los Angeles Harbor can be used as an alternate route 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 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: October 10, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–22293 Filed 10–13–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0959]

Drawbridge Operation Regulation; Grand Lake, Calcasieu Parish, Louisiana

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 Black Bayou Pontoon Bridge on State Road 384 across the Gulf Intracoastal Waterway (GIWW) at mile marker (MM) 237.5, West of Harvey Locks (WHL) at Grand Lake, Calcasieu Parish, Louisiana. The deviation is necessary to make extensive repairs to the bridge.

DATES: This deviation is effective without actual notice from October 16, 2017 until December 20, 2017. For the purposes of enforcement, actual notice will be used from October 9, 2017 until October 16, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0959 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 Douglas Blakemore, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email *Douglas.A.Blakemore@uscg.mil.*

SUPPLEMENTARY INFORMATION: Louisiana Department of Transportation and Development (LA–DOTD) has requested to change the operating schedule that governs the Black Bayou Pontoon Bridge on State Road 384 across the Gulf Intracoastal Waterway (GIWW) mile 237.5 West of Harvey Locks (WHL) at Grand Lake, Calcasieu Parish, Louisiana. Closures to navigation traffic are required to make extensive repairs to the bridge protective system, tower and mechanical systems. This bridge operates under 33 CFR 117.5.

This deviation allows the bridge to close to vessel traffic during specific dates and times from October 9, 2017 through December 20, 2017 as follows: October 9–10, 2017 from 7 a.m. to 7 p.m.; October 18–19, 2017 from 7 a.m. to 7 p.m.; October 23–26 from 8:30 a.m. to 7 p.m.; October 30–31, 2017 from 8:30 a.m. to 7 p.m.; November 7, 2017 from 7 a.m. to 7 p.m.; November 17–18, 2017 from 8 a.m. to 7 p.m.; November 20–22 from 8 a.m. to 7 p.m.; November 27, 2017 from 8 a.m. to 7 p.m.; November 28–30, 2017 from 8 a.m. to 7 p.m.; December 1–2, 2017 from 8 a.m. to 7 p.m.; December 4–7, 2017 from 8 a.m. to 7 p.m.; December 11–12, 2017 from 8 a.m. to 7 p.m.; December 13, 2017 from 7 a.m. to 7 p.m.; December 14–16, 2017 from 8 a.m. to 7 p.m.; December 18–19, 2017 from 8 a.m. to 7 p.m.

During the above periods of closures, vessels will not be able to pass through the bridge.

Navigation at the site primarily consists of tugs and tows. The bridge will be able to open to vessel traffic during emergencies. The Coast Guard will inform waterways users of the bridge closures through Local and Broadcast Notices to Mariners 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 will return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulation is authorized under 33 CFR 117.35.

Dated: October 10, 2017.

Douglas Allen Blakemore, Sr.,

Bridge Administrator, Eight Coast Guard District.

[FR Doc. 2017–22292 Filed 10–13–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 155

[Docket No. USCG–2016–0437]

Update to Alternative Planning Criteria National Guidelines

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: National guidelines; update.

SUMMARY: The Coast Guard announces the availability of the updated alternative planning criteria national guidelines for vessel response plans (VRPs). These national guidelines provide the maritime industry with updated information on developing and submitting alternative planning criteria (alternatives). Furthermore, they facilitate consistency in the Coast Guard's review of proposed alternatives.

DATES: The updated alternative planning criteria national guidelines are available on October 16, 2017. The Coast Guard recommends that new alternatives and alternatives submitted for renewal follow the updated alternative planning criteria national guidelines. Requests for extension of currently accepted alternatives may be approved for a period not to exceed six months from the date of expiration.

ADDRESSES: MER Policy Letter 01–17: Alternative Planning Criteria National Guidelines for Vessel Response Plans is available in our online docket at *http://www.regulations.gov,* and on *https://homeport.uscg.mil* under Environmental > Vessel Response Plan Program. Comments and material received from the public, as well as documents mentioned in this notice of availability, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions.

FOR FURTHER INFORMATION CONTACT: For further information about this

document, call or email CDR Kevin Boyd, U.S. Coast Guard, Office of Marine Environmental Response, telephone 202–372–1226; email *Kevin.C.Boyd@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Abbreviations

CFR Code of Federal Regulations
CG–543 U.S. Coast Guard Office of Commercial Vessel Compliance
COTP Captain of the Port
D17 U.S. Coast Guard District 17 in Alaska
MSIB Marine Safety Information Bulletin
NPC National Planning Criteria
VRP Vessel Response Plan
U.S. United States

II. Background

The alternative planning criteria national guidelines provide the maritime industry with guidance on developing and submitting alternatives in accordance with the regulations. Tank and nontank vessels meeting the applicability requirements in 33 CFR 155.1015 and 155.5015 must submit vessel response plans (VRPs). If a vessel owner or operator believes the national planning criteria (NPC) provided in 33 CFR part 155 are inappropriate for the areas in which the vessel intends to operate, the vessel owner or operator can submit an alternative(s) pursuant to 33 CFR 155.1065(f) and 155.5067. In August 2009, the U.S. Coast Guard (Coast Guard) published CG–543 Policy Letter 09–02, ''Industry Guidelines for Requesting Alternate Planning Criteria Approval, One Time Waivers and Interim Operating Authorization.'' The purpose of CG–543 Policy Letter 09–02, was to provide guidance to the maritime industry in proposing an alternative for tank vessel response plans pursuant to 33 CFR 155.1065(f). In September 2013, the Coast Guard published a final rule for nontank vessel regulations in 33 CFR part 155, subpart J (78 FR 60100). This final rule made the NPC in 33 CFR part 155 applicable to thousands of additional vessels across the U.S., including geographic areas with limited commercially available response resources. In 2015, D17 published a draft Marine Safety Information Bulletin (MSIB) that provided guidance for proposed alternative submissions and expectations within Alaskan waters, with a focus on nontank vessel traffic. Given the multitude of comments concerning alternative planning criteria, especially from various sectors of the maritime industry on the draft D17 MSIB, the Coast Guard determined it would be best to update the alternative planning criteria national guidelines to provide a foundation inclusive of both tank and nontank vessel communities and that applied nationally. Between 2016 and 2017, the Coast Guard drafted an update to the alternative planning criteria national guidelines, and made this available for public comment.

III. Response to Comments

On May 27, 2016, the Coast Guard published a notice announcing the availability of a draft update to the alternative planning criteria national guidelines in the **Federal Register** (81 FR 33685). On August 16, 2016, the Coast Guard published in the **Federal Register** a notice announcing a public meeting and an extension to the comment period until September 23, 2016 (81 FR 54584). The public meeting was held on September 21, 2016, in Anchorage, Alaska. On January 10, 2017, the Coast Guard published a notice announcing the reopening of the comment period until April 10, 2017 (82 FR 3016). In conjunction with the reopened comment period, additional public meetings were held to further the dialogue and awareness of the alternative planning criteria national guidelines with federal, state, tribal, and local communities, especially in remote areas of Alaska including Bethel, Dillingham, Kotzebue, Nome, Utqiagvik, Kodiak, and Dutch Harbor.

In summary, the Coast Guard received 49 electronic submissions during the two public comment periods. In addition, the Coast Guard heard statements from 12 speakers at the public meeting convened in Anchorage on September 21, 2016. From the electronically submitted comments and the statements, the Coast Guard received approximately 200 individual comments.

The Coast Guard appreciates the amount of time that federal, state, tribal, and local government entities, as well as private industry, committed throughout the two public comment periods to provide input. The value of all comments and feedback received in this process cannot be overstated. We carefully considered all of the input received when drafting the final revision to the alternative planning criteria national guidelines. A summary of all comments, and the Coast Guard's response to them, is available in our online docket at *http://www.regulations.gov,* and on *https://homeport.uscg.mil* under Environmental > Vessel Response Plan Program.

A. Alternatives as a Temporary Versus a Permanent Solution

The Coast Guard received 25 comments recommending that the alternatives permitted under 33 CFR 155.1065 and 155.5067 be accepted as permanent equivalencies with the National Planning Criteria (NPC) found in 33 CFR part 155. The Coast Guard disagrees. The Coast Guard views the allowance for alternatives to the response standards required in 33 CFR part 155 as a bridging strategy to future NPC compliance. The Coast Guard does acknowledge, however, that some operating areas, especially remote areas, may require long-term alternatives.

Particular to the NPC as an end state, one commenter noted that there exists an assumption by the Coast Guard that meeting the NPC is the only acceptable option for planning and responding to marine casualties that pose a threat of pollution, and that this assumption is flawed. We do not agree that there is an assumption that meeting the NPC is the only acceptable option for planning and responding to marine casualties that pose a threat of pollution. Such an assumption is contrary to the purpose and intent of the regulations that allow alternative planning criteria.

B. Prevention Measures

The Coast Guard received 21 comments stating that the Coast Guard, in the draft alternative planning criteria national guidelines, is abandoning prevention measures. Another commenter stated that the updated guidelines suggest that tracking and monitoring capability could take the place of the need to plan for resource capability. The Coast Guard disagrees. Prevention measures are fully acceptable when included in an alternative, but do not equal the value of response and recovery-based strategies at the time of an incident. Language in the alternative planning criteria national guidelines that may have led to the impression that prevention measures, such as vessel tracking and monitoring, could take the place of resource capability was removed.

Specific to prevention measures, one commenter believes that a conflict exists between the alternative planning criteria national guidelines and the regulations. Specifically, the commenter points out that the guidelines include very specific requirements for a tracking and monitoring system. In consideration of this comment and to avoid the perception of creating new requirements, the Coast Guard has amended the draft national guidelines to

no longer include tracking and monitoring systems as a specific prevention measure within an alternative. However, we consider tracking and monitoring systems as a helpful tool for both response and prevention strategies.

One commenter noted that vessel tracking and monitoring is not necessary for all alternatives. The Coast Guard agrees. The alternative planning criteria national guidelines do not mandate the use or inclusion of vessel tracking and monitoring in proposals for alternatives.

C. Regulatory Overreach of the Alternative Planning Criteria National Guidelines

One commenter perceived that the Coast Guard was requiring the tracking of vessels to be employed in a proposed ''response vessel of opportunity'' network. The Coast Guard disagrees and notes that the mention of vessel of opportunity tracking was an example of a process that an alternative might consider/propose. Nevertheless, language in the alternative planning criteria national guidelines was removed that may have led to the impression that tracking of vessels was required in a proposed ''response vessel of opportunity'' network.

Seventeen comments suggested that the alternative planning criteria national guidelines represent regulatory overreach and an attempt to side-step the rulemaking process. The Coast Guard disagrees. The alternative planning criteria national guidelines do not create any substantive legal requirements on the regulated population. Under current Coast Guard regulation, owners and operators of both tank vessels (33 CFR 155.1065(f)) and nontank vessels (33 CFR 155.5067) may propose alternative frameworks when such vessel owner or operator believes that the national planning criteria are inappropriate for the areas in which the vessel intends to operate. The alternative planning criteria national guidelines afford a flexibility currently permitted by regulation. Therefore, they are not a rulemaking subject to notice and comment under the Administrative Procedure Act. We are providing these guidelines for the purpose of clarifying existing regulations.[1]

On a related note, several commenters suggested that the language in the draft alternative planning criteria national guidelines is overly prescriptive or confusing, and therefore creates binding requirements with the ''force and effect'' of law. Examples include the use of definitions that either do not exist within, or are inconsistent with, the regulations. In consideration of these comments, and as noted above, we revised the alternative planning criteria national guidelines to remove language that could be perceived as inconsistent with or not covered by the regulations. The Coast Guard also removed the four draft enclosures.

D. Economic Assessment as an Element of the Request

Thirty-eight comments were received on the economic analysis to be submitted with the alternative planning criteria request, as set out in 33 CFR 155.5067. Several of these comments highlighted the potential for increased commodity and capital investment costs. Some of these comments also communicated that the alternative planning criteria national guidelines may result in significant increases in costs (for example, transportation of freight and fuel delivery by barges, transportation, home heating fuel costs of end users including native villages and other small communities in Alaska, oil spill equipment build-out costs, and contract and membership costs associated with the joining of multiple local spill response organizations as a solution to comply with the updated national guidelines).

Foremost, the Coast Guard appreciates the comments received concerning the economic impact of alternative planning criteria and associated national guidelines. The Coast Guard takes these comments very seriously, and will carefully evaluate the economic impact assessments that plan holders or Alternative Planning Criteria Administrators submit as part of their proposed alternative(s) in accordance with 33 CFR part 155.

E. Coast Guard Sector/COTP Involvement in the Review Process of Alternatives

Four comments noted that the alternative planning criteria national guidelines seem to remove the local Sector from decision making on proposed alternatives. The Coast Guard disagrees. While CG–MER is the ultimate decision making authority on proposed alternative planning criteria, local COTPs have a responsibility to review all proposed alternatives within their area of responsibility and provide an endorsement. This responsibility is set forth in 33 CFR 155.5067(a) for nontank vessels and the same responsibility applies in practice to tank vessels pursuant to 33 CFR 155.1065(f).

F. Local Area Committee Involvement in Review Process of Alternatives

The Coast Guard received 21 comments regarding the inclusion of local Area Committees as part of the process for reviewing proposed alternatives. Specifically, the concern is that the Coast Guard intends to route proposed alternatives via Area Committees for approval. In consideration of these comments, we have modified the language in the alternative planning criteria national guidelines that could have led to the misimpression that the Coast Guard intends to seek Area Committee approval. The Coast Guard changed this language to reflect that local Area Committees may be included in a COTP's evaluation of proposed alternatives. Area Committees, however, do not approve alternatives.

Additional comments questioned the legal authority under which Area Committees may be involved in the evaluation of alternatives. Area Committees were established as part of the National Planning and Response System created pursuant to Section 311 of the FWPCA (33 U.S.C. 1321(j)). Area Committees represent an essential element of oil spill and hazardous substance contingency planning. Further, there is nothing in the legislation that would limit or prevent the Coast Guard from consulting with Area Committees on proposed alternatives.

Two comments suggested that the COTP and local Area Committee should coordinate with the other federal and state entities including the Regional Response Team, National Strike Force Coordination Center, and the District Response Advisory Team, and the State of Alaska to ensure a comprehensive review of the gaps identified in alternative planning criteria submissions. The Coast Guard agrees, and notes the requirements for consultation with such entities in accordance with the National Oil and Hazardous Substance Pollution Contingency Plan (40 CFR part 300). The local Area Committee, under the direction of the Federal On-scene Coordinator (who is generally the COTP in the coastal zone), is responsible for directing the development of the Area Contingency Plan (ACP). In accordance with 40 CFR 300.210, ACPs are prepared by an Area Committee consisting of federal, state, and local agencies and in consultation with regional response teams and other appropriate entities. With respect to

[1] ''Agencies rely on guidance to clarify regulatory text or statutes, to respond to the questions of affected parties in a timely way, and to inform the public about complex policy implementation topics.'' GAO report on Regulatory Guidance Processes (April 2015).

evaluating proposed alternatives, although consultation with Area Committees is not required by the VRP regulations, COTPs, in their discretion, may consult with Area Committees, which may include the review of gaps identified in proposed alternatives.

A related comment suggested that local Area Committees be informed by the Coast Guard when it receives a proposed alternative. As mentioned above, COTPs maintain the discretion to consult with the local Area Committee on proposed alternatives.

One commenter acknowledged the Coast Guard's stated intent to coordinate with Area Committees, District Response Advisory Teams, and Coast Guard Sectors in its review of proposed alternatives. However, the commenter suggested that it is not clear how these public involvement procedures will work in practice, especially when the Coast Guard has indicated that some alternatives may be approved in fewer than 90 days. While our regulations say that alternatives should be submitted to the Coast Guard 90 days before a vessel intends to operate under the proposed alternative, we recognize that not all proposed alternatives are the same. Some alternatives may warrant more analysis than others. In recognition of this, the alternative planning criteria national guidelines recommend submission of proposed alternatives at least 180 days before a vessel intends to operate under the proposed alternative.

G. Geographic Extent of Alternatives

Twenty-seven comments highlighted concern over the Coast Guard's intent to allow for alternatives that address a geographic area smaller than the entire extent of a COTP zone. Specifically, comments questioned the Coast Guard's authority to accept an alternative that only partially covers a COTP zone. Additionally, one comment forecasted a ''compliance quagmire'' if a patchwork of alternatives is allowed to exist within a COTP zone. The Coast Guard appreciates these concerns, but disagrees. The Coast Guard will continue to evaluate alternatives that adequately address areas where the NPC are inappropriate. The regulations specify that an alternative can be submitted for the geographic area(s) where the vessel intends to operate. See 33 CFR 155.1065(f) and 155.5067(a).

One commenter noted the belief that the alternative planning criteria national guidelines requirement to consider ''any and all'' environmental impacts of not meeting the NPC requirements is unreasonable, particularly for large and remote areas (*e.g.* Western Alaska). The Coast Guard agrees in part and disagrees in part. Previous alternative planning criteria policy guidance for tank vessels, as well as the existing regulations for nontank vessel response plans, require that proposed alternatives should, at a minimum, contain an environmental impact assessment (CG–543 Policy Letter 09–02 and 33 CFR 155.5067(b)). To keep within the scope of the regulatory requirements, the Coast Guard reworded the guidelines to emphasize that an environmental impact assessment should, at a minimum, be included in the submission of an alternative. Additionally, to ensure compliance with 33 CFR 155.1030 and 155.5030, proposed alternatives should highlight sensitive areas from the applicable Area Contingency Plan(s) in their environmental impact assessment.

One commenter proposed that Alaska be given its own planning standards given the physical, environmental, and geographic challenges unique to Alaska. We wish to point out that both the tank and nontank VRP regulations allow for the planning criteria to be tailored for a specific geographic location when the vessel owner or operator believes that the NPC are inappropriate for the areas they intend to operate.

H. Strategic Plan Replaced With Build-Out Plan

Seven comments reflected concern regarding the submission of a ''strategic plan'' as part of the proposed alternative(s). Additionally, some commenters asked how the Coast Guard would use and evaluate such a plan. We recognize the misunderstanding: We did not intend to refer to the company's strategic business plan, but rather a strategic plan for eventually meeting the NPC. In consideration of these concerns, we have revised the guidelines by replacing the phrase ''strategic plan'' with ''build-out plan'' to avoid the misimpression that industry business planning processes should be submitted as part of a proposed alternative. The build-out plan is a means by which a plan holder can address how they will build up response capability to meet the NPC. The Coast Guard has consistently stated that the intent of alternative planning criteria is to gradually build-up response capability in remote areas. See, Final Rule on ''Nontank Vessel Response Plans and Other Response Plan Requirements'' (78 FR 60099). The build-out plan is not a formal, organizational, strategic plan, but rather a detailed description of the measureable steps towards compliance with the NPC. The Coast Guard will review build-out plans in its review of submitted alternatives. Additionally, the Coast Guard will review achievement of build-out plan goals in its review of alternatives submitted for renewal.

I. Enforcement and Evaluation

The Coast Guard received 10 comments regarding the enforcement of alternative planning criteria, including concerns over the Coast Guard's ability to ensure compliance, especially in remote areas. The Coast Guard recognizes that remote areas may be challenging to frequent and regular verification efforts; nevertheless, at the discretion of the COTP, the Coast Guard will exercise its authority to verify compliance with approved alternatives.

One commenter recommended the Coast Guard add clarity as to what level of response capability, and future expanded capability, the Coast Guard will be seeking prior to approving future alternatives. The Coast Guard will evaluate the adequacy of response capabilities listed in alternatives, including expanded response capability addressed in the build-out plan. The Coast Guard's evaluation includes verifying that response resources are adequate in the areas intended, and that the alternative will provide an equivalent oil spill removal capacity. Additionally, alternatives are subject to equipment inspections, personnel training verifications, and exercise evaluations, including validation of build-out plan milestone achievement.

J. Policy Necessity

Two commenters questioned the need for the alternative planning criteria national guidelines, noting that the CG–543 Policy Letter 09–02 and MSIB 03–14 for Western Alaska were clear, concise, and simple. The CG–543 Policy Letter 09–02 was a national policy that only covered tank vessels. MSIB 03–14 was issued by the COTP for Western Alaska and specific to the Western Alaska COTP zone. The Coast Guard saw a need for a national policy that covers both tank and nontank vessels on alternative planning criteria.

One commenter noted that the Coast Guard's approval of an alternative plays a critical role in the level of environmental protection provided in the region. The Coast Guard agrees and notes that an environmental impact assessment is one of the elements that an owner or operator of a tank or nontank vessel should, at a minimum, include for the Coast Guard's consideration in determining whether to accept an alternative(s).

One commenter suggested that the policy reflect the stated regulation; that an alternative can be submitted for consideration any time that the vessel

owner or operator feels the NPC are inappropriate or unattainable for reasons beyond their control or, when a vessel owner or operator can demonstrate that the alternative will provide an equivalent or superior level of response and/or protection as the NPC. The Coast Guard agrees in part and disagrees in part. The Coast Guard agrees that the alternative planning criteria may be submitted when an owner or operator believes the NPC are inappropriate for the area in which the vessel intends to operate. The Coast Guard does not agree, nor do the regulations in 33 CFR part 155 contemplate, the use of an alternative(s) where the NPC can be met.

K. Aleutian Islands Risk Assessment Consideration in Alternatives

One commenter noted that the Aleutian Islands Risk Assessment (AIRA) and the response model contained therein are better suited to the Alaskan region than compliance with the regulations. The Coast Guard disagrees. The AIRA presents one possible response model as an alternative planning approach for one region of the country. The Coast Guard will not dictate the prevention, response and/or mitigation strategies that a vessel owner or operator can propose where the NPC are inappropriate.

L. Applicability of Salvage and Marine Firefighting Resources in Alternatives

Two commenters recommended that salvage and marine firefighting resources should not be included in an alternative(s). The Coast Guard disagrees. Nothing in the regulations precludes the consideration of salvage and marine firefighting in a proposed alternative. Accordingly, in areas where salvage and marine firefighting national planning criteria are inappropriate, a vessel owner or operator may propose an alternative.

One commenter requested to know if the Coast Guard intends on requiring salvage and marine firefighting equipment to be listed in the Coast Guard response resource inventory (RRI). The Coast Guard appreciates the commenter's suggestion. The RRI is a voluntary option for certain response resource providers. The Coast Guard recommends that the response resources listed in alternatives be entered into the RRI.

M. Content of Proposed Alternatives Submitted to the Coast Guard

One commenter noted that the requirement to state each class of vessel and its associated worst case discharge volume and oil group is unnecessary. The Coast Guard agrees and modified the language in the alternative planning criteria national guidelines to reflect that an alternative may cover a single vessel or fleet of vessels and should state the vessel type(s) and oil volumes by type.

One commenter felt that vessel tracking, administration of vessel of opportunity programs, vessel of opportunity training programs, and the requirement to assure five vessels are available are cost prohibitive, inconceivable, and unattainable. A related comment recommended that the Coast Guard consider clarifying that the examples listed in the alternative national policy guidelines and enclosures are not requirements, but examples. The draft alternative planning criteria national guidelines did not require any of the above programs or strategies but rather presented them as examples of strategies. To avoid further confusion, however, the Coast Guard removed these examples from the alternative planning criteria national guidelines.

One commenter noted that an oil spill trajectory and fate analysis for the entire coastline of a vessel's route within a VRP geographic specific appendix is an unreasonable requirement, costly, and adds no value to a proposed alternative. We wish to make clear that while there is no specific requirement for trajectories or fate analyses, these are useful for the Coast Guard's evaluation of proposed alternatives and may appropriately be included in a plan holder's environmental impact assessment.

Two commenters noted a concern that documenting a vessel's track line information was overly burdensome and goes beyond what is required by the regulations. In consideration of these comments, we revised the alternative planning criteria national guidelines to remove language that could be perceived as inconsistent with the regulations. The revised language recommends that proposed alternatives include a general description of the intended vessel operations, such as track lines and/or intended vessel routes.

One commenter noted that the alternative planning criteria national guidelines should be written to ensure that exercises and verifications are conducted in conditions that reflect all intended seasonal operations. The Coast Guard notes that the alternative planning criteria national guidelines do not limit or otherwise prescribe the timing of exercises or verifications. The timing will ultimately be determined by the COTP as part of a risk-based decision process.

One commenter stated that continual improvement on alternatives, with a focus on response resources, should be considered when reviewing an alternative. The Coast Guard agrees and notes that the alternative planning criteria national guidelines include these considerations, especially as part of the build-out plan.

N. Submission Process for Alternatives

One commenter noted that the term ''administrator'' is not defined in the VRP regulations. The Coast Guard agrees and defines the term ''Alternative Planning Criteria Administrator'' in the alternative planning criteria national guidelines.

One commenter noted that the Coast Guard's timelines for accepting alternatives has not been in accordance with the regulatory timelines, and believes the Coast Guard should adhere to the review timeline in the regulations. The Coast Guard agrees that timely review is beneficial, and will work toward completing timely reviews of proposed alternatives. While the regulations in 33 CFR 155.1065(f) and § 155.5067(a) require submission of alternative planning criteria requests 90 days before the vessel intends to operate under a proposed alternative, the alternative planning criteria national guidelines recommend submission at least 180 days due to the myriad factors that must be evaluated, as well as the need for coordination and consultation in the review process.

One commenter noted that the Coast Guard excluded the provision for Alternative Planning Criteria Administrators to submit alternative proposals. The Coast Guard agrees and has added ''Alternative Planning Criteria Administrators'' to the submission process in the alternative planning criteria national guidelines.

One commenter noted that the alternative planning criteria national guidelines should address mechanisms to make revisions or improvements to an alternative after approval and/or an appeals process. The Coast Guard agrees. The alternative planning criteria national guidelines were updated to address revisions to submitted alternatives. Specifically, vessel owner or operators, or Alternative Planning Criteria Administrators, should submit any significant change that affects the information included in the accepted alternative(s) to the cognizant COTP. COTPs should endorse the proposed alternative and forward to Commandant Office of Marine Environmental Response Policy (CG–MER) through the

cognizant CG District and Area staff offices.

O. Outreach

One commenter stated that, while the Coast Guard has held meetings with local stakeholders and communities in Western Alaska, the Coast Guard has not reached out to the wider shipping community that will also be affected by the alternative planning criteria national guidelines. The commenter recommended that the Coast Guard establish an industry working group that includes the wider community in order to seek constructive input into these important issues, especially given the large number of international trading vessels that transit the Great Circle Route through Western Alaska.

The Coast Guard agrees that input from stakeholders in every region is important and that is one of the reasons we requested public comment on the draft alternative planning criteria national guidelines. The Coast Guard is interested in continuing the discussion on improving the alternative planning criteria national guidelines and welcomes the opportunity to discuss the subject at local area committee meetings, regional response team meetings, and other relevant forums.

Two commenters supported improved communications between the Coast Guard and appropriate State environmental offices particular to response capability and alternatives. One commenter specifically mentioned that appropriate State environmental offices should be part of the approval and inspection/verification processes of alternatives. As Area Committee members, State environmental offices should be engaging with the Coast Guard on oil spill response planning, including response capability and alternatives. However, the Coast Guard is not abdicating its responsibility to evaluate, nor its decision making authority on the appropriateness of, proposed alternatives.

One commenter suggested that the current procedure for accepting proposed alternatives has been inconsistent and has not been an inclusive process specific to State environmental offices ''as required by regulation.'' We believe it is important to clarify that our regulations do not impose such a requirement, but note that the alternative planning criteria national guidelines mention that COTPs may, in their discretion, consult with Area Committees, of which State environmental offices are members. Concerning consistency in the procedure for accepting proposed alternatives, one of the goals of these alternative planning criteria national guidelines is to facilitate COTP consistency in the review of proposed alternatives. However, as noted above, not all proposed alternatives are the same; consequently, some proposals will generate more review and analysis than others.

One commenter suggested that engagement with the local communities and stakeholders should continue beyond that which has already taken place as part of the implementation of the alternative planning criteria national guidelines. The Coast Guard agrees. The Coast Guard is appreciative of the input received in the development of the alternative planning criteria national guidelines, and looks forward to continuing this dialogue at local area committee meetings, regional response team meetings, and other forums.

Three commenters suggested that it is essential that the Coast Guard monitor and report periodically to the public on the status of oil spill response readiness for a COTP zone. One commenter specifically requested that the Coast Guard require Alternative Planning Criteria Administrators or planholders to provide public summaries of the progress made toward closing response gaps and an evaluation of the prevention and risk reduction measures specified in the alternative. The Coast Guard COTPs, in coordination with the local area committee, can determine appropriate information sharing procedures to address oil spill response readiness. Additionally, the Coast Guard RRI may be a useful tool, where resource providers may voluntarily list response resources to facilitate this awareness, including the resources listed in alternatives.

One commenter suggested that the Coast Guard make available for public comment submitted alternatives, including alternatives submitted for renewal, before making its final approval determination. The Coast Guard is appreciative of this suggestion. However, we believe that initiating a public comment process for submitted alternatives would significantly impede the timely review of alternatives.

P. Miscellaneous Comments

One commenter expressed concern with the aggressive timeline associated with updating and re-submitting existing alternative planning criteria to align with the updated alternative planning criteria national guidelines. The Coast Guard agrees. Vessel owner or operators, or Alternative Planning Criteria Administrators, of currently existing alternative planning criteria may request an extension from the Coast Guard for up to six months beyond the date of expiration.

One commenter recommended that the Coast Guard post response contracts online and provide local communities with funding to assist with the outreach effort needed to gain local knowledge and expertise in the contract review of alternatives in VRPs. Posting response contracts online would create significant delays in the Coast Guard's review of submitted alternatives. This is because parties to the contract would have to redact business proprietary information, and the Coast Guard, as the entity that is posting the information, would have the responsibility of reviewing the redactions to ensure the content was acceptable for posting. We believe these additional steps would significantly impede the timely review of alternatives. Regarding the suggestion to provide funding to organizations to assist in outreach efforts, the Coast Guard does not have the legal authority to provide funding to organizations. However, engagement with local area committees, or regional response teams, offer a means to help build awareness of, and further strengthen, current strategies and response capabilities to address removal of a worst case discharge, or substantial threat of such a discharge.

Two commenters suggested that they believe competition created by accepted alternatives, and in general, competition within the oil spill prevention and response markets, is a good thing. This comment is outside the scope of the alternative planning criteria national guidelines as the purpose of the alternative planning criteria national guidelines is to provide guidance for the development and submission of alternatives with the goal of increasing response capacity.

One commenter offered that competition created in alternative planning criteria has led to response capability reductions. The Coast Guard has no authority to control market competition; therefore, this comment is outside the scope of the alternative planning criteria national guidelines.

Three commenters stated that additional resources not listed in a vessel response plan or alternative plan will not be made available to respond to an incident. These comments are outside the scope of the updated alternative planning criteria national guidelines.

One commenter suggested that VRP requirements, including alternatives, should include vessels on innocent passage. This comment is outside the scope of the updated alternative planning criteria national guidelines.

This notice is issued under the authority of 5 U.S.C. 552(a).

Joseph B. Loring,

Captain, Office of Marine Environmental Response Policy.

[FR Doc. 2017–22333 Filed 10–13–17; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0413; FRL–9969–48–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of West Virginia state implementation plan (SIP). The revisions update the effective date by which the West Virginia regulations incorporate by reference the national ambient air quality standards (NAAQS), additional monitoring methods, and additional equivalent monitoring methods. This update will effectively add the following to the West Virginia SIP: The 2015 ozone NAAQS, monitoring reference and equivalent methods pertaining to fine particulate matter ($PM_{2.5}$), Carbon Monoxide (CO), and course particulate matter (PM_{10}), and it will revise the ozone monitoring season, the Federal Reference Method (FRM), the Federal Equivalent Method (FEM), and the Photochemical Assessment Monitoring Stations (PAMS) network. The SIP revision will also change a reference from the ''West Virginia Department of Environmental Protection,'' to the ''Division of Air Quality.'' EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on December 15, 2017 without further notice, unless EPA receives adverse written comment by November 15, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0413 at *https://www.regulations.gov,* or via email to *stahl.cythia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 13, 2017, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) submitted a formal revision to West Virginia's SIP pertaining to amendments of Legislative Rule, 45 CSR 8—Ambient Air Quality Standards. The SIP revision consists of revising the effective date of the incorporation by reference of 40 CFR parts 50 and 53.

II. Summary of SIP Revision and EPA Analysis

West Virginia has submitted this SIP revision to update the State's incorporation by reference of 40 CFR part 50, which contains the Federal NAAQS, and 40 CFR part 53, which contains the ambient air monitoring reference methods and equivalent reference methods. Currently, the version of 45 CSR 8 in the West Virginia SIP incorporates by reference 40 CFR parts 50 and 53 as effective on June 1, 2013; this SIP revision will update the effective date to June 1, 2016.

In the June 13, 2017 SIP submittal, WVDEP submitted amendments to the legislative rule which include the following changes: To section 45–8–1 (General), the filing and effective dates are changed to reflect the update of the legislative rule; to section 45–8–3 (Adoption of Standards), the effective dates for the incorporation by reference of 40 CFR parts 50 and 53 are changed; to section 45–8–4 (Inconsistency Between Rules), the reference to the ''West Virginia Department of Environmental Protection,'' is changed to the ''Division of Air Quality.'' West Virginia has amended 45 CSR 8 to revise the filing and effective dates of the rule to May 15, 2017 and June 1, 2017 respectively. The effective date of the incorporation by reference of 40 CFR parts 50 and 53 changed from June 1, 2013 to June 1, 2017. EPA finds the revised version of 45 CSR 8 with new effective dates incorporating by reference 40 CFR parts 50 and 53, as well as the changes to the reference of the state air agency, are in accordance with requirements in section 110 of the CAA.

This update will effectively add the following to the West Virginia SIP: The 2015 ozone NAAQS, monitoring reference and equivalent methods pertaining to $PM_{2.5}$, CO, and PM_{10}, and it will revise the ozone monitoring season to March 1st through October 31st, the FRM, the FEM, and the PAMS network.

III. Final Action

EPA is approving the amendments to Legislative Rule, 45 CSR 8—Ambient Air Quality Standards, into the West Virginia SIP pursuant to section 110 of the CAA. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on *December 15, 2017* without further notice unless EPA receives adverse comment by *November 15, 2017.* If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule,

EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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 update to West Virginia's Legislative Rule, 45 CSR 8, as effective on June 1, 2017. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update of the SIP compilation.[1]

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action, to approve West Virginia's SIP revisions to update of the effective date by which the State regulations incorporate by reference the Federal NAAQS, additional monitoring methods, and additional equivalent monitoring methods, which effectively adds the 2015 ozone NAAQS and ambient air monitoring reference and equivalent methods pertaining to $PM_{2.5}$, PM_{10}, and CO, and changing the reference to the state air agency, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 27, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the first table in paragraph (c) is amended by revising the entries for 45–8–1 through 45–8–4 to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

[1] 62 FR 27968 (May 22, 1997).

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 8 Ambient Air Quality Standards				
Section 45–8–1	General	6/1/17	10/16/2017, [Insert **Federal Register** Citation].	Filing and effective dates are revised.
Section 45–8–2	Definitions	6/1/17	10/16/2017, [Insert **Federal Register** Citation].	Previous Approval 9/22/2014.
Section 45–8–3	Adoption of Standards	6/1/17	10/16/2017, [Insert **Federal Register** Citation].	Effective date is revised.
Section 45–8–4	Inconsistency Between Rules.	6/1/17	10/16/2017, [Insert **Federal Register** Citation].	Replaced ''West Virginia Department of Environmental Protection'' with ''Division of Air Quality''.
*	*	*	*	*

* * * * *

[FR Doc. 2017–22254 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0079; FRL–9969–20–Region 4]

Air Plan Approval; Florida; Interstate Transport (Prongs 1 and 2) for the 2010 1-hour NO_2 Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection, on February 3, 2017, addressing the Clean Air Act (CAA or Act) interstate transport (prongs 1 and 2) infrastructure SIP requirements for the 2010 1-hour Nitrogen Dioxide (NO_2) National Ambient Air Quality Standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an ''infrastructure SIP.'' Specifically, EPA is taking final action to approve Florida's February 3, 2017, SIP submission addressing prongs 1 and 2 to ensure that air emissions in the State do not significantly contribute to nonattainment or interfere with maintenance of the 2010 1-hour NO_2 NAAQS in any other state.

DATES: This rule will be effective November 15, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0079. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Febres can be reached by telephone at (404) 562–8966 or via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIPs. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section

110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) and from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

On January 22, 2010, EPA established a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion, based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. *See* 75 FR 6474 (February 9, 2010). This NAAQS is designed to protect against exposure to the entire group of nitrogen oxides (NO_X). NO_2 is the component of greatest concern and is used as the indicator for the larger group of NO_X. Emissions that lead to the formation of NO_2 generally also lead to the formation of other NO_X. Therefore, control measures that reduce NO_2 can generally be expected to reduce population exposures to all gaseous NO_X which may have the co-benefit of reducing the formation of ozone and fine particles both of which pose significant public health threats.

States were required to submit infrastructure SIP submissions for the 2010 1-hour NO_2 NAAQS to EPA no later than January 22, 2013. For comprehensive information on the 2010 1-hour NO_2 NAAQS, please refer to the **Federal Register** notice cited immediately above.

In a notice of proposed rulemaking published on August 10, 2017 (82 FR 37384), EPA proposed to approve Florida's February 3, 2017, SIP submission concluding that its SIP adequately addresses prong 1 and prong 2 requirements for the 2010 1-hour NO_2 NAAQS. Florida provided the following reasons for its determination: (1) The SIP contains state regulations that directly or indirectly control NO_X emissions; (2) all areas in the United States are designated as unclassifiable/attainment for the 2010 1-hour NO_2 NAAQS; (3) maximum 1-hour NO_2 concentrations in states near Florida (Alabama, Georgia, Louisiana, Mississippi, and South Carolina) are below the 2010 standard; (4) monitored design values for NO_2 in the State are well below the 2010 1-hour NO_2 NAAQS and are trending downward; and (5) total NO_X emissions in the State are also trending downward. The other applicable infrastructure SIP requirements for Florida for the 2010 1-hour NO_2 NAAQS have been addressed in a separate rulemaking or will be addressed separately. On March 18, 2015 (80 FR 14019), EPA approved the portions of Florida's infrastructure SIP regarding the prevention of significant deterioration (PSD) permitting requirements of sections 110(a)(2)(C), prong 3 of D(i), and (J) for the 2010 1-hour NO_2 NAAQS. On November 23, 2016 (81 FR 84479), EPA approved the portions of Florida's infrastructure SIP regarding sections 110(a)(2)(A), prong 4 of section 110(a)(2)(D)(i), section 110(a)(2)(D)(ii), sections 110(a)(2)(E)–(H), and sections 110(a)(2)(K)–(M). The portion of Florida's infrastructure SIP related to the ambient air quality monitoring and data system requirements of section 110(a)(2)(B) will be acted on in a separate action.

The details of Florida's submission and the rationale for EPA's action are explained in the August 10, 2017, notice of proposed rulemaking. Comments on the proposed rulemaking were due on or before September 11, 2017. EPA did not receive any comments, adverse or otherwise.

II. Final Action

As described above, EPA is taking final action to approve Florida's February 3, 2017, SIP revision addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i) for the 2010 1-hour NO_2 NAAQS. EPA is taking final action to approve this portion Florida's infrastructure SIP submission because Florida's SIP includes adequate provisions to prevent emissions sources within the State from significantly contributing to nonattainment or interfering with maintenance of this standard in any other state.

III. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 28, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

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 K—Florida

■ 2. Section 52.520(e) is amended by adding a new entry for ''110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO_2 NAAQS'' at the end of the table to read as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	**Federal Register** notice	Explanation
* *	*	*	*	* *
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO_2 NAAQS.	2/3/2017	10/16/2017	[Insert citation of publication].	Addressing Prongs 1 and 2 of section 110(a)(2)(D)(i) only.

[FR Doc. 2017–22229 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0592; FRL–9969–40–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendment to Ambient Air Quality Standard for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Virginia state implementation plan (SIP). This revision consists of an amendment to Virginia's SIP to incorporate by reference, the most recent federal ambient air quality standard for ozone. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on December 15, 2017 without further notice, unless EPA receives adverse written comment by November 15, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0592 at *http://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2015 (80 FR 65292), EPA revised the primary and secondary national ambient air quality standards (NAAQS) for ozone to 0.070 parts per million (ppm). The primary and secondary ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.070 ppm.

On July 25, 2016, the Commonwealth of Virginia through the Virginia Department of Environmental Quality (VADEQ) submitted a formal revision to its SIP. The SIP revision seeks to incorporate the 2015 ozone NAAQS promulgated by EPA into the Virginia SIP.

II. Summary of SIP Revision and EPA Analysis

In the July 25, 2016 SIP submission, Virginia seeks to add regulation 9VAC5–30–57 ''Ozone (8-hour 0.070 ppm)'' to the Virginia SIP. Regulation 9VAC5–30–57 incorporates by reference the 2015 ozone NAAQS as promulgated by EPA and is consistent with the NAAQS set out in 40 CFR part 50. *See* 80 FR 65292 (October 26, 2015).

Virginia's submittal seeks to incorporate the revised 2015 ozone NAAQS, as promulgated by EPA, into the approved Virginia SIP. Therefore, EPA finds the SIP submittal approvable pursuant to section 110 of the CAA.

III. Final Action

EPA is approving the July 25, 2016 Virginia SIP revision submittal which seeks to add regulation 9VAC5–30–57 ''Ozone (8-hour 0.070 ppm)'' to the Virginia SIP pursuant to section 110 of the CAA. Regulation 9VAC5–30–57 sets the level of the 8-hour ozone standard at 0.070 ppm, consistent with EPA's 2015 ozone NAAQS. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 15, 2017 without further notice unless EPA receives adverse comment by November 15, 2017. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.'' Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. 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 Virginia 9VAC5–30–57 described in the amendment to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update of the SIP compilation.[1]

VI. 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);
- 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

[1] 62 FR 27968 (May 22, 1997).

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).

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action adding regulation 9VAC5–30–57 ''Ozone (8-hour 0.070 ppm)'' to the Virginia SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

Dated: September 22, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by adding an entry for Section 5–30–57 in numerical order to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 30 Ambient Air Quality Standards [Part III]				
*	*	*	*	*
5–30–57	Ozone (8-hour, 0.070 ppm)	06/01/2016	10/16/2017, [*Insert* ***Federal Register*** *Citation*].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–22243 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0437; FRL–9969–32–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's state implementation plan (SIP). The revision includes amendments to the Pennsylvania Department of Environmental Protection's (PADEP) regulations and addresses the requirement to adopt reasonably available control technology (RACT) for sources covered by EPA's control techniques guidelines (CTG) standards for the following categories: Miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings, as well as related cleaning activities. The SIP revision also amends regulations for graphic arts systems and mobile equipment repair and refinishing as well as making general administrative changes. This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on December 15, 2017 without further notice, unless EPA receives adverse written comment by November 15, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0437 at *https://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gregory A. Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: On November 18, 2016, PADEP submitted a revision to the Pennsylvania SIP concerning the adoption of EPA's CTG for miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes, and pleasure craft surface coatings. Specifically, PADEP has amended 25 Pennsylvania Code (Pa. Code) Chapter 129 (relating to standards for sources) to address RACT and further reduce volatile organic compounds (VOC) emissions in Pennsylvania. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA, Pennsylvania's SIP revision submittal establishes VOC emission limitations and other requirements consistent with the recommendations of EPA's 2008 Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings (MMPP) (Publication No. EPA 453/R–08–003; September 2008) and Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings for these sources in the Commonwealth of Pennsylvania (Publication No. EPA 453/R–08–006).

I. Background

Ground level ozone is formed in the atmosphere by photochemical reactions between VOCs, nitrogen oxides (NO_X), and carbon monoxide (CO) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all nonattainment areas to apply controls on VOC and NO_X emission sources to achieve emission reductions. Among effective control measures, RACT controls significantly reduce VOC and NO_X emissions from major stationary sources. NO_X and VOC are referred to as ozone precursors and are emitted by many types of pollution sources, including motor vehicles, power plants, industrial facilities, and area wide sources, such as consumer products and lawn and garden equipment. Scientific evidence indicates that adverse public health effects occur following exposure to ozone. These effects are more pronounced in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.

RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53761 at 53762, September 17, 1979). Section 182 of the CAA sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the CAA, and referred to as RACT fix-up requires the correction of RACT rules for which EPA identified deficiencies before the CAA was amended in 1990. Pennsylvania previously corrected its deficiencies under the 1-hour ozone standard and has no further deficiencies to correct under this section of the CAA. The second requirement, set forth in section 182(b)(2) of the CAA, applies to moderate (or worse) ozone nonattainment area as well as to marginal and attainment areas in ozone transport regions (OTRs) established pursuant to section 184 of the CAA, and requires these areas to implement RACT controls on all major VOC and NO_X emission sources and on all sources and source categories covered by a CTG issued by EPA.[1] *See* CAA section 182(b)(2) and 184(b).

[1] CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOC from various sources. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process. Pursuant to section 184(b)(1)(B) of the CAA, all areas in the

On July 18, 1997, EPA promulgated the health-based national ambient air quality standard (NAAQS) for ozone based on 8-hour average concentrations. 62 FR 38856. On April 30, 2004 (69 FR 23858), EPA designated 37 counties in the Commonwealth of Pennsylvania as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. On March 27, 2008, EPA revised the 8-hour ozone standard to a new 0.075 parts per million (ppm) level (73 FR 16436). On May 21, 2012, EPA finalized designations for the 2008 8-hour ozone NAAQS (77 FR 30087). EPA designated five areas in the Commonwealth of Pennsylvania as nonattainment. These areas include all or a portion of Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington, and Westmoreland Counties. On October 26, 2015, EPA revised the 8-hour ozone standard to a new 0.070 ppm level (80 FR 65292). This rulemaking does not address SIP requirements under the 2015 8-hour ozone NAAQS. The entire Commonwealth of Pennsylvania is in the OTR established by Congress in CAA section 184 and is thus subject to implementing RACT for all sources of VOC in the state covered by a CTG issued before or after November 15, 2990 pursuant to CAA section 184(b)(1)(B).

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT, for sources of emissions. Pursuant to section 184(b)(1)(B) of the CAA, regardless of an area's nonattainment status, all areas in the OTR must implement RACT with respect to sources of VOCs in the Commonwealth covered by a CTG issued before or after November 15, 1990. In addition, pursuant to CAA section 184(b)(2), unless more stringent nonattainment area requirements apply, stationary sources in states or portions of a state within the OTR that emit at least 50 tons per year of VOCs shall be considered major stationary sources subject to requirements applicable to major stationary sources as if the area were classified as a Moderate nonattainment area including requirements for CTGs and RACT.

Pennsylvania has implemented numerous RACT controls to meet the CAA RACT requirements under the 1-hour and 1997 8-hour ozone NAAQS. These RACT controls were promulgated in title 25 of the Pennsylvania Code, chapter 129, Standards for Sources. In accordance with CAA section 184(b)(1)(B), to achieve and maintain the 1997 and 2008 8-hour ozone NAAQS, the Commonwealth Pennsylvania must continue to adopt and implement VOC RACT emission control measures for source categories covered by all CTGs issued by EPA, as of 2014, including miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes, and pleasure craft surface coatings.

CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in assessing RACT for VOC from various sources. Section 183(e)(3)(c) provides that EPA may issue a CTG in lieu of a national regulation as RACT for a product category where EPA determines that the CTG will be substantially as effective as regulations in reducing emissions of VOC in ozone nonattainment areas. The recommendations in the CTG are based upon available data and information and may not apply to particular situations based on unique circumstances. To date, EPA has issued 44 CTGs, providing guidelines for the control of VOC emissions from these types of sources. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process.

EPA developed the CTG for MMPP in September 2008 (Publication No. EPA 453/R–08–003) that provides guidelines with regard to feasible emission limitations and operating practices for a number of different surface coatings used within this large and diverse source category. The 2008 MMPP CTG recommends separate sets of emission limits for metal parts coatings, plastic parts coatings, automotive/transportation and business machine plastic parts, and pleasure craft, depending on the type of coating used by a particular source. The miscellaneous metal product and plastic parts surface coatings categories under section 183(e) of the CAA include the coatings that are applied to the surfaces of a varied range of metal and plastic parts and products. Such parts or products are constructed either entirely or partially from metal or plastic. These miscellaneous metal products and plastic parts include, but are not limited to, metal and plastic components of the following types of products as well as the products themselves: Fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment, automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods, toys, recreational vehicles, pleasure craft (recreational boats), extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment, business machines, laboratory and medical equipment, electronic equipment, steel drums, metal pipes, and numerous other industrial and household products.

The pleasure craft coating category does not include coatings that are a part of other product categories listed under Section 183(e) of the CAA for which CTGs have been published or included in other CTGs. For pleasure craft surface coatings, EPA took into account California regulations when developing the 2008 MMPP CTG. California was the only state at that time with regulations governing VOC emissions from pleasure craft surface coatings. After EPA finalized the 2008 MMPP CTG, the pleasure craft coatings industry asserted to EPA that three of the VOC emission limits in the CTG were too low considering the performance requirements of the pleasure craft coatings and that the VOC emission limits recommended did not represent RACT for the National pleasure craft coatings industry. On September 14, 2009, EPA was contacted by the pleasure craft coatings industry to reconsider some of the VOC emission limits recommended in the final 2008 MMPP CTG. In response, EPA issued a memorandum on June 1, 2010, entitled ''Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration,'' recommending that the pleasure craft industry work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated. EPA has stated that states can use the recommendations from the MMPP CTG to form their own determinations as to what constitutes RACT for pleasure craft coating operations. CTGs impose no legally binding requirements on any entity, including pleasure craft coating facilities. As stated in the memorandum, EPA will evaluate state-developed RACT rules and determine whether the submitted rules meet the RACT requirements of the CAA.

OTR must implement RACT with respect to sources of VOCs in the state covered by a CTG issued before or after November 15, 1990.

II. Summary of SIP Revision and EPA Analysis

On November, 18, 2016, PADEP submitted a SIP revision which adopted the recommendations contained in the 2008 MMPP CTG with respect to sources in the miscellaneous metal products coatings and plastic parts coatings product categories. For the pleasure craft coating industry, after evaluating what is reasonable for this source category, PADEP determined that three VOC content limits applicable to the source categories should be revised from the limits in the CTG to represent RACT for the industry. This is based on EPA's memorandum that the pleasure craft industry should work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated.

The SIP revision includes an amendment to 25 Pa. Code Chapter 129—(relating to standards for sources) as follows: (1) Amended section 129.51(a)—(relating to general) in order to extend applicability; (2) added section 129.52(d)—''Control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings,'' in order to regulate VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings; (3) amended section 129.52(g)—(relating to surface coating processes) in order to clarify record keeping and reporting requirements; (4) added section 129.52(k) in order to clarify the applicability of the requirements of section 129.52, Table I, Category 10 in 25 Pa. Code Chapter 129; (5) amended section 129.67—(relating to graphic arts systems) in order to extend applicability; and (6) amended section 129.75—(relating to mobile equipment repair and refinishing) in order to specify exceptions for those who apply surface coating to mobile equipment already subject to requirements of sections 129.52 and 129.52(d). More detailed information on these provisions as well as a detailed summary of EPA's review and rationale for proposing to approve these SIP revisions can be found in the Technical Support Document (TSD) for this action which is available on line at *www.regulations.gov,* Docket number EPA–R03–OAR–2017–0437.

After evaluating this SIP revision submittal, EPA concludes that this SIP submittal which addresses the 2008 MMPP CTG and makes other related administrative changes, meets CAA requirements under sections 110, 172(c)(1), 182(b)(2)(A), and 184(b)(1) by adopting EPA's CTG and continuing to address and minimize VOC emissions in the Commonwealth of Pennsylvania as discussed in more detail in EPA's TSD for this rulemaking action. PADEP is adopting the requirements as recommended by the MMPPC CTG and adopting the pleasure craft industry recommendations for the following three coating categories: Antifouling Sealer/Tiecoat; Other Substrate Antifoulant; and Extreme High Gloss. For these three categories, the Commonwealth of Pennsylvania reviewed industry data and determined that for the purpose of functionality, cost, and VOC emissions, the alternative limits adopted for these three coating categories constitute RACT. EPA concludes that Pennsylvania's approach is consistent with the guidance memorandum entitled, ''Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration,'' and therefore, concludes that these regulations reflect RACT given costs and VOC emissions. The revised VOC content limits for the pleasure craft surface coatings proposed by PADEP are expected to have a de minimis impact on the amount of VOC emission reductions from the implementation of the revised VOC limits due to having no facilities with the potential to emit VOC emissions for pleasure craft surface coatings.

EPA notes that under 25 Pa. Code section 129.52d, PADEP is allowing the provisions of 25 Pa. Code section 129.52d to supersede the requirements of a RACT permit previously issued under 25 Pa. Code sections 129.91–129.95 if the permit was issued prior to January 1, 2017, to the owner or operator of a source subject to section 129.52d(a), except to the extent the RACT permit contains more stringent requirements. EPA further notes that the RACT permits issued under 25 Pa. Code sections 129.91–129.95 were issued for previous RACT determinations on a case-by-case basis; these permits were then submitted to EPA as source-specific SIP revisions and were previously acted on by EPA and would have been approved into the Pennsylvania SIP. If EPA approved those source-specific RACT determinations as meeting the requirements of RACT under the CAA, then the permits associated with those determinations were approved into the SIP as listed in 40 CFR 52.2020(d). The requirements of the source-specific RACT determination which EPA approved into the Pennsylvania SIP remain applicable requirements for the specific source unless and until Pennsylvania seeks to remove the limits from the SIP in accordance with CAA section 110(l). To the extent that the provisions of 25 Pa. Code section 129.52d are more stringent than those of a previous SIP-approved permit, PADEP will need to make a source-specific determination as to whether the requirements of the previous RACT permit apply, or those of section 129.52d, and submit that determination to EPA as a SIP revision in order to remove the previously approved permit from the SIP. Until such a SIP revision is made, EPA cannot remove the source-specific permits from the SIP and EPA is not taking such action in this rulemaking. Thus, the requirements of a previously SIP-approved permit are not superseded under the SIP. In accordance with section 110 of the CAA including 110(a) and 110(l), EPA determines that approval of this PADEP SIP revision will not interfere with reasonable further progress, attainment of any NAAQS or any other applicable CAA requirements.

III. Final Action

EPA is approving the Commonwealth of Pennsylvania's November 2016 SIP revision submittal, which adopts RACT requirements for miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings and which makes other related administrative changes, as the revision meets requirements in CAA sections 110, 172(c)(1), 182(b)(2)(A), and 184(b)(2). EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 15, 2017 without further notice unless EPA receives adverse comment by November 15, 2017. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of

this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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 Pennsylvania rule discussed in section II of this preamble. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[2]

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *December 15, 2017.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action, which approves Pennsylvania's SIP revision adopting CTGs for miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings, as well as general administrative changes related to cleaning activities, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 27, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by:
■ a. Revising the entries for Sections 129.51 and 129.52;
■ b. Adding an entry in numerical order for Section 129.52d; and
■ c. Revising the entries for Sections 129.67 and 129.75.

The revisions and addition read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

[2] 62 FR 27968 (May 22, 1997).

(1) * * *

State citation	Title/ subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
	Title 25—Environmental Protection Article III—Air Resources			
*	* *	*	*	* *
Section 129.51	General	10/22/16	10/16/17, [Insert **Federal Register** citation].	Revised Section 129.51(a).
Section 129.52	Surface coating processes	10/22/16	10/16/17, [Insert **Federal Register** citation].	Revised 129.52(g) and added Subsection 129.52(k).
*	* *	*	*	* *
Section 129.52d	Control of VOCs from Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Surface Coating Processes and Pleasure Craft Surface Coatings.	10/22/16	10/16/17, [Insert **Federal Register** citation].	New section 129.52d is added. This section does not remove or replace any permits approved under paragraph (d) of this section.
*	* *	*	*	* *
Section 129.67	Graphic arts systems	10/22/16	10/16/17, [Insert **Federal Register** citation].	Revised Subsection 129.67(a)(1).
*	* *	*	*	* *
Section 129.75	Mobile equipment repair and refinishing.	10/22/16	10/16/17, [Insert **Federal Register** citation].	Revised Subsection 129.75(b)(1). Previous approval 8/14/00 (c)(148).
*	* *	*	*	* *

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[FR Doc. 2017–22241 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0078; FRL–9969–42–Region 4]

Air Plan Approval: Georgia; New Source Review and Permitting Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 15, 2017, direct final rule that approves changes to Georgia's state implementation plan (SIP) related to new source review (NSR) permitting for prevention of significant deterioration (PSD). EPA will address the comment in a separate final action based upon the proposed rulemaking action, also published on August 15, 2017. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 38605, on August 15, 2017, is withdrawn effective October 16, 2017.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 15, 2017 (82 FR 38605), EPA published a direct final rule approving portions of several SIP revisions submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (GA EPD), on December 15, 2011, July 25, 2014, and November 12, 2014. EPA took a direct final action to approve portions of the December 15, 2011, July 25, 2014, and November 12, 2014, submissions that made changes to the following GA EPD regulations: Rule 391–3–1–.02(7)—''Prevention of Significant Deterioration of Air Quality (PSD),'' which applies to the construction and modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C of title I of the CAA; and Rule 391–3–1–.03(8)—''Permit Requirements,'' which applies generally to the permitting program, including permitting requirements that apply to the construction and modification of any major stationary sources in nonattainment areas as required by part D of title I of the CAA, referred to as nonattainment new source review.

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revisions should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. EPA specified, however, that if a comment were received on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. It was also explained that all

public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the portion of the direct final rule that made changes to Rule 391–3–1–.02(7) only, as submitted in the November 12, 2014, SIP revision. As a result of the comment received, EPA is withdrawing the direct final rule. EPA will address the comment in a separate final action based on the proposed action also published on August 15, 2017 (82 FR 38646). EPA will not open a second comment period for this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendments to 40 CFR 52.570(c) published on August 15, 2017 (82 FR 38605), are withdrawn effective October 16, 2017.

[FR Doc. 2017–22251 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0078; FRL–9969–43–Region 4]

Air Plan Approval; Georgia: New Source Review Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve changes to the Georgia State Implementation Plan (SIP) to revise new source review (NSR) permitting regulations. EPA is approving a SIP revision submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (GA EPD), on December 15, 2011, July 25, 2014, and November 12, 2014. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective November 15, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0078. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is the Agency taking?

On November 12, 2014, GA EPD submitted a SIP revision to EPA for approval that involves changes to Georgia's regulations to make them consistent with federal requirements for NSR permitting, among other changes. As described below, EPA is approving certain portions of this Georgia submission that makes changes to Rule 391–3–1–.02(7)—''Prevention of Significant Deterioration of Air Quality (PSD),'' which applies to the construction and modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C of title I of the CAA. Georgia's PSD regulations at Rule 391–3–1–.02(7) were last updated in the SIP on April 9, 2013. *See* 78 FR 21065. EPA is also approving Rule 391–3–1.03(8)—''Permit Requirements'' at paragraph (g), which revises NNSR rules, and at paragraph (d) as explained in the August 15, 2017 (82 FR 38646) direct final rule.

Georgia's November 12, 2014 SIP revision makes changes to the PSD regulations to reflect changes to the federal PSD regulations at 40 CFR 52.21, including provisions promulgated in the following federal rule: ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$): [1] Amendment to the Definition of 'Regulated NSR Pollutant' Concerning Condensable Particulate Matter,'' Final Rule, 77 FR 65107 (October 25, 2012) (hereinafter referred to as the $PM_{2.5}$ Condensables Correction Rule). Georgia's November 12, 2014 SIP revision also makes changes to Georgia's PSD program to incorporate plantwide applicability limits (PALs) for greenhouse gases (GHGs) as allowed in the federal rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits.'' *See* 77 FR 41051 (July 12, 2012) (hereinafter referred to as the GHG Step 3 Rule).[2]

[1] Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. Fine particles in the atmosphere are made up of a complex mixture of components including sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. The health effects associated with exposure to $PM_{2.5}$ include potential aggravation of respiratory and cardiovascular disease (*i.e.,* lung disease, decreased lung function, asthma attacks and certain cardiovascular issues). On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15.0 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$ (62 FR 38652). At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5,}$ such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary 24-hour NAAQS for $PM_{2.5}$ to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ (71 FR 61236). On January 15, 2013, EPA published a final rule revising the annual $PM_{2.5}$ NAAQS to 12 $\mu g/m^3$(78 FR 3086).

[2] The $PM_{2.5}$ Condensables Correction Rule and the GHG Step 3 Rule are discussed in more detail in

Continued

At this time, EPA is not acting on the changes to Rule 391–3–1–.01—''Definitions,'' at paragraphs (llll) and (nnnn), and Rule 391–3–1–.02(4)—''Ambient Air Standards,'' as included in the November 12, 2014 submittal, because EPA approved them on July 31, 2015. *See* 80 FR 45609.

EPA is also not acting on a change included in the November 12, 2014 submittal at Rule 391–3–1–.02(7)(a)(2)(iv). This provision would have incorporated by reference the federal definition of the term ''subject to regulation,'' but provided that incorporation of the federal regulation would be automatically rescinded if certain triggering events occurred. EPA previously disapproved the portion of a January 13, 2011 SIP revision that sought to include Rule 391–3–1–.02(7)(a)(2)(iv) in the SIP. *See* 81 FR 11438 (March 4, 2016). Because this provision is not part of Georgia's SIP, EPA is not acting on the State's proposed change to that provision.

Finally, EPA is not acting on the changes included in the November 12, 2014 submittal regarding a new definition of the term ''regulated NSR pollutant'' at Rule 391–3–1–.02(7)(a)(2)(ix) because Georgia withdrew these changes from EPA's consideration in a December 1, 2016 letter.[3]

II. Background

On August 15, 2017 (82 FR 38646), EPA proposed to approve several changes to Georgia's SIP, including changes to Rule 391–3–1–.02(7) in the State's November 12, 2014, SIP revision adopting the $PM_{2.5}$ Condensables Correction Rule and GHG PALs from the GHG Step 3 Rule. The proposed rule accompanied a direct final rule published on the same day in the **Federal Register**. *See* 82 FR 38605. EPA received an adverse comment on the portion of the rulemaking regarding the changes to Rule 391–3–1–.02(7) concerning GHG permitting. Accordingly, EPA is withdrawing the direct final action through a separate action published elsewhere in this issue of the **Federal Register**. EPA did not receive comments on Rule 391–3–1–.03(8)—''Permit Requirements'' see the August 15, 2017, direct final action for more information concerning the approval of this rule.

the August 15, 2017 direct final rule, which is being withdrawn in the rules section of this **Federal Register**. *See* 82 FR 38605.

[3] In the December 1, 2016 letter, Georgia also withdrew changes regarding the term ''regulated NSR pollutant'' at Rule 391–3–1–.02(7)(a)(2)(ix). The December 1, 2016 letter is included in the docket for this action.

III. Response to Comment

As stated previously, EPA received one adverse comment on the direct final rule. This comment is located in the docket for this action, and a summary of the comment and EPA's response is provided below.

Comment: The Commenter ''agree[d] with the action being taken,'' but asserted that EPA should ''require PSD permits for GHG only sources . . . and disapprove the Georgia SIP revision and put in place a FIP [Federal Implementation Plan] which would control GHGs of major stationary sources.'' [4]

Response: Georgia has a SIP-approved PSD program that includes the regulation of GHG-only sources under Step 2 of the GHG Tailoring Rule. *See* 76 FR 55572 (September 8, 2011). Georgia did not request removal of the Step 2 regulations from its SIP in the November 12, 2014 SIP revision; therefore, Step 2 permitting is outside the scope of this action. As it relates to GHG permitting, this action only incorporates the GHG PAL provisions from EPA's GHG Step 3 Rule into Georgia's SIP.

Although Step 2 permitting is beyond the scope of this action, EPA notes that the United States Supreme Court invalidated EPA's regulation of Step 2 sources in *Utility Air Regulatory Group (UARG)* v. *EPA, 134 S. Ct. 2427* (2014). In accordance with this decision, the United States Court of Appeals for the District of Columbia Circuit vacated the federal regulations that implemented Step 2 of the GHG Tailoring Rule. *See Coalition for Responsible Regulation, Inc.* v. *EPA,* 606 Fed. Appx. 6, 7 (D.C. Cir. 2015). Subsequently, EPA removed the vacated elements from its rules. *See* 80 FR 50199 (August 19, 2015). EPA therefore no longer has the authority to conduct PSD permitting for Step 2 sources, approve provisions submitted by a state for inclusion in its SIP providing this authority, or put a FIP in place to permit Step 2 sources.

[4] On January 2, 2011, GHG emissions were, for the first time, covered by the PSD and title V operating permit programs. *See* 75 FR 17004 (April 2, 2010). To establish a process for phasing in the permitting requirements for stationary sources of GHGs under the CAA PSD and title V programs, on June 3, 2010, the EPA published a final rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (hereinafter referred to as the GHG Tailoring Rule). *See* 75 FR 31514. In Step 1 of the GHG Tailoring Rule, which began on January 2, 2011, the EPA limited application of PSD and title V requirements to sources of GHG emissions only if they were subject to PSD or title V ''anyway'' due to their emissions of pollutants other than GHGs. These sources are referred to as ''anyway sources.'' In Step 2 of the GHG Tailoring Rule, which applied as of July 1, 2011, the PSD and title V permitting requirements applied to some sources that were classified as major sources based solely on their GHG emissions or potential to emit GHGs. Step 2 also applied PSD permitting requirements to modifications of otherwise major sources that would increase only GHG emissions above the level in the EPA regulations. EPA generally described the sources covered by PSD during Step 2 of the GHG Tailoring Rule as ''Step 2 sources'' or ''GHG-only sources.''

IV. 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 Georgia Rule 391–3–1–.02(7)—''Prevention of Significant Deterioration'' at subparagraph (a)(1), effective October 14, 2014,[5] which revises PSD rules, and Rule 391–3–1–.03(8) ''Permit Requirements'' at paragraph (g), effective September 13, 2011, which revises NNSR rules, and at paragraph (d), effective August 1, 2013, which revises generally applicable permitting requirements. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[6]

V. Final Action

EPA is approving the aforementioned changes to the Georgia SIP regarding the $PM_{2.5}$ Condensables Correction Rule and GHG PALs from the GHG Step 3 Rule, submitted on November 12, 2014, because they are consistent with the CAA and its implementing regulations.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. This action merely approves state law as meeting Federal requirements and does not impose

[5] See Section I, above, for additional detail.

[6] 62 FR 27968 (May 22, 1997).

additional requirements beyond those imposed by state law. For that reason, this action:

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

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 L—Georgia

■ 2. Section 52.570(c) is amended by revising the entries ''391–3–1–.02(7)'' and ''391–3–1–.03'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
391–3–1–.02(7)	Prevention of Significant Deterioration of Air Quality (PSD).	10/14/2014	10/16/2017, [Insert citation of publication].	EPA is not incorporating the revision to Georgia Rule 391–3–1–.02(7)(a)(2)(iv) included in Georgia's November 12, 2014 SIP submittal because that provision is not in the SIP. *See* March 4, 2016 publication. The version of Georgia Rule 391–3–1–.02(7) in the SIP does not incorporate by reference: (1) The provisions amended in the Ethanol Rule to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t), or (2) the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely by the Fugitive Emissions Interim Rule, see March 30, 2011 publication.

EPA-APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	* *	* *
391–3–1–.03	Permits	8/1/2013	10/16/2017, [Insert citation of publication].	Changes specifically to (8)—Permit Requirements at (d) (state effective August 1, 2013) and (g) (state effective September 13, 2011).
*	*	*	* *	* *

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[FR Doc. 2017–22250 Filed 10–13–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0392; FRL–9966–73]

Fenpicoxamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fenpicoxamid (XDE 777) in or on banana, rye, and wheat. Dow AgroSciences LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 16, 2017. Objections and requests for hearings must be received on or before December 15, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0392, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0392 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 15, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0392, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 20, 2016 (81 FR 92758) (FRL–9956–04), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5E8440) by Dow AgroSciences LLC, 9330 Zionsville Rd, Indianapolis, IN 46268. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide fenpicoxamid (XDE- 777) in or on banana at 0.1 parts per million (ppm), rye, grain and wheat, grain at 0.7 ppm; and residues of fenpicoxamid and its metabolite X12326349 expressed as fenpicoxamid

equivalents in or on meat and fat from cattle, goats, and sheep at 0.01 ppm; and meat byproducts of cattle, goats, and sheep at 0.02 ppm. That document referenced a summary of the petition prepared by Dow AgroSciences LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing. Based upon review of the data supporting the petition, EPA is establishing tolerances as follows: 0.15 ppm for banana and 0.60 ppm for rye, grain and wheat, grain. In addition, EPA has concluded that no tolerances are needed for livestock commodities at this time. The reason for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fenpicoxamid including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fenpicoxamid follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Fenpicoxamid has no significant acute toxicity via oral, dermal or inhalation route of exposure. Moreover, it is not a skin irritant and does not cause skin sensitization.

Liver effects were consistently observed in mice regardless of duration; however, the severity, magnitude, and diversity of the liver response progressed from adaptive in subchronic exposures to adverse in chronic exposures. Mice exposed to fenpicoxamid in the diet for 80 weeks experienced liver weight increase accompanied by microscopic changes including very slight to moderate centrilobular/midzonal hepatocellular hypertrophy with altered tinctorial properties (increased cytoplasmic eosinophilia), vacuolization consistent with fatty change, and very slight hepatocyte necrosis. These liver effects also coincided with an increased incidence of microscopic calculi within the gallbladder in both sexes. A treatment-related increase in liver tumors were seen in male mice and is the basis for the Agency's classification of the chemical as ''Suggestive Evidence of Carcinogenic Potential''. The Agency determined that a non-linear approach adequately accounted for all chronic toxicity, including carcinogenicity, that could result from chronic exposure to fenpicoxamid and, therefore, quantification of carcinogenic potential was not required. This decision was based on the following considerations: (1) There was limited evidence of carcinogenicity in the fenpicoxamid toxicity database; (2) the concern for mutagenicity and genotoxicity is low; and (3) there was no evidence of carcinogenicity at doses at or below the chronic reference dose.

Rats were likewise only adversely affected by treatment following chronic exposures. Chronic dietary exposure elicited treatment-related changes in the kidneys (increased severity of chronic progressive glomerulonephropathy) that were considered detrimental to the rat's health. However, unlike mice, chronic exposure did not elicit an increase in neoplasms in any tissue. Rabbits and dogs tolerated oral exposure up to doses of 495 and 1,115 milligrams/kilogram/day (mg/kg/day), respectively, without any signs of deteriorating health. There was no evidence of fetal susceptibility in rats or rabbits, or offspring susceptibility in rats. None of the available studies produced evidence of treatment-induced immunotoxicity or neurotoxicity.

Specific information on the studies received and the nature of the adverse effects caused by fenpicoxamid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Fenpicoxamid (XDE–777): Human Health Risk Assessment to Establish Tolerances for Bananas, Wheat, and Rye Commodities Without U.S. Registration'' at pages 10 through 20 in docket ID number EPA–HQ–OPP–2016–0392.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for fenpicoxamid used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FENPICOXAMID FOR USE IN HUMAN HEALTH RISK ASSESSMENTS

Exposure/scenario	Point of departure	Uncertainty/FQPA safety factors	RfD, PAD, level of concern for risk assessment	Study and toxicological effects
Acute Dietary (General Population, including Infants and Children).	There were no effects in the toxicity database that could be attributed to a single dose; therefore, an acute POD was not identified.			
Chronic Dietary (All Populations).	NOAEL = 40 mg/kg/day.	UF_A = 10x UF_H = 10x FQPA SF = 1x.	cRfD = 0.40 mg/kg/day cPAD = 0.40 mg/kg/day.	Carcinogenicity study—mouse. MRID 49731126. LOAEL = 156 and 388 mg/kg/day for males and females, respectively, based on treatment-related adverse liver effects in males (increased liver weight, hypertrophy, hepatocyte necrosis and fatty change) and females (increased liver weight, hypertrophy and fatty change) and gall bladder calculi.
Cancer (oral, dermal, inhalation).	''Suggestive Evidence of Carcinogenic Potential'' based on the presence of liver tumors in male mice only. The cRfD is protective of carcinogenic effects.			

Point of Departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = no observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = FQPA Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fenpicoxamid, EPA assessed dietary exposures from fenpicoxamid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for fenpicoxamid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the U.S. Department of Agriculture's (USDA's) 2003–2008 food consumption data from the USDA's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA used tolerance-level residues and 100% crop treated.

iii. *Cancer.* As discussed in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to fenpicoxamid.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residues and/or PCT information in the dietary assessment for fenpicoxamid. Tolerance-level residues and 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* Because there are no domestic uses of fenpicoxamid registered in the United States, there will not be residues of fenpicoxamid in drinking water. Therefore, a drinking water assessment is not required.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Fenpicoxamid is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found fenpicoxamid to share a common mechanism of toxicity with any other substances, and fenpicoxamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that fenpicoxamid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Developmental toxicity was not observed in the rat or rabbit developmental studies and, no reproductive or offspring effects were observed in the reproduction toxicity study. As a result, EPA concluded there is low concern for prenatal or postnatal sensitivity from fenpicoxamid exposure.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be

adequately protected if the FQPA SF were reduced to 1X for all exposure scenarios. That decision is based on the following findings:

i. The toxicity database for fenpicoxamid is complete.

ii. There is no indication that fenpicoxamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that fenpicoxamid results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, fenpicoxamid is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fenpicoxamid from food for the highest exposed population subgroup, children 1–2 years of age, is 0.002737 mg/kg/day or <1.0% of the cPAD. The chronic dietary exposure estimate for the general population is 0.001022 mg/kg/day or <1.0% of the cPAD.

3. *Short-term and intermediate-term risk.* Because fenpicoxamid is not registered for any uses that may result in residential exposure, fenpicoxamid is not expected to cause any short-term or intermediate-term risk not already accounted for in the Agency's assessment of chronic risk.

4. *Aggregate cancer risk for U.S. population.* Based on the Agency's assessment of chronic risk, the Agency concludes that fenpicoxamid is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to fenpicoxamid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography method with tandem mass spectrometry detection (LC/MS/MS), Method No. 120615) is available to enforce the tolerance expression.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

Codex has not established any MRLs for residues of fenpicoxamid.

C. Revisions to Petitioned-For Tolerances

EPA is establishing tolerances for wheat, grain and rye, grain (at 0.60 ppm) that differ from what the petition requested (0.7 ppm). The petitioner included only wheat grain residues for individual growing season/area combinations. Including all residues for wheat grain in the OECD MRL calculator in accordance with Agency policy results in a tolerance level of 0.60 ppm. Because the wheat grain data can be used to assess residues in rye grain, the Agency is establishing a tolerance at 0.60 ppm for rye grain as well. Finally, although the notice of filing and the petition summary indicate that the petitioner was seeking tolerances for wheat and rye, the section of the petition that listed actual requested tolerances more narrowly sought only ''wheat, grain'' and ''rye, grain'' tolerances because those are the forms in which the wheat and rye will be imported. Accordingly, EPA is establishing tolerances for the commodities ''wheat, grain'' and ''rye, grain''.

EPA is establishing a different tolerance level for banana than what was requested based on available residue data and the OECD calculator, and in order to harmonize with Canada's MRL.

EPA is not establishing any of the petitioned-for tolerances for livestock commodities. Based on the results of the livestock feeding studies, the residues of concern for livestock commodities (fenpicoxamid and X12326349) would be below the limit of quantification (LOQ) of the enforcement analytical method. Therefore, the Agency concludes, as indicated in 40 CFR 180.6(a)(3), that there is no reasonable expectation of finite residues and no tolerances are needed for livestock commodities at this time.

V. Conclusion

Therefore, tolerances are established for residues of fenpicoxamid and its metabolites and degradates, in or on banana at 0.15 ppm, and rye and wheat grain at 0.60 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 6, 2017.

Richard P. Keigwin, Jr.,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.109 to subpart C to read as follows:

§ 180.109 Fenpicoxamid; Tolerances for residues.

(a) *General.* Tolerances are established for residues of fenpicoxamid including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels for fenpicoxamid is to be determined by measuring only fenpicoxamid ([[[4-methoxy-2-[[[(3*S,7R,*8*R,*9*S*)-9-methyl-8-(2-methyl-1-oxopropoxy)-2,6-dioxo-7-(phenylmethyl)-1,5-dioxonan-3-yl]amino]carbonyl]-3-pyridinyl]oxy]methyl 2-methylpropanoate) in or on the commodity.

Commodity	Parts per million
Banana*	0.15
Wheat, grain*	0.60
Rye, grain*	0.60

*There are no U.S. registrations for use of fenpicoxamid on this commodity.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2017–22357 Filed 10–13–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0142; FRL–9966–13]

Triflumezopyrim; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of triflumezopyrim in or on rice, grain and rice, hulls. E.I. Dupont de Nemours and Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 16, 2017. Objections and requests for hearings must be received on or before December 15, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0142, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test

guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0142 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 15, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0142, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of April 25, 2016 (81 FR 24044) (FRL–9944–86), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E8448) by E.I. Dupont de Nemours and Company, 974 Centre Road, Wilmington, DE 19805. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide triflumezopyrim (2,4-dioxo-1-(5-pyrimidinylmethyl)-3-[3-(trifluoromethyl)phenyl]-2*H*-pyrido[1,2-*a*]pyrimidinium inner salt), in or on rice, grain at 0.20 parts per million (ppm). That document referenced a summary of the petition prepared by E.I. Dupont de Nemours and Company, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the tolerance for rice, grain to 0.40 ppm based on the OECD tolerance calculation procedure. Additionally, EPA is requiring a tolerance for rice, hull at 1.0 ppm. The reason for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for triflumezopyrim including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with triflumezopyrim follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The most common adverse effect observed across the triflumezopyrim toxicological database was a decrease in absolute bodyweight in dogs and rats in both sexes following subchronic and chronic exposures. No additional non-cancer effects relevant for human health risk assessment were noted in the subchronic rat and dog oral toxicity studies. No effects were seen in the mice and rabbit studies, including the dermal toxicity study.

Chronic exposures in rats resulted in an increased incidence of bile duct hyperplasia in the presence of decreases in absolute bodyweight (~70 milligrams/kilogram/day (mg/kg/day)). Additional lesions were seen in the liver, testes, and uterus at a higher dose (~400 mg/kg/day). The rat combined chronic/carcinogenicity study showed an increase in uterine and liver tumors at a dose of ~400 mg/kg/day, which is considered excessive for evaluating carcinogenic potential. The remaining doses were not considered excessive and did not show treatment-related tumors in either sex. Liver tumors in male mice during the mouse carcinogenicity study were considered treatment-related. The proposed mode of action (constitutive androstane receptor (CAR)-mediated proliferation) for the liver tumors in male mice was adequately supported by mechanistic data that clearly identified the sequence of events, dose-response concordance and temporal relationship for this tumor type. Triflumezopyrim is classified as ''not likely to be carcinogenic to humans at dose levels that do not cause a significant induction in CYP2B activity.'' Based on the mechanistic studies provided, significant induction in CYP2B only occurred at 7,000 ppm (727 mg/kg/day in male mice); the chronic reference dose used for the Agency's safety assessment is based on a no observed adverse effect level of 17 mg/kg/day. As a result, the Agency concludes that the chronic reference dose will be protective of potential carcinogenicity, which can be assessed through a non-linear approach. There is no mutagenicity concern based on the results from the *in vitro* and *in vivo* genetic toxicity studies.

Evidence of increased quantitative susceptibility in the rat developmental toxicity study was observed in the form of incomplete ossification of the parietal skull in the fetuses of dams treated with a relatively high dose (200 mg/kg/day) in the absence of any maternal toxicity. There was no evidence of susceptibility in the rat reproduction toxicity or rabbit developmental toxicity study.

Possible signs of neurotoxicity were observed in the acute neurotoxicity (ACN) in rats as well as in the 28-day subchronic oral toxicity study in dogs. An overall decrease in motor activity was observed in the ACN study on the day of dosing. Animals also showed slight decreases in body temperature and number of rearing movements, as well as increases in the incidence of high posture, at a dose 4x higher than what elicited the decrease in motor activity. The 28-day subchronic oral toxicity study in dogs showed neurobehavioral signs such as slight impairment of forelimb and/or hindlimb strength and effects on pupil constriction. However, the neurobehavioral signs were not seen in studies of longer duration in dogs.

Although evidence of neurotoxicity was seen in the ACN study in rats and 28-day oral toxicity study in dogs, concern is low since: (1) Effects are well-characterized with clearly established NOAEL/LOAEL values; (2) no additional neurotoxic effects were seen in the toxicological database including the subchronic neurotoxicity study (SCN); (3) there were no corroborating neuropathological findings; (4) the neurobehavioral signs in the dog were not observed in studies of longer durations in dogs; and (5) the selected endpoints for risk assessment are protective of these effects.

Specific information on the studies received and the nature of the adverse effects caused by Triflumezopyrim as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document Triflumezopyrim: Human Health Risk Assessment to Establish Tolerances for Rice Without U.S. Registration at page 21 in docket ID number EPA–HQ–OPP–2016–0142.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/guidance-human-health-risk-assessments-pesticides.*

A summary of the toxicological endpoints for Triflumezopyrim used for human risk assessment is shown in the Table below.

SUMMARY TABLE OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TRIFLUMEZOPYRIM FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations) ..	NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	aPAD = 1.0 mg/kg/day.	Acute neurotoxicity study (rats). LOAEL = 500 mg/kg/day based on decreased motor activity on day of dosing.
Chronic dietary (All populations)	NOAEL = 17 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	cPAD = 0.17 mg/kg/day.	Combined chronic/carcinogenicity study (rats). LOAEL = 71/74 (M/F) mg/kg/day based on decreased absolute bodyweights in females and increased incidence of bile duct hyperplasia in males.
Cancer (Oral, dermal, inhalation).	Not likely to be carcinogenic to humans at dose levels that do not cause a significant induction in CYP2B activity. Quantification of risk using a non-linear approach (i.e., RfD) will adequately account for all chronic toxicity, including carcinogenicity.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_{DB} = to account for the absence of data or other data deficiency. UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL. UF_S = use of a short-term study for long-term risk assessment.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to triflumezopyrim, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from triflumezopyrim in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for triflumezopyrim. In estimating acute dietary exposure, EPA used food

consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat In America (NHANES/WWEIA). As to residue levels in food, EPA used an unrefined dietary analysis and incorporated tolerance-level residues and assumed 100% of all rice was treated.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 National Health and Nutrition Examination Survey, What We Eat In America (NHANES/WWEIA). As to residue levels in food, EPA used an unrefined dietary analysis and incorporated tolerance-level residues and assumed 100% of all rice was treated.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that triflumezopyrim is not likely to cause cancer to humans at dose levels that do not cause a significant increase in CYP2B activity. Additionally, there is no chronic risk from exposure to triflumezopyrim and the chronic reference dose is protective of potential carcinogenicity. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for triflumezopyrim. Tolerance-level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* Because there are no domestic registrations for triflumezopyrim in the United States, dietary exposure (acute and chronic) from imported commodities is the only source of exposure assessed. Residues from imported commodities are not expected to reach drinking water sources.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Triflumezopyrim is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found triflumezopyrim to share a common mechanism of toxicity with any other substances, and triflumezopyrim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that triflumezopyrim does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility in the rabbit developmental or the rat reproduction toxicity studies; however, there was evidence of increased quantitative susceptibility in the rat developmental study in rats where an increased incidence of incomplete ossification of the parietal skull was seen in the absence of maternal toxicity. Concern is low since: (1) The effect is well-characterized with clearly established NOAEL/LOAEL values; and (2) the selected endpoints for this chemical are protective of these effects.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for assessing risks for all populations. That decision is based on the following findings:

i. The toxicity database for triflumezopyrim is complete.

ii. Although there is evidence of neurotoxicity in the ACN study in rats and 28-day oral toxicity study in dogs for triflumezopyrim, the concern is low since: (1) The effects are well-characterized with clearly established NOAEL/LOAEL values; (2) no additional neurotoxic effects were seen in the toxicological database including the SCN; (3) there were no corroborating neuropathological findings; (4) the neurobehavioral signs in the dog were not observed in studies of longer durations in dogs; and (5) the selected endpoints for this chemical are protective of these effects. As a result, there is no need to require a developmental neurotoxicity study or retain the 10X to account for potential neurotoxic effects.

iii. Although there was evidence of increased quantitative susceptibility in the rat developmental toxicity study where incomplete ossification of the parietal skull in the fetuses of dams treated with a relatively high dose (200 mg/kg/day) was observed in the absence of any maternal toxicity, concern is low since: (1) The effect is well-characterized with clearly established NOAEL/LOAEL values and (2) the selected endpoints for this chemical are protective of these effects. There was no evidence of increased susceptibility in the rabbit developmental or the rat reproduction toxicity studies.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on considering that 100% of all rice was treated and using tolerance-level residues. Since the metabolites were found at insignificant levels in the metabolism studies, triflumezopyrim is considered the only residue of concern. These assessments will not underestimate the exposure and risks posed by triflumezopyrim.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to triflumezopyrim will occupy <1% of the aPAD for all infants <1 year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to triflumezopyrim from food will utilize <1% of the cPAD for all infants <1 year old, the population group receiving the greatest exposure. There are no residential uses for triflumezopyrim.

3. *Short-term and Intermediate-term risk.* Triflumezopyrim is not registered for any use patterns that would result in short-term or intermediate-term residential exposure. Because there are no residential uses for triflumezopyrim, as a result, aggregate risk estimates for short- and intermediate-term exposure are equivalent to the chronic dietary risk estimates and are not of concern.

4. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has determined that triflumezopyrim is not likely to be carcinogenic to humans at doses that do not cause a significant induction in CYP2B activity. Because there is no chronic risk from exposure to triflumezopyrim and the chronic reference dose is protective of potential carcinogenicity, triflumezopyrim is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to triflumezopyrim residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (DuPont Liquid chromatography Mass spectrometry/mass spectrometry (LC/MS/MS) methods 36348 and 45170) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for triflumezopyrim.

C. Revisions to Petitioned-For Tolerances

EPA is establishing a tolerance for rice, grain at 0.40 ppm, rather than at 0.20 ppm as requested, in addition to establishing a tolerance for rice, hulls of 1.0 ppm. The rice grain tolerance is based on the OECD tolerance calculation procedure with the inputted residues adjusted proportionally to reflect the maximum application rate. The raw agricultural commodity of ''rice, grain'' consists of the rice kernel, as well as the rice hull. The rice hull is considered a processed commodity for rice, and where residues concentrate in processed commodities, a higher tolerance to cover those residues is warranted. Because the available data indicates a higher level of residues on the rice hull, EPA is establishing a separate tolerance to cover those residues.

V. Conclusion

Therefore, tolerances are established for residues of triflumezopyrim, (2,4-dioco-1-(5-pyrimidinylmethyl)-3-[3-(trifluoromethyl)phenyl]-2H-pyrido[1,2-a]pyrimidinium inner salt), in or on rice, grain at 0.40 and rice, hulls at 1.0 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 7, 2017.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.107 to subpart C to read as follows:

§ 180.107 Triflumezopyrim; tolerance for residues.

(a) *General.* Tolerances are established for residues of the insecticide triflumezopyrim, including its metabolites and degradates, in or on the following food commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only triflumezopyrim (2,4-dioxo-1-(5-pyrimidinylmethyl)-3-[3-(trifluoromethyl)phenyl]-2*H*-pyrido[1,2-*a*] pyrimidinium inner salt) in or on the commodity.

Commodity	Parts per million
Rice, grain *	0.40
Rice, hulls *	1.0

* There are no U.S. registrations for the use of triflumezopyrim on these commodities.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2017–22356 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 16–269, FCC 17–75]

Procedures for Commission Review of State Opt-Out Request From the FirstNet Radio Access Network

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of six months, the information collection associated with the Commission's Procedures for Commission Review of State Opt-Out Request from the FirstNet Radio Access Network, Report and Order (Report and Order)'s rules and procedures for administering the state opt-out process as provided under the Middle Class Tax Relief and Job Creation Act of 2012, as well delineating the specific standards by which the Commission will evaluate state opt-out applications. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments to 47 CFR 90.532(b) and (c) published at 82 FR 46690, October 6, 2017, are effective November 6, 2017.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, FCC, at (202) 418–2991 or via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on October 6, 2017, OMB approved this information collection under the emergency processing of the Paperwork Reduction Act (PRA), 5 CFR 1320.13, for a period of six months, the information collection requirements relating to the State opt-out rules contained in the Commission's Report and Order, FCC 17–75, published at 82 FR 46690, October 6, 2017. The OMB Control Number is 3060–1245. The Commission publishes this document as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1–A620, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1245, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on October 6, 2017, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR 90.532. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1245.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1245.

OMB Approval Date: October 6, 2017.

OMB Expiration Date: April 30, 2018.

Title: Procedures for Commission Review of State Opt-Out Request from the FirstNet Radio Access Network.

Form Number: N/A.

Respondents: State, local or tribal governments.

Number of Respondents and Responses: 55 respondents; 110 responses.

Estimated Time per Response: 0.25 hours per initial notification.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for requiring licensees to submit this information enter into the written agreements is contained in the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112 96, 126 Stat. 156 §§ 6001–6303, 6413 (codified at 47 U.S.C. 1401–1443, 1457).

Total Annual Burden: 26,414 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Alternative state plans are very likely to contain proprietary information as well as information whose disclosure could compromise network security. Parties may therefore seek confidential treatment of any filing under our Part 0 rules, including the use of a protective order process to allow other those granted party status to the restricted proceeding access to the information on a confidential basis.

Privacy Act: No impact(s).

Needs and Uses: The purpose of requiring this collection is to comply

with Middle Class Tax Relief and Job Creation Act of 2012. The Middle Class Tax Relief and Job Creation Act of 2012 provides that ''the Governor shall choose whether to participate in the deployment of the nationwide, interoperable broadband network as proposed by [FirstNet,] or conduct its own deployment of a radio access network in such State.'' If a Governor chooses not to participate in the NPSBN, section 6302(e)(3)(A) of the Act requires the Governor to ''notify [FirstNet], the NTIA, and the Commission of such decision.'' The Act also states that an opt-out state ''shall submit'' to the Commission an ''alternative plan'' for ''the construction, maintenance, operation, and improvements'' of the RAN within the state. Section 3(C)(ii) of the Act mandates that ''upon submission of this plan, the Commission shall approve or disapprove of the plan.''

We require that either the Governor or the Governor's his duly authorized designee may provide notification of the Governor's decision. The opt-out notification to the Commission must also include a certification that the state is providing simultaneous notice of its opt-out decision to both to NTIA and FirstNet. To facilitate the electronic filing of opt-out notifications, we will establish the email address *opt-out@fcc.gov* as the address for this purpose.

Each opt-out state will have 60 days from the completion of its Request For Proposal (240 days from the date of its opt-out notification to the Commission) to file an alternative state plan via the secure email address *opt-out@fcc.gov* or via certified mail to the Secretary's office.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22339 Filed 10–13–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 174

[Docket No. PHMSA–2017–0102]

Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notification of availability; request for comments.

SUMMARY: This document provides notice that PHMSA and the Federal Railroad Administration (FRA) are publishing a revised Regulatory Impact Analysis (RIA) updating the original RIA associated with the electronically controlled pneumatic (ECP) brake provision of PHMSA's May 8, 2015, Final Rule titled ''Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains'' (Final Rule). The agencies are publishing the updated RIA in response to the mandate of the Fixing America's Surface Transportation (FAST) Act. The updated RIA incorporates new testing and analysis the National Academy of Sciences (NAS) reviewed, recommendations from two U.S. General Accountability Office (GAO) audits, and updates to the costs and benefits of the provision of the Final Rule based on current economic conditions. PHMSA invites comments on all aspects of the updated RIA and the agency will respond to all relevant comments received.

DATES: Comments must be received by November 1, 2017. Comments received after that date will be considered to the extent practicable, provided the comments do not result in additional delay or expense.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2017–0102 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* U.S. DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- *Instructions:* If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard.

Privacy Act Statement

Under 5 U.S.C. 553(c), the Department of Transportation (DOT) solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Mark Johnson, Senior Economist, Pipeline and Hazardous Materials Safety Administration, by telephone at 202–366–4495 or by email at *mark.johnson@dot.gov;* or, Mark Anderson, Industry Economist, Federal Railroad Administration, by telephone at 202–493–6078 or by email at *mark.anderson@dot.gov.*

SUPPLEMENTARY INFORMATION: On May 8, 2015, PHMSA, in coordination with FRA, published a Final Rule adopting requirements designed to reduce the consequences and, in some instances, reduce the probability of accidents involving trains transporting large quantities of flammable liquids. *See* 80 FR 26643. The Final Rule defined certain trains transporting large volumes of flammable liquids as high-hazard flammable trains (HHFT) [1] and others as high-hazard flammable unit trains (HHFUT).[2] The Final Rule required HHFUTs transporting at least one flammable liquid classified as a packing group I material be operated with an ECP braking system by January 1, 2021, and all other HHFUTs be operated with an ECP braking system by May 1, 2023. *See* 49 CFR 174.310(a)(3).

In December 2015, Congress passed the FAST Act. Pub. L. 114–94, 129 Stat. 1686 (Dec. 4, 2015) (codified at 49 U.S.C. 20168). Section 7311 of the FAST Act (section 7311) established a process, including independent study and testing, for DOT to use in developing an updated RIA related to the Final Rule's ECP brake provision. The Secretary is also required to solicit public comment on the revised RIA, and issue a final updated RIA. Finally, Section 7311 requires the Secretary of Transportation to review the final updated RIA and determine if the final rule's ECP brake requirements are justified, based on whether the final updated RIA demonstrates that the benefits exceed the costs. The FAST Act requires this entire process to be completed no later than December 4, 2017.

Section 7311 required DOT to enter into an agreement with NAS to test ECP brakes and reevaluate the economic analysis supporting the ECP brake requirement of the Final Rule.[3] Section

[1] The Final Rule defined an HHFT as ''a single train transporting 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block or a single train carrying 35 or more loaded tank cars of a Class 3 flammable liquid throughout the train consist.'' *See* 49 CFR 171.8.

[2] The Final Rule defined an HHFUT as ''a single train transporting 70 or more loaded tank cars containing Class 3 flammable liquid.''

[3] In a March 17, 2016, letter, NAS declined to perform the testing, citing preliminary cost estimates to perform the testing in excess of $100 million and expressing concern about meeting the

7311 required the testing to ''objectively, accurately, and reliably measure[s] the performance of ECP brake systems relative to other braking technologies or systems, such as distributed power and 2-way end-of-train devices.'' The FAST Act also provided for GAO review of the potential costs and benefits of ECP brakes. In response, GAO completed an evaluation of the business benefits, safety benefits, and costs that DOT estimated in the RIA for the final rule.[4] Additionally, GAO recently completed a second evaluation comparing the forecasted values of certain data points that were used to support DOT's ECP brake analysis.[5] Both audits are discussed in the updated RIA.

PHMSA is providing the public with an opportunity to comment on the updated RIA. To enable PHMSA to meet section 7311's deadline, all comments must be received in the docket referenced in the **ADDRESSES** section of this document by November 1, 2017. Comments received after that date will be considered to the extent practicable, provided the comments do not result in additional delay or expense. All documents and comments related to this matter, including the updated RIA, are available for review at *http://www.regulations.gov* in docket number PHMSA–2017–0102.

Issued in Washington, DC on October 10, 2017, under authority delegated in 49 CFR part 1.97.

Drue Pearce,

Acting Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2017–22281 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XF747

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester 2 Georges Bank Cod Total Allowable Catch Area Closure; Updated 2017 Georges Bank Cod Annual Catch Limit for the Common Pool; Possession Prohibition for the Common Pool Fishery

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

ACTION: Temporary rule; area closure and inseason adjustment.

SUMMARY: We are closing the Georges Bank Cod Trimester Total Allowable Catch Area for the remainder of Trimester 2, through December 31, 2017. This action also prohibits possession of Georges Bank cod by common pool vessels for the remainder of the fishing year, through April 30, 2018. In addition, we are reducing the 2017 fishing year Georges Bank cod sub-annual catch limit for the common pool due to an overage in fishing year 2016.

DATES: Effective October 11, 2017, through April 30, 2018.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, (978) 281–9232, *spencer.talmage@noaa.gov.*

SUPPLEMENTARY INFORMATION: We recently approved Framework Adjustment 56, which set 2017 annual catch limits (ACLs) for groundfish stocks (82 FR 16133). The possibility of minor adjustments and corrections was noted in the Framework 56 proposed and final rules because final allocations are not always available at the time of the rulemaking for the upcoming fishing year.

Based on final 2016 catch information that recently became available, the fishing year 2016 common pool sub-ACL for Georges Bank (GB) cod was exceeded by 2.8 metric tons (mt). If the common pool sub-ACL for any stock is exceeded, we are required to reduce the common pool sub-ACL by the amount of the overage in the next fishing year. Therefore, this action reduces the fishing year 2017 GB cod common pool sub-ACL by 2.8 mt, which results in a revised 2017 GB cod common pool sub-ACL of 7.0 mt. The revised Trimester Total Allowable Catches (TACs) are provided in Table 1.

TABLE 1—CURRENT AND REVISED GEORGES BANK COD TRIMESTER TACS

	Trimester 1	Trimester 2	Trimester 3
Allocation Percentage	25%	37%	38%.
Current Trimester TAC	2.4 mt	3.6 mt	3.7 mt.
Revised Trimester TAC	1.7 mt	2.6 mt	2.7 mt.

As of October 3, 2017, the common pool fishery is projected to have caught 123 percent of the adjusted Trimester 2 TAC (2.6 mt) for GB cod. Additionally, the common pool fishery has caught 83 percent of its adjusted 2017 sub-ACL, and has only 1.2 mt left for the remainder of the fishing year. Federal regulations at 50 CFR 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester TAC Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As a result, effective October 11, 2017, the GB Cod Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2017, to all common pool vessels fishing on a Northeast multispecies trip with trawl gear, sink gillnet gear, and longline/hook gear, including handgear vessels. The GB Cod Trimester TAC Area consists of statistical areas 521, 522, 525, and 561. The area reopens at the beginning of Trimester 3, on January 1, 2018.

Data indicate that common pool vessels have caught a significant portion of the total catch from outside the statistical areas that will be affected by the closure described above. The Regional Administrator is authorized under 50 CFR 648.86(o)(1) to adjust possession and trip limits for common pool vessels to prevent exceeding the

statutory deadline. As an alternative, to meet the intent of the FAST Act, DOT conducted the testing itself and contracted with NAS to review and monitor the test plan.

[4] DOT's Rulemaking on Electronically Controlled Pneumatic Brakes Could Benefit from Additional Data and Transparency, GAO–17–122, Oct 12, 2016.

[5] 2015 Electronically Controlled Pneumatic Brake Rule: Comparison of DOT Forecasts for Selected Data Points for 2015 and 2016 to Preliminary Data for Those Years, GAO–17–567R, May 31, 2017

pertinent common pool quotas during the fishing year. Given this, and because the common pool has caught more than 80 percent of its annual quota, the possession of GB cod by all common pool vessels is prohibited effective October 11, 2017, through April 30, 2018. This action is intended to prevent the common pool from further exceeding its Trimester 2 TAC or from exceeding its annual quota.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to October 11, 2017, it may complete its trip within the Trimester TAC Area. A vessel that has set gillnet gear prior to October 11, 2017, may complete its trip by hauling such gear.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. If the common pool fishery exceeds its total quota for a stock in the 2017 fishing year, the overage must be deducted from the common pool's quota for that stock for fishing year 2018. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. However, any uncaught portion of the common pool's total annual quota may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

The NMFS Assistant Administrator has determined that this temporary rule is consistent with the Northeast Multispecies Fishery Management Plan, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This action is exempt from the procedures of Executive Order 12866 because this action contains no implementing regulations.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

There are several reasons that notice and comment are impracticable, unnecessary, and contrary to the public interest. First, the proposed and final rules for Framework 56 explained the possibility of minor adjustments and corrections because final allocations are not always available at the time of the rulemaking for the upcoming fishing year. These adjustments are routine and formulaic, required by regulation, and anticipated by industry. No comments were received on the potential for these adjustments, which provide an accurate accounting of the common pool's allocation.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool fishery is projected to have caught 123 percent of its Trimester 2 TAC for GB cod as of October 3, 2017. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GB Cod Trimester TAC Area and prohibition of GB cod possession. Not closing the area immediately and prohibiting GB cod possession increases the likelihood that the common pool fishery will further exceed its trimester TAC, or exceed its annual quota, to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Additional overages would negatively affect the common pool fishery as a result of future overage paybacks or premature closures of the fishery.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 11, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22347 Filed 10–11–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 161017970–6999–02]

RIN 0648–XF721

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2017 commercial summer flounder quota to the State of New York. This quota adjustment is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial quotas for North Carolina and New York.

DATES: Effective October 13, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the initial 2017 allocations were published on December 22, 2016 (81 FR 93842).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i)(A) through (C) in the evaluation of requests for quota transfers or combinations.

North Carolina is transferring 3,000 lb (1,361 kg) of summer flounder commercial quota to New York. This transfer was requested to repay landings by a North Carolina-permitted vessel that landed in New York under a safe harbor agreement.

The revised summer flounder quotas for calendar year 2017 are now: North Carolina, 1,536,693 lb (697,032 kg); and New York, 435,764 lb (197,659 kg); based on the initial quotas published in the 2017 Summer Flounder, Scup, and Black Sea Bass Specifications and subsequent transfers.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 10, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22272 Filed 10–13–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0949; Airspace Docket No. 17–ACE–11]

Proposed Amendment of Class E Airspace; Charles City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Northeast Iowa Regional Airport, Charles City, IA. The FAA is proposing this action due to the cancellation of the instrument approach procedures associated with the decommissioned Charles City non-directional radio beacon (NDB). Additionally, the name of the airport would be updated to coincide with the FAA's aeronautical database. This action would enhance the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before November 30, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2017–0949; Airspace Docket No. 17–ACE–11 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Northeast Iowa Regional Airport, Charles City, IA, to support IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0949/Airspace Docket No. 17–ACE–11.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this

document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (reduced from a 7-mile radius) of Northeast Iowa Regional Airport (previously Charles City Municipal Airport), Charles City, IA, and updating the name of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to cancellation of the instrument approach procedures associated with the decommissioned Charles City NDB, and to bring the airspace in compliance with FAA Order 7400.2L, Procedures for Handling Airspace Matters. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at this airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE IA E5 Charles City, IA [Amended]

Northeast Iowa Regional Airport, IA
(lat. 43°04′21″ N., long. 92°36′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Northeast Iowa Regional Airport.

Issued in Fort Worth, Texas, on October 5, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–22233 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0932; Airspace Docket No. 17–AEA–9]

Proposed Amendment of VOR Federal Airways V–20, V–31, V–33, V–308, and V–433; and Revocation of V–379; in the Vicinity of Nottingham, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify VHF Omnidirectional Range (VOR) Federal airways V–20, V–31, V–33, V–308, and V–433; and remove V–379; in the vicinity of Nottingham, MD. This action is necessary due to the planned decommissioning of the Nottingham, MD, VORTAC navigation aid, which provides navigation guidance for portions of the above routes. The Nottingham VORTAC is being decommissioned as part of the VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before November 30, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527 or (202) 366–9826. You must identify FAA Docket No. FAA–2017–0932 and Airspace Docket No. 17–AEA–9 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. The Docket Office (telephone 1 (800) 647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the VOR Federal airway route structure in the eastern United States to maintain the efficient flow of air traffic.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2017–0932 and Airspace Docket No. 17–AEA–9) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2017–0932 and Airspace Docket No. 17–AEA–9.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017 and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify the descriptions of VOR Federal airways V–20, V–31, V–33, V–308, and V–433; and to remove V–379; in the Vicinity of Nottingham, MD, due to the planned decommissioning of the Nottingham, MD, VORTAC. The proposed route changes are described below.

V–20: V–20 currently extends between McAllen, TX, and Nottingham, MD. The airway segments between Richmond, VA, and Nottingham, MD, would be removed. The amended route would, therefore, extend between McAllen, TX, and Richmond, VA.

V–31: V–31 currently extends between Patuxent River, MD, and Buffalo, NY. This proposal would remove the airway segment between Patuxent River, MD, and Nottingham, MD. The amended route would extend between Baltimore, MD, and Buffalo, NY.

V–33: V–33 currently extends between Harcum, VA, and Buffalo, NY. This action proposes to remove the segments between Harcum, VA, and Baltimore, MD. The amended route would extend between Baltimore, MD, and Buffalo, NY.

V–308: V–308 currently extends between Nottingham, MD, and Norwich, CT. This action would remove the route segment between Nottingham, MD, and Waterloo, DE. The amended route would extend between Waterloo, DE, and Norwich, CT.

V–379: V–379 currently extends between Nottingham, MD, and Smyrna, DE. V–379 would be removed in its entirety.

V–433: V–433 currently extends between Nottingham, MD, and Syracuse, NY. The segments between Nottingham, MD, and Dupont, DE, would be removed. The amended route would extend between Dupont, DE, and Syracuse, NY.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017 and effective September 15, 2017, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–20 [Amended]

From McAllen, TX, via INT McAllen 038° and Corpus Christi, TX, 178° radials; 10 miles 8 miles wide, 37 miles 7 miles wide (3 miles east and 4 miles west of centerline), Corpus Christi; INT Corpus Christi 054° and Palacios, TX, 226° radials; Palacios; Hobby, TX; Beaumont, TX; Lake Charles, LA; Lafayette, LA; Reserve, LA; INT Reserve 084° and Gulfport, MS, 247° radials; Gulfport; Semmes, AL; INT Semmes 048° and Monroeville, AL, 231° radials; Monroeville; Montgomery, AL; Tuskegee, AL; Columbus, GA; INT Columbus 068° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Barretts Mountain, NC; South Boston, VA; to Richmond, VA. The airspace on the main airway above 14,000 feet MSL from McAllen to 49 miles northeast and the airspace within Mexico is excluded.

V–31 [Amended]

From Baltimore, MD; INT Baltimore 004° and Harrisburg, PA, 147° radials; Harrisburg; Selinsgrove, PA; Williamsport, PA; Elmira, NY; INT Elmira 002° and Rochester, NY, 120° radials; Rochester; to INT Rochester 279° and Buffalo, NY 023° radials.

V–33 [Amended]

From Baltimore, MD; INT Baltimore 004° and Harrisburg, PA, 147° radials; Harrisburg; Philipsburg, PA; Keating, PA; Bradford, PA; Buffalo, NY.

V–308 [Amended]

From Waterloo, DE; Sea Isle; NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Groton, CT; to Norwich, CT. The airspace below 2,000 feet MSL that lies outside the United States and the airspace below 3,000 feet MSL between Kennedy, NY, 087° and 141° radials is excluded.

V–379 [Removed]

V–433 [Amended]

From Dupont, DE; Yardley, PA; INT Yardley 047° and Kennedy, NY, 253° radials; INT Kennedy 253° and LaGuardia, NY, 213° radials; LaGuardia; Bridgeport, CT; INT Bridgeport 324° and Pawling, NY, 160° radials; Pawling; INT Pawling 304° and Rockdale, NY, 116° radials; Rockdale; INT Rockdale 325° and Syracuse, NY, 100° radials; to Syracuse.

Issued in Washington, DC, on October 10, 2017.

Gemechu Gelgelu,

Acting Manager, Airspace Policy Group.

[FR Doc. 2017–22235 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM18–1–000]

Grid Reliability and Resilience Pricing

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Proposed rule; Request for Comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is inviting comments on the proposed rule published on October 10, 2017 in the **Federal Register** by the Commission at the direction of the Department of Energy.

DATES: Interested persons are invited to submit comments on all matters and issues regarding the Proposal. Comments are due on or before October 23, 2017. Reply comments are due on or before November 7, 2017.

ADDRESSES: Comments must refer to Docket No. RM18–1–000 and must include the commenter's name, the organization they represent, if applicable, and their address.

The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

SUPPLEMENTARY INFORMATION: On October 10, 2017, pursuant to section 403 of the Department of Energy Organization Act,[1] the Secretary of Energy (Secretary) published in the **Federal Register** a proposed rule for final action (Proposal) by the Federal Energy Regulatory Commission (Commission).[2]

All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely. Commenters on the Proposal are not required to serve copies of their comments on other commenters.

Dated: October 2, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–22215 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

26 CFR Parts 1 and 301

Executive Order 13789—Second Report to the President on Identifying and Reducing Tax Regulatory Burdens

AGENCY: Department of the Treasury.

ACTION: Regulatory review.

SUMMARY: On April 21, 2017, the President issued Executive Order 13789 (82 FR 19317), a directive designed to reduce tax regulatory burdens. The order directed the Secretary of the Treasury to identify significant tax regulations issued on or after January 1, 2016, that impose an undue financial burden on U.S. taxpayers, add undue complexity to the Federal tax laws, or exceed the statutory authority of the Internal Revenue Service (IRS). In an interim Report to the President dated June 22, 2017, Treasury identified eight such regulations. Executive Order 13789 further directs the Secretary to submit to the President and publish in the **Federal Register** a report recommending specific actions to mitigate the burden imposed by regulations identified in the interim report. This Second Report sets forth the Secretary's recommendations.

DATES: October 16, 2017.

FOR FURTHER INFORMATION CONTACT: Austin Bramwell, Senior Advisor, Office of Tax Policy, (202) 622–7827 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Introduction

This Second Report recommends actions to eliminate, and in other cases mitigate, consistent with law, the burdens imposed on taxpayers by eight regulations that the Department of the

[1] 42 U.S.C. 7173 (2012).

[2] 82 FR 46940 (Oct. 10, 2017).

Treasury (Treasury) has identified for review under Executive Order 13789. As stated in the order, it is the policy of the President that tax regulations provide clarity and useful guidance. Recent regulations, however, have increased tax burdens and impeded economic growth. The order therefore calls for immediate action to reduce tax regulatory burdens and provide useful and simplified tax guidance.

The order directed the Secretary of the Treasury to identify significant tax regulations issued on or after January 1, 2016, that (i) impose an undue financial burden on U.S. taxpayers, (ii) add undue complexity to the Federal tax laws, or (iii) exceed the statutory authority of the Internal Revenue Service (IRS). In an interim Report to the President dated June 22, 2017 (the ''June 22 Report''), Treasury identified eight such regulations. Executive Order 13789 further directs the Secretary to submit to the President a report recommending ''specific actions to mitigate the burden imposed by regulations identified in the interim report.''

This Second Report sets forth the Secretary's recommendations. Treasury expects to issue additional reports on reducing tax regulatory burdens, including, as directed in the order, the status of Treasury's actions recommended in this Second Report.

Treasury Department Retrospective Regulatory Review

Treasury is committed to reducing complexity and lessening the burden of tax regulations. In response to Executive Order 13789, Treasury's Office of Tax Policy completed a comprehensive review of all tax regulations issued in 2016 and January 2017. The June 22 Report identified eight proposed, temporary, or final regulations for withdrawal, revocation, or modification. Treasury continues to analyze all recently issued significant regulations and is considering possible reforms of several recent regulations not identified in the June 22 Report. These include regulations under Section 871(m), relating to payments treated as U.S. source dividends, and the Foreign Account Tax Compliance Act.

In addition, in furtherance of the policies stated in Executive Order 13789, Executive Order 13771, and Executive Order 13777,[1] Treasury and the IRS have initiated a comprehensive review, coordinated by the Treasury Regulatory Reform Task Force, of all tax regulations, regardless of when they were issued. Thus, most of the regulations subject to this review predate January 1, 2016. This review will identify tax regulations that are unnecessary, create undue complexity, impose excessive burdens, or fail to provide clarity and useful guidance, and Treasury and the IRS will pursue reform or revocation of those regulations. Included in the review are longstanding temporary or proposed regulations that have not expired or been finalized. As part of the process coordinated by the Treasury Regulatory Reform Task Force, the IRS Office of Chief Counsel has already identified over 200 regulations for potential revocation, most of which have been outstanding for many years. These regulations remain in the Code of Federal Regulations (CFR) but are, to varying degrees, unnecessary, duplicative, or obsolete, and force taxpayers to navigate unnecessarily complex or confusing rules.[2] Treasury and the IRS expect to begin the rulemaking process for revoking these regulations in the fourth quarter of 2017. Treasury and the IRS are also seeking to streamline rules where possible. Later reports and guidance will provide details on the regulations identified for possible action, the reasons that they may be revoked, and the manner in which revocation would occur.

Treasury has considered carefully the burdens that the eight regulations identified in the June 22 Report impose and, in conjunction with the IRS Office of Chief Counsel, has extensively studied possible actions to provide relief. In response to a public request for comments following the June 22 Report, Treasury received over 140 comments from the public—as well as thousands of duplicate form comments—concerning the potential modification or revocation of the eight regulations identified.[3] The thrust of the comments varied widely, with some recommending that Treasury withdraw one or more of the regulations and others requesting that Treasury retain those same regulations. Treasury has carefully reviewed and considered the comments and possible reforms. One specific action—guidance delaying the documentation regulations under Section 385—has already been taken by the IRS in Notice 2017–36. As described below, Treasury now recommends, consistent with law, that two proposed regulations be withdrawn entirely, three temporary or final regulations be revoked in substantial part, and the remaining three regulations all be substantially revised.

Proposed Regulations To Be Withdrawn Entirely

1. Proposed Regulations Under Section 2704 on Restrictions on Liquidation of an Interest for Estate, Gift and Generation-Skipping Transfer Taxes (REG–163113–02; 81 FR 51413)

Section 2704 addresses the valuation, for wealth transfer tax purposes, of interests in family-controlled entities. In limited cases, Section 2704 disregards restrictions on the ability to liquidate family-controlled entities when determining the fair market value of an interest for estate, gift, and generation-skipping transfer tax purposes. Also in limited cases, Section 2704 treats lapses of voting or liquidation rights as if they were transfers for gift and estate tax purposes. The proposed regulations, through a web of dense rules and definitions, would have narrowed longstanding exceptions and dramatically expanded the class of restrictions that are disregarded under Section 2704. In addition, the proposed regulations would have required an entity interest to be valued as if disregarded restrictions did not exist, either in the entity's governing documents or under state law. No exceptions would have been allowed for interests in active or operating businesses.

The goal of the proposed regulations was to counteract changes in state statutes and developments in case law that have eroded Section 2704's applicability and facilitated the use of family-controlled entities to generate artificial valuation discounts, such as for lack of control and marketability, and thereby depress the value of property for gift and estate tax purposes. Commenters warned, however, that the valuation requirements of the proposed regulations were unclear and that their eff on traditional valuation discounts was uncertain. In particular, commenters argued that it was not feasible to value an entity interest as if no restrictions on withdrawal or liquidation existed in either the entity's governing documents or state law. A legal vacuum in which there is no law relevant to an interest holder's right to

[1] Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs,'' manages the costs associated with the regulatory compliance by, among other things, generally requiring the identification of two regulations for repeal for every new regulation that is proposed. Executive Order 13777, titled ''Enforcing the Regulatory Reform Agenda,'' sets forth procedures for implementing and enforcing regulatory reform.

[2] See Executive Order 13777 § 3(f) (directing ''each agency head [to] prioritize'' revocation of regulations which are ''outdated, unnecessary, or ineffective'').

[3] Comments can be found at the following Web site: *https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&dct=PS&D=IRS-2017-0012.*

withdraw or liquidate is impossible, commenters asserted, and, therefore, cannot meaningfully be applied as a valuation assumption. Commenters also argued that the proposed regulations could have produced unrealistic valuations. For example, the lack of a market for interests in family-owned operating businesses is a reality that, commenters argued, should continue to be taken into account when determining fair market value.

After reviewing these comments, Treasury and the IRS now believe that the proposed regulations' approach to the problem of artificial valuation discounts is unworkable. In particular, Treasury and the IRS currently agree with commenters that taxpayers, their advisors, the IRS, and the courts would not, as a practical matter, be able to determine the value of an entity interest based on the fanciful assumption of a world where no legal authority exists. Given that uncertainty, it is unclear whether the valuation rules of the proposed regulations would have even succeeded in curtailing artificial valuation discounts. Moreover, merely to reach the conclusion that an entity interest should be valued as if restrictions did not exist, the proposed regulations would have compelled taxpayers to master lengthy and difficult rules on family control and the rights of interest holders. The burden of compliance with the proposed regulations would have been excessive, given the uncertainty of any policy gains. Finally, the proposed regulations could have affected valuation discounts even where discount factors, such as lack of control or lack of a market, were not created artificially as a value-depressing device.

In light of these concerns, Treasury and the IRS currently believe that these proposed regulations should be withdrawn in their entirety. Treasury and the IRS plan to publish a withdrawal of the proposed regulations shortly in the **Federal Register**.

2. Proposed Regulations Under Section 103 on Definition of Political Subdivision (REG–129067–15; 81 FR 8870)

Section 103 excludes from a taxpayer's gross income the interest on state or local bonds, including obligations of political subdivisions. Proposed regulations would have required a ''political subdivision'' to possess not only significant sovereign power, but also to meet enhanced standards to show a governmental purpose and governmental control. Some commenters argued that settled law only requires a political subdivision to possess sovereign powers. Many commenters also argued that the proposed regulations would force costly and burdensome changes in entity structure to meet the new requirements. Treasury and the IRS continue to believe that some enhanced standards for qualifying as a political subdivision may be appropriate. After careful consideration of the comments on the proposed regulations, however, Treasury and the IRS now believe that regulations having as far-reaching an impact on existing legal structures as the proposed regulations are not justified.

Thus, while Treasury and the IRS will continue to study the legal issues relating to political subdivisions, Treasury and the IRS currently believe that these proposed regulations should be withdrawn in their entirety, and plan to publish a withdrawal of the proposed regulations shortly in the **Federal Register**. Treasury and the IRS may propose more targeted guidance in the future after further study of the relevant legal issues.

Regulations To Consider Revoking in Part

3. Final Regulations Under Section 7602 on the Participation of a Person Described in Section 6103(n) in a Summons Interview (T.D. 9778; 81 FR 45409)

These final regulations provide that the IRS may use private contractors to assist the IRS in auditing taxpayers. Under the regulations, the IRS may contract with persons who are not government employees, and those private contractors may ''participate fully'' in the IRS's interview of taxpayers or other witnesses summoned to provide testimony during an examination. In particular, the regulations allow private contractors to receive and review records produced in response to a summons, be present during interviews of witnesses, and question witnesses under oath, under the guidance of an IRS officer or employee. These regulations were issued as temporary regulations in 2014 and were finalized in 2016.

Although only two comments were submitted during the public comment period, these regulations have since attracted public attention and criticism. In particular, the IRS's ability to hire outside attorneys as contractors and have them question witnesses during a summons interview has raised concerns. After the IRS hired an outside law firm to assist with the audit of a corporate taxpayer, a federal court found that the ''idea that the IRS can 'farm out' legal assistance to a private law firm is by no means established by prior practice'' and noted that it ''may lead to further scrutiny by Congress.'' [4] While the court determined, based on the statute, that the IRS had the legal authority to enlist the outside attorneys, the court was ''troubled by [the law firm's] level of involvement in this audit.'' [5] The Senate Finance Committee subsequently approved legislation that would prohibit the IRS from using any private contractors for any purpose in summons proceedings. This legislation has not been enacted into law.

After reviewing and considering the foregoing concerns and the public comments received, Treasury and the IRS are looking into proposing a prospectively effective amendment to these regulations in order to narrow their scope by prohibiting the IRS from enlisting outside attorneys to participate in an examination, including a summons interview. Under the amendment currently contemplated by Treasury and the IRS, outside attorneys would not be permitted to question witnesses on behalf of the IRS, nor would they be permitted to play a behind-the-scenes role, such as by reviewing summoned records or consulting on IRS legal strategy. When the IRS enlists outside attorneys to perform the investigative functions ordinarily performed by IRS employees, the government risks losing control of its own investigation.

IRS investigators wield significant power to question witnesses under oath, to receive and review books and records, and to make discretionary strategic judgments during an audit—with potentially serious consequences for the taxpayer. The current regulation requires the IRS to retain authority over important decisions, but the risk of a private attorney taking practical control may simply be too great. These powers should be exercised solely by government employees committed to serve the public interest, not by outside attorneys. These concerns outweigh any countervailing need for the IRS to contract with outside attorneys. Treasury remains confident that the core functions of questioning witnesses and conducting investigations are well within the expertise and ability of the IRS's dedicated attorneys and examination agents.

Although Treasury and the IRS are currently considering proposing an amendment to the regulations so that outside lawyers would no longer be

[4] *United States* v. *Microsoft Corp.,* 154 F. Supp. 3d 1134, 1143 (W.D. Wash. 2015).

[5] *Id.*

allowed to participate in an examination, Treasury and the IRS currently intend that the regulations would continue to allow outside subject-matter experts to participate in summons proceedings. In certain highly complex examinations, effective tax administration may require the specialized knowledge of an economist, an engineer, a foreign attorney who is a specialist in foreign law, or other subject-matter experts. In some cases, there is a compelling need to look outside the IRS for expertise that the IRS's own employees lack. Because experts have a circumscribed role in providing subject-matter knowledge, outside experts do not pose the same risks as outside attorneys. Outside experts should thus continue to be permitted to assist IRS by reviewing summoned materials and, if necessary, by posing questions to witnesses under the guidance and in the presence of IRS employees. Such a role would be limited to the small subset of cases in which the IRS requires the assistance of a subject-matter expert to ensure effective tax administration.

4. Regulations Under Section 707 and Section 752 on Treatment of Partnership Liabilities (T.D. 9788; 81 FR 69282)

These partnership tax regulations include: (i) Proposed and temporary regulations governing how liabilities are allocated for purposes of disguised sale treatment; and (ii) proposed and temporary regulations for determining whether so-called ''bottom-dollar'' guarantees create the economic risk of loss necessary to be taken into account as a recourse liability.

The first rule would have changed the tax treatment of forming many partnerships. In particular, for disguised sale purposes, the temporary regulations would, in general terms, have applied the rules relating to non-recourse liabilities to formations of partnerships involving recourse liabilities. According to commenters, the first rule was promulgated without adequate consideration of its impact. While Treasury and the IRS believe that the temporary regulations' novel approach to addressing disguised sale treatment merits further study, Treasury and the IRS agree that such a far-reaching change should be studied systematically. Treasury and the IRS, therefore, are considering whether the proposed and temporary regulations relating to disguised sales should be revoked and the prior regulations reinstated.

By contrast, Treasury and the IRS currently believe that the second set of regulations relating to bottom-dollar guarantees should be retained. Before the proposed and temporary regulations relating to bottom-dollar guarantees were issued, the liability allocation rules permitted sophisticated taxpayers to create basis artificially and thereby shelter or defer income tax liability. Bottom-dollar guarantees permitted taxpayers to achieve these results without meaningful economic risk, which is inconsistent with the economic-risk-of-loss principle underlying the debt allocation rules for recourse obligations. Thus, Treasury and the IRS continue to believe, consistent with the views of a number of commentators, that the temporary regulations on bottom-dollar guarantees are needed to prevent abuses and do not meaningfully increase regulatory burdens for the taxpayers affected. Consequently, although Treasury and the IRS will continue to study the technical issues and consider comments, they do not plan to propose substantial changes to the temporary regulations on bottom-dollar guarantees. Treasury and the IRS are reviewing and considering ways to rationalize and lessen the burden of partnership tax regulations governing liabilities and allocations more generally. In their review, Treasury and the IRS will take into account the ways in which the rules under different sections of the Internal Revenue Code interact, and may propose further changes to the relevant liability or allocation regulations.

5. Final and Temporary Regulations Under Section 385 on the Treatment of Certain Interests in Corporations as Stock or Indebtedness (T.D. 9790; 81 FR 72858)

These final and temporary regulations address the classification of related-party debt as debt or equity for U.S. federal income tax purposes. Treasury received a very large number of comments on the Section 385 regulations. Many supported the regulations, while others were critical.

The regulations are primarily comprised of (i) rules establishing minimum documentation requirements that ordinarily must be satisfied in order for purported debt obligations among related parties to be treated as debt for federal tax purposes (the ''documentation regulations''); and (ii) rules that treat as stock certain debt that is issued by a corporation to a controlling shareholder in a distribution or in another related-party transaction that achieves an economically similar result (the ''distribution regulations''). Although they each address debt/equity considerations, these two parts of the overall Section 385 regulations are very different in purpose, scope and application. The documentation rules apply principally to domestic issuers and are generally concerned with establishing certain minimum standards of practice so that the tax character of an interest can be objectively evaluated. The distribution regulations, on the other hand, principally affect interests issued to related-party non-U.S. holders and are the rules that limit earnings-stripping, including in the context of inversions and foreign takeovers. Consistent with these fundamental differences, Treasury and the IRS currently plan to take different approaches to the two parts of these regulations.

Potential revocation of documentation regulations. Many commenters strongly criticized the compliance burdens that those regulations imposed. Others urged that the regulations be retained. Several commenters argued that the burden imposed by the documentation regulations would be severe for all similarly situated taxpayers, and would exceed the perceived benefits for tax administration. Treasury and the IRS now agree with commenters that some requirements of the documentation regulations departed substantially from current practice and would have compelled corporations to build expensive new systems to satisfy the numerous tests required by the regulations. Treasury and the IRS do not believe that taxpayers should have to expend time and resources designing and building systems to comply with rules that may be modified to alleviate undue burdens of compliance. Accordingly, shortly after issuing the June 22 Report, Treasury and the IRS announced in Notice 2017–36 that application of the documentation rules would be delayed until 2019.

After further study of the documentation regulations, Treasury and the IRS are considering a proposal to revoke the documentation regulations as issued. Treasury and the IRS are actively considering the development of revised documentation rules that would be substantially simplified and streamlined in a manner that will lessen their burden on U.S. corporations, while requiring sufficient legal documentation and other information for tax administration purposes. In place of any revoked regulations, Treasury and the IRS would develop and propose streamlined documentation rules, with a prospective effective date that would allow time for comments and compliance. Consideration is being given, in particular, to modifying significantly the requirement, contained

in the documentation regulations, of a reasonable expectation of ability to pay indebtedness. This aspect of the documentation regulations proved particularly problematic. The treatment of ordinary trade payables under the documentation regulations is also being reexamined. It is also expected that any proposed streamlined documentation rules would include certain technical, conforming changes to the definitional provisions of the Section 385 regulations.

Distribution regulations retained pending enactment of tax reform. The distribution regulations address inversions and takeovers of U.S. corporations by limiting the ability of corporations to generate additional interest deductions without new investment in the United States. In recent years, earnings-stripping by foreign-parented multinational corporations, as well as corporate inversions whereby U.S. corporations become foreign corporations and engage in earnings stripping, frequently as a tax artifice have put U.S. corporations at a competitive disadvantage compared to their foreign peers. Treasury is committed to the Administration's goals of leveling the playing field for U.S. businesses, so that they may compete freely and fairly in the global economy, and implementing tax rules that reduce the distortion of capital and ownership decisions through earnings stripping and similar practices.

Commenters have criticized the complexity and breadth of the distribution rules. They criticized in particular the funding rule that addresses multiple-step transactions and the burdens of tracking multiple transactions among affiliated companies over long periods of time. Treasury understands that the distribution rules are a blunt instrument for accomplishing their tax policy objectives, and continues to consider how the distribution rules might be made more targeted and compliance with the regulations made less onerous. At the same time, Treasury continues to believe firmly in maintaining safeguards against earnings-stripping and diminishing incentives for inversions and foreign takeovers.

Treasury has consistently affirmed that legislative changes can most effectively address the distortions and base erosion caused by excessive earnings stripping, as well as the general tax incentives for U.S. companies to engage in inversions. Treasury is actively working with Congress on fundamental tax reform that should prevent base erosion and fix the structural deficiencies in the current U.S. tax system. Tax reform is expected to obviate the need for the distribution regulations and make it possible for these regulations to be revoked.

In the meantime, after careful consideration, Treasury believes that proposing to revoke the existing distribution regulations before the enactment of fundamental tax reform, could make existing problems worse. If legislation does not entirely eliminate the need for the distribution regulations, Treasury will reassess the distribution rules and Treasury and the IRS may then propose more streamlined and targeted regulations.

Regulations To Consider Substantially Revising

6. Final Regulations Under Section 367 on the Treatment of Certain Transfers of Property to Foreign Corporations (T.D. 9803; 81 FR 91012)

Section 367 of the Internal Revenue Code generally imposes immediate or future U.S. tax on transfers of property (tangible and intangible) to foreign corporations, subject to certain exceptions, including an exception for certain property transferred for use in the active conduct of a trade or business outside of the United States. Prior regulations provided favorable treatment for foreign goodwill and going concern value. To address difficulties in administering these exceptions, these regulations eliminated the ability of taxpayers to transfer foreign goodwill and going-concern value to a foreign corporation without immediate or future U.S. income tax. However, no active trade or business exception was provided for such transfers. Commenters noted that the legislative history to Section 367 indicated that Congress anticipated that outbound transfers of foreign goodwill and going-concern value would generally not be subject to Section 367. Some commenters requested, if the regulations were not revoked, that transfers of foreign goodwill and going-concern value be made eligible for the active trade or business exception in circumstances not ripe for abuse.

After considering the comments and studying further the legal and policy issues, Treasury and the IRS have concluded that an exception to the current regulations may be justified by both the structure of the statute and its legislative history. Thus, to address taxpayers' concerns about the breadth of the regulations, the Office of Tax Policy and IRS are actively working to develop a proposal that would expand the scope of the active trade or business exception described above to include relief for outbound transfers of foreign goodwill and going-concern value attributable to a foreign branch under circumstances with limited potential for abuse and administrative difficulties, including those involving valuation. Treasury and the IRS currently expect to propose regulations providing such an exception in the near term.

7. Temporary Regulations Under Section 337(d) on Certain Transfers of Property to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs) (T.D. 9770; 81 FR 36793)

These temporary regulations amend existing rules on transfers of property by C corporations to REITs and RICs generally. In addition, the regulations provide rules relating to newly-enacted provisions of the Protecting Americans from Tax Hikes Act of 2015 (the ''PATH Act''). The PATH Act's provisions were intended to prevent certain spinoff transactions involving transfers of property by C corporations to REITs from qualifying for non-recognition treatment. Commenters criticized several aspects of the regulations. According to commenters, for example, the REIT spin-off rules could result in over-inclusion of gain in certain situations, particularly where a large corporation acquires a small corporation that engaged in a Section 355 spin-off and the large corporation subsequently makes a REIT election.

Treasury and the IRS agree that the temporary regulations may produce inappropriate results in some cases. In particular, Treasury and the IRS agree, for example, that the regulations may cause too much gain in certain cases to be recognized. Thus, Treasury and the IRS are considering revisions that would limit the potential taxable gain recognized in situations in which, because of the application of the predecessor and successor rule in Regulation Section 1.337(d)–7T(f)(2), gain recognition is required in excess of the amount that would have been recognized if a party to a spin-off had directly transferred assets to a REIT. In a case in which a smaller corporation that is party to a spin-off merges into a larger corporation in a tax-free reorganization, and the larger corporation makes a REIT election after the spin-off, the temporary regulations require immediate gain recognition with respect to all of the assets of the larger corporation. The proposed revisions under consideration by Treasury would substantially reduce the immediately taxed gain of the larger corporation by limiting gain recognition to the assets of the smaller corporation. In addition,

other technical changes to narrow further the application of the rules are currently being considered. With these contemplated changes incorporated, Treasury and the IRS believe the revised regulations would more closely track the intent of Congress.

8. Final Regulations Under Section 987 on Income and Currency Gain or Loss With Respect to a Section 987 Qualified Business Unit (T.D. 9794; 81 FR 88806)

These final regulations provide rules for: (i) Translating income from branch operations conducted in a currency different from the branch owner's functional currency into the owner's functional currency; (ii) calculating foreign currency gain or loss with respect to the branch's financial assets and liabilities; and (iii) recognizing such foreign currency gain or loss when the branch makes certain transfers of any property to its owner. Commenters argued that the transition rule in the final regulations imposes an undue financial burden because it disregards losses calculated for years prior to the transition but not previously recognized. Many taxpayers have also commented that the method prescribed by the final regulations for calculating foreign currency gain or loss is unduly complex and financially burdensome to apply, particularly where the final regulations differ from financial accounting rules.

After reviewing these comments and meeting with a significant number of affected taxpayers in different industries, Treasury and the IRS believe that the regulations have proved difficult to apply for many taxpayers. To address these difficulties, Treasury and the IRS currently expect to issue guidance that would permit taxpayers to elect to defer the application of Regulation Sections 1.987–1 through 1.981–10 until at least 2019, depending on the beginning date of the taxpayer's taxable year.

In addition, Treasury and the IRS also intend to propose modifications to the final regulations to permit taxpayers to elect to adopt a simplified method of calculating Section 987 gain and loss and translating Section 987 income and loss, subject to certain limitations on the timing of recognition of Section 987 loss. Under one variation of a simplified methodology currently being considered, taxpayers would treat all assets and liabilities of a Section 987 qualified business unit (QBU) as marked items and translate all items of income and expense at the average exchange rate for the year. This methodology generally would result in determinations of amounts of Section 987 gain or loss that are consistent with amounts of translation gain or loss that would be determined under applicable financial accounting rules, as well as under the 1991 proposed Section 987 regulations.

In this connection, the IRS and the Office of Tax Policy are considering alternative loss recognition timing limitations that would apply to electing taxpayers. Under the base limitation under consideration, the electing taxpayer would be permitted to recognize net Section 987 losses only to the extent of net Section 987 gains recognized in prior or subsequent years. As a possible additional approach to limiting losses, the IRS and the Office of Tax Policy are also considering the administrability of a limitation under which the electing taxpayer would defer recognition of all Section 987 losses and gains until the earlier of (i) the year that the trade or business conducted by the Section 987 QBU ceases to be performed by any member of its controlled group or (ii) the year substantially all of the assets and activities of the QBU are transferred outside of the controlled group.

Finally, the IRS and the Office of Tax Policy are considering alternatives to the transition rules in the final regulations. One alternative would be to allow taxpayers that elect to apply the loss limitations applicable to the simplified methodology discussed above to carry forward unrealized Section 987 gains and losses, measured as of the transition date with appropriate adjustments, and subject to such loss limitations. A second alternative under consideration would be to allow taxpayers adopting the final regulations to elect to translate all items on the QBU's opening balance sheet on the transition date at the spot exchange rate, but not carry forward any unrealized Section 987 gains or losses.

David J. Kautter,

Assistant Secretary of the Treasury for Tax Policy.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP46

Prosthetic and Rehabilitative Items and Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to revise its medical regulations related to providing prosthetic and rehabilitative items as medical services to veterans. These revisions would reorganize and update the current regulations related to prosthetic and rehabilitative items, primarily to clarify eligibility for prosthetic and other rehabilitative items and services, and to define the types of items and services available to eligible veterans.

DATES: Comments must be received by VA on or before December 15, 2017.

ADDRESSES: Written comments may be submitted by email through *http://www.regulations.gov*; by mail or hand delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP46, Prosthetic and rehabilitative items and services.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Penny Nechanicky, National Program Director for Prosthetic and Sensory Aids Service (10P4RK), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461–0337. (This is not a toll-free number.) *Penny.Nechanicky@va.gov*.

SUPPLEMENTARY INFORMATION: Section 1710 of title 38, United States Code (U.S.C.), authorizes VA to provide veterans with, among other things, ''medical services'' when VA determines that they are ''needed.'' ''Medical services'' is further defined in 38 U.S.C. 1701(6)(F) to include the following items and services, for veterans who are otherwise receiving care or services under chapter 17 of title 38 U.S.C.: Wheelchairs, artificial limbs, trusses, and similar appliances; special clothing made necessary by the wearing of prosthetic appliances; and such other supplies or services as the Secretary determines to be reasonable and necessary. 38 U.S.C. 1701(6)(F)(i)–(iii). The language in clauses (i) through (iii) of section 1701(6)(F) is the source of

VA's authority to provide prosthetic and rehabilitative items and related services to veterans as necessary items and services (*i.e.,* ''medical services''). Historically, we have interpreted section 1701(6)(F)(iii) to authorize VA to provide other supplies and services only to the extent that they are similar or related to the expressly listed items in sections 1701(6)(F)(i) and (ii), *i.e.,* wheelchairs, artificial limbs, trusses or similar appliances, and special clothing made necessary by the wearing of prosthetic appliances. We base this interpretation on tenets of statutory construction and opinions of VA's Office of General Counsel. See 2A Norman J. Singer, Statutes and Statutory Construction § 47.17 (6th ed. 2000) (explaining that as a matter of statutory interpretation, where general words follow specific words, ''the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words''). See also VAOPGCADV 7–2009, VAOPGCADV 9–2005, VAOPGCCONCL–8–98.

VA has considered those items expressly listed in section 1701(6)(F)(i) and (ii) as medically necessary because such items assist a veteran in compensating for the loss of mobility or loss of other functional abilities. Thus for a supply (*i.e.,* hereafter referred to as an item) or service to be similar in nature to what is enumerated in section 1701(6)(F)(i) and (ii), it must assist a veteran to compensate for loss of mobility or loss of other functional abilities. For such items and services to be provided pursuant to section 1701(6)(F)(iii), the Secretary must first determine that the item or service could assist veterans to compensate for loss of mobility or loss of other functional abilities. Next, under that provision, the Secretary must determine that they are ''reasonable and necessary.'' Once the Secretary makes these two determinations regarding an item or service under 1701(6)(F)(iii), VA may include them in the medical benefits package and provide them to individual eligible veterans as medical services if they are determined to be ''needed'' as required by section 1710(a) as implemented by 38 CFR 17.38(b).

VA's authority as described above to provide medically needed prosthetic and similar items to all veterans who are otherwise receiving care or services under chapter 17 of title 38 U.S.C. was established by section 103(a) of Public Law 104–262, The Veterans' Health Care Eligibility Reform Act of 1996, which amended the definition of medical services in 38 U.S.C. 1701(6). Prior to the enactment of Public Law 104–262, VA was effectively prohibited from providing prosthetic and similar items to most nonservice-connected veterans except in preparation for a hospital admission or to obviate the need for hospital admission. Section 103(b) of Public Law 104–262 further directed VA to prescribe guidelines for the expanded prosthetics eligibility in section 103(a). These guidelines were issued through national Veterans Health Administration (VHA) policies beginning with VHA Directive 96–069 (as published November 7, 1996), culminating in VHA Handbook 1173.1 (as last published November 2, 2000). VA has further expressly listed ''durable medical equipment and prosthetic and orthotic devices'' as medical services available to eligible veterans as part of VA's medical benefits package in 38 CFR 17.38(a)(1)(viii). Although VA administers its prosthetics program with the support of § 17.38(a)(1)(viii) as well as multiple VHA policies, neither § 17.38 (except for § 17.38(c)) nor these policies are appropriately descriptive of VA's current practices in providing prosthetic and similar items. For instance, 17.38(a)(1)(viii) provides that eligible veterans may receive prosthetic and similar items as medical services, and § 17.38(b) further provides that such items may be considered medically necessary if they are ''determined by appropriate healthcare professionals that the care is needed to promote, preserve, or restore the health'' of eligible veterans; however, the ''promote, preserve, or restore'' criteria in § 17.38(b) are not specific enough to properly articulate the concept of medical necessity in the context of prosthetic and similar items and services, versus for medical services more generally. VA finds it necessary now to clarify its current practices and to propose certain changes with regard to the provision of prosthetic and similar items and services, and such clarification and proposed changes are appropriate for a rulemaking because they would affect VA's provision of prosthetic and similar items and services. We would not seek to substantively revise § 17.38 in this manner, however, as it would be cumbersome and potentially confusing to establish additional eligibility and other administrative criteria for prosthetic and similar items and services as a specific type of medical service. We would seek instead to establish new regulations in proposed §§ 17.3200–.3250, and would remove a current but defunct regulation specifically related to the provision of prosthetic and similar items, 38 CFR 17.150. Section 17.150 was first promulgated in 1967 and was never substantively revised to reflect eligibility for prosthetic and similar items as provided in section 103(a) of Public Law 104–262 and § 17.38(a)(1)(viii). Although § 17.150 does establish that there must be a VA determination of ''feasibility and medical need'' prior to the provision of prosthetic and rehabilitative items and services to veterans, the phrase ''feasibility and medical need'' does not properly articulate the concept of medical necessity in a manner that is consistent with current VA practices. Further, § 17.150 only provides a limited list of examples of prosthetic items and services that are provided to eligible veterans, which could be misinterpreted to be an exhaustive list. Removing § 17.150 and establishing proposed §§ 17.3200–.3250 would, among other things as described throughout this rulemaking, articulate the concept of medical necessity for these items and services in a manner consistent with current VA authority and practice, would provide a broader and expressly non-exhaustive list as well as definitions for items and services that may be provided, and would update veteran eligibility for these items and services in a manner consistent with section 103(a) of Public Law 104–262 and with § 17.38(a)(1)(viii).

The changes proposed in this rulemaking would also clarify the provision of prosthetic and rehabilitative items and services that VA provides as ''medical services'' under sections 1701 and 1710, versus other similar items and services that VA provides under other authorities. Congress has enacted specific statutory provisions other than sections 1701 and 1710 to authorize VA to furnish veterans with particular items and services in connection with a disability or to assist veterans in overcoming a disability. For example, sections 1714(b) and 1717(c) authorize VA to furnish devices to blind and deaf veterans, respectively, for the broad purpose of ''overcoming the disability'' of blindness or deafness, without the criterion that such devices be considered medically necessary. This is not to say that such items and services could not be interpreted as being medically necessary. Rather, the enactment of statutes other than sections 1701(6)(F) and 1710(a) demonstrates Congressional intent that the items and services provided under these other statutes are to be provided in accordance with the criteria in those statutes and their implementing

regulations. VA has established different regulatory criteria implementing these other statutes to control the provision of these other items (see, for instance, 38 CFR 17.3100 *et seq.,* which controls the provision of home improvements and structural alterations permitted by 38 U.S.C. 1717(a)(2)). We propose to establish this distinction between sections 1701(6)(F) and 1710(a), and other statutes that control the provision of certain items and services, more clearly in proposed section 17.3200; specifically, we would provide a table of the statutory and regulatory authorities for items and services provided outside of sections 1701(6)(F) and 1710(a). This table would include authorities for items and services provided to veterans, but would not include authorities for items and services provided to non-veteran beneficiaries (such as the authorities to provide items necessary for care of a newborn as permitted by 38 U.S.C. 1786, or items necessary for care of certain dependents as permitted by 38 U.S.C. 1781). We do not believe it is necessary to include authorities related to non-veterans in the proposed table, as proposed sections 17.3200 through 17.3250 only address the provision of these items and services to veterans.

17.3200. Purpose and Scope

Proposed § 17.3200 would establish a clearer purpose and scope for the provision of prosthetic and rehabilitative items and services as ''medical services'' than what is articulated in current § 17.150, to distinguish VA's provision of prosthetic and rehabilitative items and services as medical services under sections 1701(6)(F) and 1710 from VA's provision of other items and services under other authorities. Proposed § 17.3200(a) would state that the purpose of proposed §§ 17.3200 through 17.3250 would be to establish eligibility and other criteria for the provision of prosthetic and rehabilitative items and services to veterans as medical services under sections 1701(6)(F) and 1710(a). These items and services would be listed in proposed § 17.3230, and we would reference that section for ease of use.

Proposed § 17.3200(b) would establish that the scope of proposed §§ 17.3200 through 17.3250 would be limited to those prosthetic or rehabilitative items and services provided by VA as medical services under sections 1701(6)(F) and 1710(a), and would identify in a table other items or services controlled by other statutes and regulations. We propose to include this table because these items and services have different criteria (related to eligibility, restrictions, etc.) in accordance with distinct legal authorities other than sections 1701(6)(F) and 1710(a). The proposed rule would help reduce confusion by telling users where to find the other statutes and regulations relevant to these other items and services.

17.3210. Definitions

Proposed § 17.3210 would establish definitions relevant to the prosthetic and rehabilitative items and services to be provided by VA as medical services under sections 1701(6)(F) and 1710(a). The items and services that would be defined in this section are either expressly listed as medical services under section 1701(6)(F)(i) and (ii), or are similar or related to such expressly listed items and services because they are similarly deemed ''needed'' (as required by section 1710(a)), because they may be medically necessary to assist a veteran to compensate for loss of mobility or loss of other functional abilities as explained previously in this rulemaking. We note that some of the definitions below would propose additional qualifying criteria related to the items or services themselves. These additional qualifying criteria would be related to accomplishing specific tasks associated with the veteran's rehabilitation plan in addition to the general requirement that the item be deemed medically necessary for the veteran.

''Activities of daily living (ADL)'' would be defined as specific personal care activities that are required for basic daily maintenance and sustenance, to include eating, toileting, bathing, grooming, dressing and undressing, and mobility. This definition of ADLs is consistent with other VA regulatory definitions or uses of the term. See §§ 17.36, 51.120, 52.2, and 61.1.

''Adaptive household item'' would be defined as a durable household item that has been adapted to compensate for, or that by design compensates for, loss of physical, sensory, or cognitive function and is necessary to complete one or more ADLs in the home or other residential setting. We believe this definition captures the common meaning and understanding of the word ''adaptive'' as something that compensates for loss of function, and we believe the further restrictions in this definition as explained below better explain the scope of items that would be considered covered. For instance, we would require that the adaptive household item must be ''necessary'' to complete one or more ADLs, because we believe this is a reasonable restriction for equipment that would be used in an individual's home or other residential setting, and would ensure that common household items are not provided except in narrow circumstances when a veteran cannot complete an ADL without such an item due to the veteran's loss of function. The definition of ''adaptive household item'' would further provide examples of such items, to include adaptive eating utensils, shower stools or chairs, hooks to assist in buttoning clothing, or shoe horns. The definition of ''adaptive household item'' would exclude household furniture or furnishing (which, as discussed later in this proposed rule, we would define as an item commonly used to make a home habitable or otherwise used to ornament a home, including but not limited to tables, chairs, desks, lamps, cabinets, non-hospital beds, curtains, carpet(s), etc.) because we do not find that common household furniture or furnishings are generally necessary to complete an ADL. For instance, a dining table is associated with the ADL of eating, but is distinguishable from an adaptive utensil that may be required to complete the ADL of eating. We further clarify that certain specialized items that may be medically necessary and that could be interpreted as furniture (such as hospital beds) would be expressly included under the proposed definition of ''home medical equipment'' as explained later in this proposed rule. The definition of ''adaptive household item'' would also expressly exclude an ''improvement or structural alteration'' which we would define in this section the same as it is defined in 38 CFR 17.3101 (*i.e.,* a modification to a home or to an existing feature or fixture of a home, including repairs to or replacement of previously improved or altered features or fixtures) because such improvements or alterations are authorized by section 1717(a)(2) and 38 CFR 17.3100 *et seq.,* and are not within the scope of these proposed regulations, as stated in the table in proposed § 17.3200(b). The definition of ''adaptive household item'' would further exclude household appliances (which, as discussed later in this proposed rule, we would define as equipment for use in the home for performance of domestic chores or other domestic tasks, including but not limited to a refrigerator, stove, washing machine, and vacuum cleaner), except as necessary to complete an ADL, because generally most household appliances cannot be adapted to compensate, or by design do not compensate for, functional loss in such a manner as to be considered necessary to complete

ADLs as defined above. An exception to this general exclusion would be permitted when the appliance would be necessary to complete an ADL, such as the provision of a blender or other food processing device to a veteran with a diagnosed swallowing disorder who must have all food pureed in order to complete the ADL of eating. In contrast, appliances that are commonly related to eating but not necessary to complete the ADL of eating, such as stoves or microwaves, would not be provided. We further would clarify that the definition of ''adaptive household item'' would exclude any requirement that VA furnish such items in such a manner as to relieve any other person or entity of a contractual obligation to furnish these items to the veteran. This is because such items would not be needed as they have otherwise been provided for. For example, a veteran may have contracted with a residence or residential setting to furnish adaptive household items to the veteran.

''Adaptive recreation equipment'' would be defined as an item that is designed to compensate for, or that by design compensates for, loss of physical, sensory, or cognitive function and is necessary for the veteran to actively and regularly participate in a sport, recreation, or leisure activity to achieve the veteran's rehabilitation goals. The additional requirement that these items be deemed necessary for active and regular participation in an activity to achieve the veteran's rehabilitation goals, which would be documented in the veteran's medical record, ensures that items are only provided when their regular use is specifically tied to a medical goal, and not provided merely to support a veteran's participation in an activity only for personal enjoyment. Examples of such equipment VA could provide to veterans include mono-skis and specially designed wheelchairs to play sports such as basketball.

''Cognitive device'' would be defined as an item that compensates for a cognitive impairment and that is used to maintain or improve a veteran's functional capabilities. Examples of such equipment VA could provide to veterans include tablets and smart phones, as well as associated technological equipment, applications, and/or software, that can assist a veteran in maintaining daily scheduling of important tasks or navigating their surroundings (*e.g.,* global positioning system or GPS).

''Communication device'' would be defined as an item that compensates for a communication deficiency and allows participation in daily communication activities. Examples of such equipment VA could provide to veterans include augmentation and alternative communication devices such as picture or symbol communication boards, or an electro larynx.

''Durable'' would be defined to mean capable of, and intended for, repeat use. We believe this definition captures the common meaning and understanding of the term ''durable.''

''Home exercise equipment'' would be defined as an item used in a home or residential setting that compensates for a loss of physical, sensory, or cognitive function and is necessary for the veteran to actively and regularly participate in aerobic, fitness, strength, or flexibility activities to achieve the veteran's rehabilitation goals. As with the definition of ''adaptive recreation equipment,'' the additional criteria in the definition that items are necessary for active and regular participation in an activity to achieve the veteran's rehabilitation goals, which would be documented in the veteran's medical record, ensures that items are only provided when their regular use is specifically tied to a medical goal, and not provided merely to support a veteran's participation in an activity only for personal enjoyment. This criterion would also ensure that this equipment is only provided when there is no other means for the veteran to exercise to achieve the rehabilitation goal. Such ''home exercise equipment'' would only be provided for one location, the veteran's primary residence, which is defined in this rulemaking (as discussed below) under proposed § 17.3210 as ''the personal domicile or residential setting in which the veteran resides the majority of the year,'' and this additional criterion would be stated in proposed § 17.3230 as discussed later in this rulemaking. In identifying the veteran's primary residence, we would typically rely upon the veteran's record with VA, as well as the veteran's declared residence. The additional criterion that such equipment would only be provided for one location, the primary residence, is current VA practice, and VA has authority to determine that it is reasonable pursuant to 38 U.S.C. 1701(6)(F)(iii). In this case, VA has determined this criterion to be reasonable because it may not be cost effective to provide multiple sets of the same equipment for multiple locations. Because we will provide one set of equipment, we believe it is adequate to provide this equipment where it is used the most routinely and regularly, *i.e.,* the veteran's primary residence. While we generally would provide home exercise equipment to the veteran's primary residence, there may be instances when it may be provided to a veteran's non-primary residence. For example, if a veteran's medical treatment or rehabilitation plan requires access to home exercise equipment and the veteran has access to a gym near his or her primary residence, but has another residence in a rural area in which the veteran does not have access to a gym, the equipment may be provided to the veteran at his or her non-primary residence based on a clinical determination that providing such equipment at the veteran's non-primary residence would be necessary as a direct and active component of the veteran's medical treatment and rehabilitation. We further would state that prior to any installation of ''home exercise equipment'', the owner of the residence would agree to the installation. We also note that to the extent the equipment is portable, an individual would be free to move it to another location where the veteran may temporarily reside, such as another residence during an extended seasonal stay. Examples of such equipment VA could provide to veterans include an upper body ergometer and a functional electrical stimulation cycle.

''Home medical equipment'' would be defined as movable and durable medical devices used in a home or residential setting to treat or support treatment of specific medical conditions and would include hospital beds, portable patient lifts (such as porch lifts or stair glides), portable ramps, ventilators, home dialysis equipment, and infusion, feeding, or wound therapy pumps. This definition is intended to encompass those medical devices typically found in a medical facility setting (*e.g.,* hospital beds and infusion pumps), but that must be used in a home or residential setting for specific medical treatment (most typically, for continuation of treatment initially received in a medical facility setting). The definition of ''home medical equipment'' would specifically exclude household furniture or furnishings, improvements or structural alterations, or any household appliances for the same reasons as stated in the definition of ''adaptive household item,'' because such items could not reasonably be considered to be medical devices. For instance, a hospital bed could be provided as ''home medical equipment,'' whereas a common bed frame and mattress could not. As proposed in § 17.3230 (later in this rulemaking) ''home medical equipment'' would only be provided for one residential setting, the veteran's primary residence, for the same reasons as stated

for ''home exercise equipment'' above. In the instance that at-home installation or delivery is required and the veteran has more than one residence, the Department will deliver the equipment to the veteran's primary residence. We note that to the extent the equipment is portable, an individual would be free to move it to another location where the veteran may temporarily reside, such as another residence during an extended seasonal stay. We will provide such equipment at the veteran's primary residence, as the veteran is usually also receiving professional care or assistance from a caregiver who must be at the residence at specific times, and which would involve use of the provided ''home medical equipment.'' While we generally would provide ''home medical equipment'' to the veteran's primary residence, there may be instances when it may be provided to a veteran's non-primary residence, as is similar to the provision of ''home exercise equipment.'' For example, a veteran may be authorized for a stair glider; however, his or her primary residence may be a single floor residence. The veteran may have another residence that has more than one floor, and it may be clinically determined that the provision of the stair glider at the non-primary residence is necessary as an active and direct component of the veteran's medical treatment or rehabilitation. We also would clarify that prior to any installation of ''home medical equipment'', the owner of the residence must agree to the installation of the equipment. We further would clarify that the definition of ''home medical equipment'' would exclude any requirement that VA will furnish such items in such a manner as to relieve any other person or entity of a contractual obligation to furnish these items or services to the veteran. This is because such items would not be needed as they have otherwise been provided for. For example, a veteran may have contracted with a residence or residential setting to furnish home medical equipment to the veteran.

The definition of ''home medical equipment'' would also exclude ''medical alert devices,'' which, as discussed later in this proposed rule, we would define as devices designed to summon general safety assistance for a veteran, *e.g.* a device worn by an individual to summon medical assistance in the event of a fall or other incident, or to provide a veteran's general medical information to others, *e.g.,* medical identification bracelets. While we currently provide both medical alert devices and medical identification bracelets, those would not be provided under these proposed rules as these items would not be an active and direct component of a veteran's medical treatment or rehabilitation pursuant to proposed § 17.3230, described later in this rulemaking. Medical alert devices are passive and purely communicative devices, similar to cell phones, which are not used for specific medical treatment or rehabilitation and do not contribute directly to a veteran's medical treatment or rehabilitation and would therefore not be provided under this authority. Their purpose is to communicate about an unforeseeable future event, and they do not actively communicate clinical or medical information about a veteran nor do they communicate information that contributes directly to a veteran's medical treatment or rehabilitation pursuant to proposed § 17.3230, described later in this rulemaking. Although these may be used during an unforeseeable emergency to convey information about a veteran, they do not actively or directly medically treat or rehabilitate a veteran and any limitations the veteran may have, and thus are not ''necessary'' under this authority. Medical alert devices are also programmable to alert whomever the veteran chooses, and do not necessarily result in an alert or communication to a medical professional. These devices also do not necessarily result in an alert that the veteran is in need of medical assistance, as these devices can be used to alert an individual or entity of a general need for assistance. With the prevalence of, and access to, cell phones and other similar technologies that serve a similar function as medical alert devices in this context, we believe that most, if not all, veterans have access to the technology necessary to alert individuals and/or entities when medical assistance is needed. Thus, while these devices could be considered beneficial to a veteran's treatment in limited circumstances, we do not consider the provision of these under this authority as reasonable. The definition of ''medical alert devices'' would not apply to alarms or other safety indicators on home medical equipment, such as an alarm to alert an individual if a ventilator is unplugged. Such alarms and indicators, therefore, could be provided as part of home medical equipment. These alarms and indicators that are part of medical equipment (such as a ventilator) do contribute directly to a veteran's treatment as part of the total function of the piece of medical equipment, unlike devices that serve a purely communicative function.

Similarly, medical identification bracelets would be excluded under this regulation as they are not a direct and active component of a veteran's medical treatment or rehabilitation, and therefore are not reasonable and necessary under this authority. Medical identification bracelets are entirely passive, do not actively communicate any information about a veteran, and merely provide information about the existence of a condition of a veteran. Although these may be used during an unforeseeable emergency to convey information about a veteran, they do not actively or directly medically treat or rehabilitate a veteran and any limitations the veteran may have, and thus are not ''necessary'' under this authority. While these devices could be considered beneficial to a veteran's treatment in limited circumstances, we do not consider the provision of these under this authority as reasonable for the same reasons stated above. We note that we currently provide these medical identification bracelets, however for the reasons discussed, they would be outside the scope of this authority and would not be authorized to be provided pursuant to these proposed regulations. We further note that after the publication of the final rulemaking, we would rescind VHA Directive 2009–007, Provision of Medical Identification (ID) Bracelets and Pendants, to ensure VA policy is consistent with the published final rules.

Lastly, we clarify that although certain home medical equipment might need to be installed in a home to ensure its proper functioning, such as a portable ramp or a hospital bed, such equipment must not amount to an improvement or structural alteration to a veteran's residence. Such improvements or alterations to homes are authorized by section 1717(a)(2) and 38 CFR 17.3100 *et seq.,* and are not within the scope of these proposed regulations, as stated in the table in proposed § 17.3200(b). This clarification related to installation would be established in proposed § 17.3230 as discussed later in this rulemaking.

''Home respiratory equipment'' would be defined as an item used to provide oxygen therapy or to support or enhance respiratory function. We note that home respiratory equipment would be distinguished from home medical equipment because we would permit the provision of additional pieces of respiratory equipment as medically necessary outside of a single home or residential setting, such as additional portable oxygen tanks when a veteran

might need to travel. Examples of such equipment VA would provide to veterans include compressed oxygen, oxygen concentrators, and continuous positive airway pressure machines.

''Household appliances'' would be defined as equipment for use in the home for performance of domestic chores or other domestic tasks, including but not limited to a refrigerator, stove, washing machine, and vacuum cleaner. We believe this definition captures the common meaning and understanding of this term.

''Household furniture or furnishing'' would be defined as an item commonly used to make a home habitable or otherwise used to ornament a home, including but not limited to tables, chairs, desks, lamps, cabinets, non-hospital beds, curtains, and carpet(s). We believe this definition captures the common meaning and understanding of this term.

''Implant'' would be defined as any biological or non-biological material that is manufactured or processed to be placed into a surgically or naturally formed cavity on the human body; is covered with tissue, has the potential to be covered with tissue, or is permanently embedded in tissue; does not dissolve or dissipate within the body; and is not a living organ, embryonic tissue, blood, or blood product. VA provides implants as part of the prosthetics program, and this definition characterizes such implants consistently with VA's current provision of implants, and to that extent would not reflect a change in the scope of benefits available to eligible veterans.

''Improvements or structural alterations'' means a modification to a home or to an existing feature or fixture of a home, including repairs to or replacement of previously improved or altered features or fixtures. This term would be defined the same as it is defined in 38 CFR 17.3101 (*i.e.,* a modification to a home or to an existing feature or fixture of a home, including repairs to or replacement of previously improved or altered features or fixtures). Such improvements or structural alterations are authorized by section 1717(a)(2) and 38 CFR 17.3100 *et seq.,* and are not within the scope of these proposed regulations, as stated in the table in proposed § 17.3200(b).

''Medical alert device'' would mean an item designed to summon general safety assistance for a veteran, or that provides a veteran's general medical information to others. This definition would not include alarms or other safety indicators for home medical equipment. As previously discussed, this definition is necessary because ''medical alert device'' would be excluded from the term ''home medical equipment.''

''Mobility aid'' would be defined as an item that compensates for a mobility impairment and that is used to maintain or improve a veteran's functional capabilities to be mobile. Examples of such equipment VA would provide to veterans include manual and motorized wheelchairs, canes, walkers, and equipment to assist veterans with reaching for or grasping items. We would exclude a service or guide dog from this definition because the provision of certain benefits for service or guide dogs is not within the scope of these proposed regulations as stated in the table in proposed § 17.3200(b). VA has published regulations concerning benefits for service and guide dogs at 38 CFR 17.148.

''Orthotic device'' would be defined as an item fitted externally to the body that is used to support, align, prevent, or correct deformities or to improve the function of movable parts of the body. We believe this definition captures the common meaning and understanding of this term as well as its common meaning and use in the health care industry. Examples of such items VA would provide to veterans include leg braces, upper extremity splints and braces, and functional electrical stimulation devices such as Bioness® or WalkAide®.

''Primary residence'' would be defined as the personal domicile or residential setting in which the veteran resides the majority of the year. We believe this definition captures the common meaning and understanding of this term. While a person may maintain more than one residence, they may only have one primary residence at a time. This would include any residential setting the veteran owns, rents, or in which the veteran otherwise resides.

''Prosthetic device'' would be defined as an item that replaces a missing or defective body part. We believe this definition captures the common meaning and understanding of this term as well as its common meaning and use in the health care industry. Examples of such items VA would provide to veterans include artificial limbs and artificial eyes. We note that certain prosthetic devices may not have mechanical or other functionality, but nonetheless could be considered medically necessary and not merely cosmetic in nature. For instance, certain artificial hands may not have mechanical functions to grasp objects, but the use of such devices equalizes weight distribution in the arm and across the body. As another example, artificial eyes would not function to restore or improve sight, but would provide necessary shape to an eye socket and prevent objects from entering the eye socket.

''Replacement item'' would be defined as an item that is similar or identical to an item provided under proposed § 17.3230(a), and that takes the place of such an item. We believe this definition captures the common meaning and understanding of this term.

''VA-authorized vendor'' would be defined as a vendor that has been authorized by VA to provide items and services under § 17.3230. We believe this definition is self-explanatory. This definition would be relevant to the discussion later in this proposed rule regarding the furnishing of items and services in proposed § 17.3240.

17.38. Medical Benefits Package and 17.3220. Eligibility

Proposed § 17.3220 would clarify veteran eligibility for prosthetic and rehabilitative items and services provided under sections 1701(6)(F) and 1710(a). As explained previously in this rulemaking, VA is authorized under sections 1701(6)(F)(iii) and 1710(a) to provide those prosthetic and rehabilitative items and services that VA determines are medically necessary to assist a veteran to compensate for loss of mobility or loss of other functional abilities, where the veteran is otherwise receiving care or services under chapter 17 of title 38 U.S.C. Section 17.38(a)(1)(viii), in turn includes the provision of ''durable medical equipment and prosthetic and orthotic devices'' as part of VA's ''medical benefits package.'' We would first revise § 17.38(a)(1)(viii) to use the term ''prosthetic and rehabilitative items and services'' as proposed in these regulations, and would cross reference this term with citations to the proposed regulations in this rulemaking so it is clear that such items and services under § 17.38(a)(1)(viii) are provided in accordance with proposed §§ 17.3200 through 17.3250.

We would also revise § 17.38(b) to reflect that prosthetic and rehabilitative items and services authorized in § 17.38(a)(1)(viii) are excluded from the ''promote, preserve, or restore'' standard under § 17.38(b). As previously discussed in this rulemaking, the standard of ''promote, preserve, or restore'' under § 17.38(b) is not specific enough to distinguish when prosthetic and rehabilitative items should be provided because they are medically necessary, versus when an item or service would not be provided because

it is only desired. Using a standard other than that of ''promote, preserve, or restore'' would also be consistent with the authorizing statutes, sections 1701(6)(F) and 1710(a), requiring that VA provide those items and services that are necessary and reasonable. However, in a note to proposed § 17.3230, we would state that the exclusions in § 17.38(c) apply to the provision of items and services pursuant to § 17.3230.

Proposed § 17.3220 would then establish eligibility for prosthetic and rehabilitative items and services by requiring that veterans be enrolled in VA's enrollment system under § 17.36 or exempt from such enrollment under § 17.37, and requiring that such veterans are otherwise receiving care under chapter 17 of title 38 U.S.C. These two eligibility criteria would be in proposed § 17.3220(a)–(b), respectively. Proposed § 17.3220(b) would further describe the concept of ''otherwise receiving care'' to include where a veteran is prescribed a prosthetic or rehabilitative item or service by a VA provider or an authorized non-Department provider. We believe that by receiving a prescription the veteran would be receiving care under chapter 17.

17.3230. Authorized Items and Services

Proposed § 17.3230(a) would state that VA would provide veterans who are eligible under § 17.3220 with items and services that would be listed in proposed § 17.3230(a)(1)–(15) as described below. Proposed § 17.3230(a) would further state that VA will provide items and services listed in proposed § 17.3230(a)(1)–(15), if VA determines that the items or services serve as a direct and active component of the veteran's medical treatment or rehabilitation, and do not merely support the comfort or convenience of the veteran. The statement in proposed § 17.3230(a) that items and services need to be a direct and active component of the veteran's medical treatment or rehabilitation and not merely for the comfort or convenience of the veteran is consistent with VA practice. As stated previously in this rulemaking, the more specific criteria related to medical necessity in proposed § 17.3230(a) are needed because the ''promote, preserve, or restore'' criteria in § 17.38(b) may be appropriate in terms of medical services generally, but are not specific enough to distinguish when prosthetic and rehabilitative items and services should be provided because they are medically necessary, versus when an item or service would not be provided because it is only desired. The items and services provided are intended to be limited to those that accommodate a veteran's medical treatment or rehabilitation. This would also be consistent with the authorizing statutes, sections 1701(6)(F) and 1710(a), requiring that VA provide those items and services that are necessary and reasonable. Proposed § 17.3230(a)(1) through (a)(15) would list the categories of items and services that have been and would continue to be provided by VA as prosthetic or rehabilitative items or services. Definitions of the items and services to be provided in proposed § 17.3230(a)(1) through (a)(15), as well as examples of such items, are provided in the discussion of proposed § 17.3210, and we do not reiterate that information generally below. We propose, however, additional criteria that must be met in proposed § 17.3230(a)(5) and (a)(6) for ''home exercise equipment'' and ''home medical equipment,'' respectively. We reiterate from the discussion of the proposed definitions earlier in this rulemaking that proposed § 17.3230(a)(5) and (a)(6) would establish a restriction that both ''home exercise equipment'' and ''home medical equipment'' would only be provided for one location, generally the veteran's primary residence. This additional criterion that such equipment would only be provided for one location is current VA practice and is reasonable because we believe it is adequate in most cases to provide this equipment at the veteran's primary residence, a term which is previously defined and discussed in this rulemaking. Relatedly, it is current VA practice to provide one piece of equipment; therefore, we believe it is also reasonable to provide that equipment to the veteran's primary residence, as that is the personal domicile or residential setting in which the veteran resides the majority of the year, and is where we believe the equipment will likely be used most routinely and regularly. If the veteran has more than one residence, the Department will provide the equipment to the veteran's primary residence. We note that to the extent the equipment is portable, an individual would be free to move it to another location where the veteran may temporarily reside, such as another residence during an extended seasonal stay. As indicated previously, there may be limited instances when ''home exercise equipment'' or ''home medical equipment'' may be provided at a non-primary residence based on a clinical determination. Prior to any installation of such equipment in the residence, the owner of the residence would have to agree to the installation of the equipment. Additionally, proposed § 17.3230(a)(6) would establish that home medical equipment must not require installation that amounts to a home improvement or structural alteration to a veteran's primary residence. Such improvements and alterations to homes are authorized by 38 U.S.C. 1717(a)(2) and controlled by other implementing regulations, as referenced in the table in proposed § 17.3200(b). Lastly, we would require an additional restriction in proposed § 17.3230(a)(2) and (a)(5) that ''adaptive recreation equipment'' and ''home exercise equipment'' be provided when such equipment would achieve the veteran's rehabilitation goals as documented in the veteran's medical record. This is because these types of equipment are generally provided to achieve specific rehabilitation goals, while the other items and services provided under this section are not.

Proposed § 17.3230(a)(12) would authorize the repair of any item provided under proposed § 17.3230(a), unless cost or clinical reasons favor replacing the item. Even if not initially prescribed by VA, an item under proposed § 17.3230(a) could be repaired if the VA provider or authorized non-Department provider determines that the item is still medically necessary and writes an authorized prescription for the veteran. This is consistent with current VA practice, and is reasonable to ensure that veterans have necessary and properly functioning items.

Proposed § 17.3230(a)(13) would authorize the replacement of items provided under proposed § 17.3230 if the original items have been damaged, destroyed, lost, or stolen, or if replacement is clinically indicated. Proposed paragraph (a)(13) would establish that if items are serviceable and still meet the veteran's need, VA will not replace such items for the sole purpose of obtaining a newer model of the same or similar item. Proposed § 17.3230(a)(13) sets forth a reasonable restriction that would allow VA to provide replacement items as clinically indicated, for the benefit of all veterans to whom VA must provide these items and services.

We note that generally we would provide veterans with one item or service under this proposed rule. However, there may be instances when we would provide a veteran with a spare item. The provision of spare items would be authorized if it is clinically determined that a veteran would immediately require another identical or similar item. For example, the provision of a spare item may be clinically determined to be immediately required

if an item provided under the proposed regulations were to fail or require rotation (*e.g.,* routine cleaning) as a component of proper use. VA may also provide an identical or similar item in the event of a failure of an item provided under these regulations if it is determined that it would otherwise be detrimental to the veteran's medical treatment or rehabilitation to not provide a spare item. This is current VA practice and is reasonable to ensure that veterans would have access to items that are necessary on a continuous basis if the veteran could not wait for repair or replacement, such as a spare wheelchair or spare prosthetic limb. VA's provision of items as explained above attempts to ensure that veterans have working, usable equipment when needed. We discuss the provision of spare items in a note at the end of proposed § 17.3230.

Additionally, VA's reimbursement of emergency care under 38 U.S.C. 1725 and 1728 ensures that VA may reimburse some veterans for needed repairs to equipment if such repairs cannot wait for prior VA authorization. For these reasons, and to be consistent with section 1728, we propose removing § 17.122, which authorizes the repair of prosthetic and similar items without prior authorization from VA if the expenses were incurred in the care of an adjudicated service-connected disability. Section 17.122 is not needed, as sections 1725 and 1728 would provide for VA payment of repairs without prior VA authorization as described above, and the other VA regulations that currently implement these sections (sections 17.120 *et seq.* and 17.1000 *et seq.*) are sufficient to authorize payment. Further, we find no basis for treating reimbursement of the expenses of prosthetic repairs differently from the expenses of other types of ''emergency care''. In addition to removing § 17.122, we propose deleting from § 17.120 the following language, ''(except prosthetic appliances, similar devices, and repairs),'' because we do not see a need to treat the provision of these appliances, devices and repairs any differently from other emergency care provided under this section. Removing § 17.122 is needed as described above, and would clarify that the access to prosthetic repair services without prior authorization in medical emergencies for veterans would be authorized under sections 1725 and 1728 and their implementing regulations.

Proposed § 17.3230(a)(14) would authorize the provision of specialized clothing made necessary by the wearing of a prosthetic device. The provision of specialized clothing made necessary by the wearing of a prosthetic device is specifically identified as a medical service under section 1701(6)(F)(ii), and we would therefore include it in this proposed rule. We contrast this with the clothing allowance provided under § 3.810 and authorized by 38 U.S.C. 1162, which is intended to provide a clothing allowance only to veterans with certain service-connected disabilities, apart from the provision of medical services under section 1710. See 118 Cong. Rec. S. 20748, 20751 (1972) (legislative history related to the bill that would enact section 1162, explaining that a new clothing allowance would assist veterans to purchase non-specialized, regular clothing that may experience wear and tear due to use of a wheelchair or prosthetic device, separate from the benefit for specialized clothing due to the wearing of a prosthetic device that VA provided as a medical service).

Proposed § 17.3230(a)(15) would authorize training with and fitting of items as considered necessary. Training and fitting of prosthetic appliances is required by 38 U.S.C. 1714(a), is current VA practice, and is reasonable to ensure, to the extent practicable, that veterans safely operate items and that items are properly maintained to promote their longevity. We would additionally remove current § 17.153 related to training and fitting of prosthetic and similar items, as it would be duplicative of proposed § 17.3230(a)(15).

Proposed § 17.3230(b) would establish that unless items provided under proposed § 17.3230(a) are loaned to a veteran, based on a clinical determination, such items become the property of the veteran once the veteran takes possession of those items. This would ensure that veterans have full use of, and responsibility for, items provided by VA, and will use them in the manner in which they are prescribed. If items will be loaned, a written agreement (which would include roles and responsibilities for the duration of the loan) with the veteran would be entered into to ensure that it is clear the veteran does not own the item, and that the veteran fully understands and agrees to the terms of the loan.

17.3240. Furnishing Authorized Items and Services

Proposed § 17.3240(a) would establish that VA will determine whether VA or a VA-authorized vendor will furnish authorized items and services under § 17.3230 to eligible veterans. When VA has the capacity or inventory, VA directly provides items and services to veterans. However, VA also may use, on a case-by case basis, VA-authorized vendors to provide greater access, lower cost, and/or a wider range of items and services. We would clarify in regulation that this administrative business decision is made solely by VA to eliminate any possible confusion as to whether a veteran has a right to request items or services generally, or to request specific items or services from a provider other than VA, and to clarify for the benefit of VA-authorized vendors that VA retains this discretion as part of our duty to administer this program in a legally sufficient, fiscally responsible manner.

Proposed § 17.3240(b) would establish that, except for emergency treatment reimbursable under 38 CFR 17.120 et. seq or 17.1000 *et seq.,* prior authorization is required from VA for VA-authorized vendors to obtain reimbursement for furnishing items or services under § 17.3230 to veterans. Prior authorization may be obtained by contacting VA. Paragraph (b) will help ensure that the highest quality and most clinically appropriate device is provided, as prescribed by VA providers, and that items or services are not subject to potential alterations or substitutions by VA-authorized vendors without VA oversight.

17.3250. Veteran Responsibilities

Proposed § 17.3250 would establish responsibilities of veterans who are provided prosthetic and rehabilitative items and services. Proposed § 17.3250(a) would establish that veterans must use items provided under proposed § 17.3230(a) in the manner for which they are prescribed, and consistent with the manufacturer's instructions and any training provided. This would ensure, to the extent practicable, veteran safety in using the item as well as the longevity of the item.

Proposed § 17.3250(b) would establish that, except for emergency care under 38 CFR 17.120 *et. seq.* or 38 CFR 17.1000 *et seq.,* veterans must obtain prior authorization from VA if they want VA to reimburse a VA-authorized vendor for such items and services provided under § 17.3230. This would reinforce general VA oversight requirements already proposed in these regulations to ensure the highest quality and most appropriate item or service is provided, and would distinctly provide notice to veterans and vendors that VA will not be responsible for the cost of items and services provided to veterans who are not preauthorized by VA or otherwise covered as emergency care.

Rescission of Use of Prosthetic Service Card and Related VA Policy

We note that after the publication of this rulemaking is final, we would rescind, in their entirety, VHA Handbooks 1173.06, 1173.1. 1173.10, 1173.2, 1173.3, VA Forms 10–2501 and 10–2520, and VA Form Letter 10–55; and develop new VHA policy to ensure VA's provision of prosthetics is consistent with the published final rules. Any references to the prosthetic service card would be excluded from future VHA policies and forms implementing these rules as further explained below.

As part of this plan, we specifically note that future VA policy would not include portions of existing VA policy that reference ''prosthetic service cards'' and establish limits on reimbursement or payment amounts for emergency repairs of prosthetic items through the use of a ''prosthetic service card'' to obtain repairs from VA-authorized vendors without prior authorization from VA. A ''prosthetic service card'' is a piece of paper (VA Form 10–2501) that VA has issued to veterans in the past for the purpose of providing a third party vendor with notice that VA would reimburse such vendor for the provision of certain repairs, up to certain amounts. VA Form 2520 in the past has been the invoice used by vendors to submit to VA requests for payment for repairs performed under the prosthetic service card. This prosthetic service card was intended to allow third party vendors to forego the normal process of contacting VA first for authorization, and instead submit an invoice to VA for the cost of repairs after they were completed. The card was intended to be used if it was not feasible for a VA-authorized vendor to contact VA for authorization and the repair was immediately necessary, such as when a repair was needed after VA office hours. However, these prosthetic service cards have not been widely or consistently used by veterans or vendors for the purpose of obtaining VA approval of emergency repairs. First, veterans in many instances have lost their prosthetic service cards or have not carried the card on their person to be able to present to third party vendors. Second, even when presented with the card, many third party vendors have nonetheless contacted VA for authorization prior to providing repairs. The card itself is merely a piece of paper that provides notice that VA will reimburse a vendor for certain repairs up to certain amounts—it is not a pre-paid credit card or other means of providing immediate payment to a VA-authorized vendor (despite the description of the card as a ''debit'' card in VHA Handbook 1173.1). Even when the card has been used, third party vendors have still had to submit an invoice and other documentation to VA to get reimbursed for the repair. Therefore, use of the prosthetic service card has not typically been any less burdensome for third party vendors to receive payment from VA than if such vendors had contacted VA for authorization prior to the repair. The intent of the card was to decrease the burden for both veterans and third party vendors, but it has not functioned consistently in this manner. Additionally, the card does not appropriately reference sections 1725 and 1728 as the authorities to provide repairs without prior authorization, which creates problems where the card either does not recognize the applicable criteria in sections 1725 and 1728 (for instance, related to eligibility under sections 1725 and 1728), or establishes criteria that may be inconsistent with 1725 and 1728 (for instance, the prosthetic service card contains a space for VA to set a limit on any repair costs).

Currently, references to the prosthetic service card (PSC) are located in paragraphs 3.tt, 8.a, 9.i, 9.h, 9.m of VHA Handbook 1173.1; paragraphs 4.a.(2)–a.(7), 4.b., 4.c.(1)–c.(7), and 6.c.(4) of VHA Handbook 1173.2; paragraphs 10.a.(1) and 10.c of VHA Handbook 1173.3; paragraphs 7.a. and 7.e. of VHA Handbook 1173.06; and paragraphs 3.i.(9) and 4.c. in VHA Handbook 1173.10. Paragraphs 3.tt and 9.h in VHA Handbook 1173.1 both define ''VA Form 10–2501, Prosthetic Service Card (PSC).'' Paragraph 8.a. in VHA Handbook 1173.1 references requests for payment of PSC (*i.e.* prosthetic service card) repairs. Paragraph 9.i in VHA Handbook 1173.1 defines ''VA Form 10–2520, Prosthetic Service Card Invoice'', and paragraph 9.m. defines ''VA Form Letter 10–55, Authority to Exceed Repair Costs of Prosthetic Appliances'' as a letter of authorization forwarded to a provider of PSC (*i.e.* prosthetic service card) repairs when the cost of that repair exceeds the limit authorized by the PSC (*i.e.* prosthetic service card). In VHA Handbook 1173.2, paragraph 4.a.(2) requires that repairs be obtained by use of the prosthetic service card; paragraphs 4.a.(3)–a.(7) detail requirements that PSCs be provided by all prosthetic programs at field facilities, authority for equipment repairs and services using prosthetic service cards, monetary limits for prosthetic service cards, responsibility for payment of prosthetic service card invoices, and payment for repairs made without prior approval; paragraph 4.b. sets forth VA, vendor, and veteran responsibilities related to the administration of prosthetic service cards; paragraphs 4.c.(1)–c.(7) include prosthetic service card benefits limits, and the processes for prosthetic service card preparation and issuance, prosthetic service card invoice preparation and issues, repairs authorization, and prosthetic service card revocation or cancellation; and paragraph 6.c.(4) requires repairs of artificial limbs, braces, wheelchairs, and other appliances on presentation by the veteran of a valid prosthetic service card.

Paragraph 10.a.(1) of VHA Handbook 1173.3 states that repairs may be obtained through commercial sources using VA Form 10–2501, and paragraph 10.c. of VHA Handbook 1173.3 encourages the use of prosthetic service cards for those veterans eligible for a prosthetic service card.

Paragraphs 7.a. and 7.e. of VHA Handbook 1173.06 authorize the use of prosthetic service cards for repairs to wheelchairs. Paragraphs 3.i.(9) and 4.c. in VHA Handbook 1173.10 authorize the use of prosthetic service cards for repairs to orthotic devices.

Lastly, VA Form 10–2501, VA Form 10–2520, and VA Form Letter 10–55 also reference prosthetic service cards. Currently, VA Form 10–2520 is an approved information collection under OMB Control Number 2900–0188, which is set to expire on October 31, 2017. On August 22, 2017, we issued a **Federal Register** (FR) Notice informing the public of the opportunity to comment on the proposed renewal of that information collection. 82 FR 39951. While we are requesting renewal of that collection, we now propose to eliminate VA Form 10–2520 under that existing collection for the reasons explained above as part of this proposed rule. Public comments on the discontinuance of VA Form 10–2520 should be submitted as part of this rulemaking for consideration by VA. While related, VA Form 10–2015 and VA Form Letter 10–55 are not information collections, did not require OMB approval prior to issuance, and thus are not part of that **Federal Register** Notice.

As previously stated, to ensure consistency with the published final regulations, we would rescind all relevant and applicable handbooks, and develop a new VHA policy document or documents. Any references to prosthetic service cards in existing policies would be excluded from that future policy document or documents for the reasons mentioned above. We would also discontinue the use of the related forms

and letters previously identified in this section. As part of this rulemaking, we welcome any public comments on these efforts as they relate to this rulemaking.

Although we would rescind the prosthetic service card and the policies and forms governing its use, there would remain, as explained previously, statutory and regulatory authority (38 U.S.C. 1725 and 1728, 38 CFR 17.120 *et seq.* and 17.1000 *et seq.*) to reimburse some vendors or veterans for the cost of some emergency, unauthorized repairs. VA could also obviate the need for veterans to obtain emergency repairs from vendors by providing spares for prosthetic and rehabilitative items under § 17.3230, as clinically appropriate.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary guidance or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), these amendments would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.013, Veterans Prosthetic Appliances.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, approved this document on October 11, 2017, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Government contracts, Health care, Health facilities, Health professions, Medical devices, Veterans.

Dated: October 11, 2017.

Janet Coleman,

Chief, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.38 by revising paragraph (a)(1)(viii) and revising paragraph (b). The revisions read as follows:

§ 17.38. Medical Benefits Package.

(a) * * *

(1) * * *

(viii) Prosthetic and rehabilitative items and services as authorized under §§ 17.3200–.3250, and eyeglasses and hearing aids as authorized under § 17.149.

* * * * *

(b) *Provision of the ''medical benefits package''.* Care referred to in the ''medical benefits package'' (except for prosthetics and rehabilitative items and services authorized in paragraph (a)(1)(viii) of this section) will be provided to individuals only if it is determined by appropriate healthcare professionals that the care is needed to promote, preserve, or restore the health of the individual and is in accord with generally accepted standards of medical practice.

* * * * *

§ 17.120 [Amended].

■ 3. Amend the introductory text of § 17.120 by removing ''(except prosthetic appliances, similar devices, and repairs)''.

§ 17.122 [Removed].

■ 4. Remove § 17.122.

■ 5. Revise the undesignated center heading that precedes § 17.148 to read as follows:

Sensory and Other Rehabilitative Aids

§§ 17.150 [Removed and reserved]

§§ 17.153 [Removed and reserved]

■ 6. Remove and reserve §§ 17.150 and 17.153.

■ 7. Add an undesignated center heading and §§ 17.3200 through 17.3250, to read as follows:

Prosthetic and Rehabilitative Items And Services

§ 17.3200 Purpose and scope.

(a) *Purpose.* The purpose of §§ 17.3200 through 17.3250 is to establish eligibility and other criteria for the provision to veterans of the prosthetic and rehabilitative items and services, listed in § 17.3230, authorized as medical services under 38 U.S.C. 1701(6)(F) and 38 U.S.C. 1710(a).

(b) *Scope.* Sections 17.3200 through 17.3250 apply only to items and services listed in § 17.3230(a) and authorized as medical services under 38 U.S.C. 1701(6)(F) and 38 U.S.C. 1710(a). The provision of the items or services and payments in the table below are authorized in whole or in part by separate statutes and controlled by other implementing regulations:

Item or service	Statute	Regulation(s)
Clothing allowance	38 U.S.C. 1162	38 CFR 3.810.
Service and guide dog benefits	38 U.S.C. 1714(b) & (c)	38 CFR 17.148.
Sensori-neural aids	38 U.S.C. 1707(b)	38 CFR 17.149.
Patient lifts and other rehabilitative devices	38 U.S.C. 1717(b)	38 CFR 17.151.
Devices for deaf veterans	38 U.S.C. 1717(c)	38 CFR 17.152.
Equipment for blind veterans	38 U.S.C. 1714(b)	38 CFR 17.154.
Automobile adaptive equipment	38 U.S.C. 3901 *et seq.*	38 CFR 17.155 *et seq.*
Home improvements and structural alterations	38 U.S.C. 1717(a)(2)	38 CFR 17.3100 *et seq.*

(Authority: 38 U.S.C. 501, 1162, 1701, 1707, 1710, 1714, 1717, 3901)

§ 17.3210 Definitions.

For the purposes of §§ 17.3200 through 17.3250:

Activities of daily living (ADLs) means specific personal care activities that are required for basic daily maintenance and sustenance, to include eating, toileting, bathing, grooming, dressing and undressing, and mobility.

Adaptive household item means a durable household item that has been adapted to compensate for, or that by design compensates for, loss of physical, sensory, or cognitive function and is necessary to complete one or more ADLs in the home or other residential setting. Adaptive household items include but are not limited to adaptive eating utensils, shower stools or chairs, hooks to assist in buttoning clothing, or shoe horns. This definition does not include household furniture or furnishings, improvements or structural alterations, or household appliances, unless a household appliance is necessary to complete an ADL in the home or other residential setting. VA will not furnish such items or services in such a manner as to relieve any other person or entity of a contractual obligation to furnish these items or services to the veteran.

Adaptive recreation equipment means an item that is designed to compensate for, or that by design compensates for, loss of physical, sensory, or cognitive function and is necessary for the veteran to actively and regularly participate in a sport, recreation, or leisure activity to achieve the veteran's rehabilitation goals as documented in the veteran's medical record.

Cognitive device means an item that compensates for a cognitive impairment and that is used to maintain or improve a veteran's functional capabilities, including but not limited to technological equipment such as tablets and smart phones, and associated technological equipment, applications or software that can assist a veteran in maintaining daily scheduling of important tasks or navigating their surroundings (*e.g.,* global positioning system, or GPS) .

Communication device means an item that compensates for a communication deficiency and allows participation in daily communication activities, including but not limited to picture or symbol communication boards and an electro larynx.

Durable means capable of, and intended for, repeat use.

Home exercise equipment means an item used in a home or residential setting that compensates for a loss of physical, sensory, or cognitive function and that is necessary for the veteran to actively and regularly participate in aerobic, fitness, strength, or flexibility activities to achieve the veteran's rehabilitation goals as documented in the veteran's medical record, when there is no other means for the veteran to exercise to achieve the veteran's rehabilitation goals. Such equipment includes but is not limited to an upper body ergometer and a functional electrical stimulation cycle.

Home medical equipment means an item that is a movable and durable medical device that is used in a home or residential setting to treat or support treatment of specific medical conditions. Such equipment includes but is not limited to hospital beds, portable patient lifts, portable ramps, ventilators, home dialysis equipment, and infusion, feeding, or wound therapy pumps. This definition does not include household furniture or furnishings, improvements or structural alterations, household appliances, or medical alert devices. VA will not furnish home medical equipment in such a manner as to relieve any other person or entity of a contractual obligation to furnish these items or services to the veteran.

Home respiratory equipment means an item used to provide oxygen therapy or to support or enhance respiratory function, including but not limited to compressed oxygen, oxygen concentrators, and continuous positive airway pressure machines.

Household appliance means an item used in the home for performance of domestic chores or other domestic tasks, including but not limited to a refrigerator, stove, washing machine, and vacuum cleaner.

Household furniture or furnishing means an item commonly used to make a home habitable or otherwise used to ornament a home, including but not limited to tables, chairs, desks, lamps, cabinets, non-hospital beds, curtains, and carpet(s).

Implant means any biological or non-biological material that:

(1) Is manufactured or processed to be placed into a surgically or naturally formed cavity on the human body;

(2) Is covered with tissue, has the potential to be covered with tissue, or is permanently embedded in tissue;

(3) Does not dissolve or dissipate within the body; and

(4) Is not a living organ, embryonic tissue, blood, or blood product.

Improvements or structural alterations means a modification to a home or to an existing feature or fixture of a home, including repairs to or replacement of previously improved or altered features or fixtures.

Medical alert device means an item designed to summon general safety assistance for a veteran, or provides a veteran's general medical information to others. This definition does not include alarms or other safety indicators for home medical equipment.

Mobility aid means an item that compensates for a mobility impairment and that is used to maintain or improve a veteran's functional capabilities to be mobile. Mobility aids include but are not limited to manual and motorized wheelchairs, canes, walkers, and equipment to assist a veteran to reach for or grasp items This definition does not include a service or guide dog.

Orthotic device means an item fitted externally to the body that is used to support, align, prevent, or correct deformities or to improve the function of movable parts of the body. Orthotic devices include but are not limited to leg braces, upper extremity splints and braces, and functional stimulation devices.

Primary residence means the personal domicile or residential setting in which the veteran resides the majority of the year.

Prosthetic device means an item that replaces a missing or defective body part. Prosthetic devices include but are not limited to artificial limbs and artificial eyes.

Replacement item means an item that is similar or identical to an item provided under § 17.3230(a), and that takes the place of such an item.

VA-authorized vendor means a vendor that has been authorized by VA to provide items and services under § 17.3230.

(Authority: 38 U.S.C. 501, 1701, 1710)

§ 17.3220 Eligibility.

A veteran is eligible to receive items and services described in § 17.3230 if:

(a) The veteran is enrolled under § 17.36 or exempt from enrollment under § 17.37; and

(b) The veteran is otherwise receiving care or services under chapter 17 of title 38 U.S.C. If a VA provider or an authorized non-Department provider prescribes an item or service for the veteran, the veteran is considered to otherwise be receiving care or services under chapter 17 of title 38 U.S.C.

(Authority: 38 U.S.C. 501, 1701(6)(F), 1710)

§ 17.3230 Authorized items and services.

(a) VA will provide veterans eligible under § 17.3220 with the following items and services, if VA determines that such items and services serve as a direct and active component of the veteran's medical treatment and rehabilitation and do not merely support the comfort or convenience of the veteran:

(1) Adaptive household items.

(2) Adaptive recreation equipment, when such equipment would achieve the veteran's rehabilitation goals as documented in the veteran's medical record.

(3) Cognitive devices.

(4) Communication devices.

(5) Home exercise equipment, where such equipment will only be provided for one location, the veteran's primary residence, unless it is clinically determined that the equipment should be provided at the veteran's non-primary residence instead of the veteran's primary residence. Prior to any installation of home exercise equipment, the owner of the residence must agree to the installation. Such equipment will only be provided to achieve the veteran's rehabilitation goals as documented in the veteran's medical record.

(6) Home medical equipment, and if required, installation that does not amount to an improvement or structural alteration to a veteran's residence. Such equipment will only be provided for one location, the veteran's primary residence, unless it is clinically determined that the equipment should be provided at the veteran's non-primary residence instead of the veteran's primary residence. Prior to any installation of home medical equipment, the owner of the residence must agree to the installation.

(7) Home respiratory equipment.

(8) Implants.

(9) Mobility aids.

(10) Orthotic devices.

(11) Prosthetic devices.

(12) Repairs to items provided under paragraph (a) of this section, even if the item was not initially prescribed by VA, but VA determines the repair to be necessary, unless VA determines to replace the item for cost or clinical reasons.

(13) Replacement items, if items provided under this section have been damaged, destroyed, lost, or stolen, or if replacement is clinically indicated, subject to the following: Items that are serviceable, and that still meet the veteran's need, will not be replaced for the sole purpose of obtaining a newer model of the same or similar item.

(14) Specialized clothing made necessary by the wearing of a prosthetic device; and

(15) Training with and fitting of prescribed items as considered necessary.

(b) Unless an item provided under § 17.3230(a) is loaned to the veteran based on a clinical determination that a loan is more beneficial for the veteran, such items become the property of the veteran once the veteran takes possession of those items. If the determination is that the item will be loaned to a veteran, the veteran must agree to the terms of the loan in order to receive the item.

Note to Section *§* 17.3230: Even though the items and services listed in this provision are included in the medical benefits package, this section governs determinations of need for them and not 38 CFR 17.38(b). The exclusions under 38 CFR 17.38(c) will apply to the items and services provided under this section. While VA will generally provide only one item under this section, the provision of spare items may be authorized based on a clinical determination of need using the criteria set forth in this section.

(Authority: 38 U.S.C. 501, 1701(6)(F), 1710, 1714(a))

§ 17.3240 Furnishing authorized items and services.

(a) VA will determine whether VA or a VA-authorized vendor will furnish authorized items and services under § 17.3230 to veterans eligible for such items and services under § 17.3210.

(b) Except for emergency care reimbursable under 38 CFR 17.120 *et seq.* or 38 CFR 17.1000 *et seq.,* prior authorization is required for VA to reimburse VA-authorized vendors for furnishing items or services under § 17.3230 to veterans. Prior authorization must be obtained from VA by contacting any VA medical facility.

§ 17.3250. Veteran responsibilities.

(a) Veterans must use items provided under § 17.3230 in the manner for which they are prescribed, and consistent with the manufacturer's instructions and any training provided. Failure to do so may result in the item not being replaced under § 17.3230(a)(13).

(b) Except for emergency care under 38 CFR 17.120 *et seq.* or 17.1000 *et seq.,* veterans obtaining items and services provided under § 17.3230 must obtain prior authorization from VA in order to obtain VA reimbursement for such items and services obtained from a VA-authorized vendor. VA will not be responsible for the cost of items and

services provided that are not preauthorized by VA or that otherwise are not covered as emergency care under 38 CFR 17.120 *et. seq.* or 17.1000 *et seq.*

(Authority: 38 U.S.C. 501, 1701, 1710, 1725, 1728)

[FR Doc. 2017–22358 Filed 10–13–17; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0185; FRL–9969–62–Region 5]

Air Plan Approval; Ohio; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Ohio State Implementation Plan (SIP) submitted by the State of Ohio (Ohio) through the Ohio Environmental Protection Agency (OEPA). Ohio's SIP revision addresses the requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze, and a determination of the adequacy of the state's existing implementation plan addressing regional haze (regional haze SIP). EPA is proposing approval of the Ohio SIP revision on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: Comments must be received on or before November 15, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0185 at *http://www.regulations.gov* or via email to *Aburano.Douglas@epa.gov*. For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3901, *Becker.Michelle@epa.gov*.

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

I. Background

States are required to submit a progress report that evaluates progress towards the RPGs for each Class I Federal area [1] (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. *See* 40 CFR 51.308(h). The first progress report must be submitted in the form of a SIP revision and is due five years after the submittal of the initial regional haze SIP. On March 11, 2011, OEPA submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308.

On March 11, 2016, Ohio submitted as a SIP revision a report on the progress made in the first implementation period towards the RPGs for Class I areas that are affected by emissions from the state of Ohio (progress report). This progress report included a determination that Ohio's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is proposing to approve Ohio's progress report on the basis that it satisfies the requirements of 40 CFR 51.308.

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

On March 11, 2016, OEPA submitted a revision to Ohio's regional haze SIP to address progress made in the first planning period towards RPGs for Class I areas that are affected by emissions from Ohio's sources. This progress report also included a determination of the adequacy of the state's existing regional haze SIP.

Ohio has no Class I areas within its borders. Emissions from sources in Ohio contribute to the visibility impairment in the following Class I areas: Caney Creek Wilderness Area (Arkansas), Upper Buffalo Wilderness Area (Arkansas), Great Gulf Wilderness Area (New Hampshire), Presidential Range-Dry River Wilderness Area (New Hampshire), Brigantine Wilderness Area (New Jersey), Great Smoky Mountains National Park (North Carolina, Tennessee), Mammoth Cave National Park (Kentucky), Acadia National Park (Maine), Moosehorn Wilderness Area (Maine), Seney Wilderness Area (Michigan), Hercules-Glades Wilderness Area (Missouri), Mingo Wilderness Area (Missouri), Lye Brook Wilderness (Vermont), James River Face Wilderness (Virginia), Shenandoah National Park (Virginia), and Dolly Sods/Otter Creek Wilderness (West Virginia).

In developing a long term strategy (LTS) for ensuring reasonable progress towards improving visibility, Ohio participated with other states and tribes through the Midwest Regional Planning Organization (MRPO). Additionally, Ohio consulted with the Mid-Atlantic/Northeast Visibility Union (MANE–VU), and Federal Land Managers (FLMs) as a part of developing its initial SIP. The original Ohio regional haze SIP determined that ''on-the-books'' controls would constitute the measures necessary to address Ohio's contribution to visibility impairment in the Class I areas to which Ohio contributes. This was supported by modeling assessments from the MRPO and in consultation with other states and Regional Planning Organizations (RPOs).

A. Regional Haze Progress Report SIPs

The following section includes EPA's analysis of Ohio's progress report

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

submittal and an explanation of the basis of our proposed approval.

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

In its progress report, Ohio summarizes the status of the emissions reduction measures that were included in its 2011 regional haze SIP, specifically, the status of the on-the-books emissions reduction measures. Details of the measures and implementation for various on-highway mobile sources, off-highway mobile sources, area sources, and point sources are set forth in Section II.A of the progress report.

In its regional haze SIP, Ohio relied on the Clean Air Interstate Rule (CAIR) to meet the sulfur dioxide (SO_2) and nitrogen oxides (NO_X) best available retrofit technology (BART) requirements for its electric generating units (EGUs) as well as to ensure reasonable progress. Ohio's progress report describes the litigation regarding CAIR and Cross-State Air Pollution Rule (CSAPR) that has had a substantial impact on EPA's review of the regional haze SIPs of many states.

In 2005, EPA issued regulations allowing states to rely on CAIR to meet certain requirements of the Regional Haze Rule. *See* 70 FR 39104 (July 6, 2005).[2] A number of states, including Ohio, submitted regional haze SIPs consistent with these regulatory provisions. CAIR, however, was remanded (without vacatur) to EPA in 2008, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008), and replaced by CSAPR. 76 FR 48208 (August 8, 2011). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of December 30, 2011, in *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302.

EPA finalized a limited approval of Ohio's regional haze SIP on July 2, 2012. 77 FR 39177. In a separate action, published on June 7, 2012, EPA finalized a limited disapproval of the Ohio regional haze SIP because of the state's reliance on CAIR to meet certain regional haze requirements, and issued a Federal Implementation Plan (FIP) to address the deficiencies identified in the limited disapproval of Ohio and other states' regional haze plans. 77 FR 33642. In our FIP, we relied on CSAPR to meet certain regional haze requirements notwithstanding that it was stayed at the time. Following additional litigation and the lifting of the stay, EPA began implementation of CSAPR on January 1, 2015.

Regarding the status of BART and reasonable progress control requirements for non-EGU sources in the state, Ohio's progress report notes that two boilers at one facility, operated by the P.H. Glatfelter Company, were the only non-EGU emission units subject to the BART requirements in Ohio. BART requirements at the P.H. Glatfelter facility reflected alternative measures, which were incorporated into a Federally enforceable permit on March 7, 2011, and the compliance date for these requirements was January 31, 2017. Also, P.H. Glatfelter is currently pursuing conversion to natural gas at its facility to comply with the EPA Industrial Boiler Maximum Achievable Control Technology (MACT) requirements, in the end, this will bring further reductions beyond the BART requirements.

Additionally, as part of Ohio's consultation with MANE–VU,[3] MANE–VU identified 28 stacks from 14 sources in Ohio contributing to visibility impairment based on 2002 emissions. In Ohio's regional haze SIP, the state declined to ''commit to any particular course of action beyond the collaboration that occurred in 2009.'' Ohio noted, however, that utilities within the state had made significant progress in installing the SO_2 controls requested by MANE–VU. In the progress report, and subsequent letter to EPA dated July 11, 2017, Ohio indicated that 27 of the 28 identified units have either shut down or installed post-combustion emission control for SO_2 emissions. The final unit does not have a scrubber installed, but to comply with the SO_2 Data Requirements Rule (80 FR 51052, August 21, 2015) has accepted a Federally enforceable emission limit.

EPA proposes to conclude that Ohio has adequately addressed the status of control measures in its regional haze SIP. Ohio describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, the status of measures from on-the-book controls and the status of control measures applied to stacks identified by MANE–VU.

2. Summary of Emissions Reductions Achieved in the State Through Implementation of Measures

In its progress report, Ohio summarizes the status of the emissions reduction measures that were included in its 2011 regional haze SIP, specifically, the status of the on-the-books emissions reduction measures on which the state relied. Ohio also notes the conclusion in its original regional haze SIP that the majority of visibility-impairing point source emissions in the State come from EGUs. The original SIP showed dramatic reductions in projected emissions from EGUs due to CAIR. Ohio's progress report accordingly discusses the implementation of CAIR and its successor, CSAPR.[4] The other measures addressed in the progress report include on- and off-highway mobile source rules, area source rules, and Title IV programs.

As described above, throughout the litigation surrounding CAIR and CSAPR, EPA continued to implement CAIR. Thus, CAIR was in effect through the end of 2014. Ohio explained in its progress report that with CAIR remaining in effect throughout this process, Ohio has acted in accordance with the CAIR program, as determined by the Ohio Regional Haze SIP, resulting in emissions reductions from its EGUs. Data from the EPA Clean Air Markets Division shows NO_X emissions from EGUs in Ohio decreased from 370,497 tons per year (TPY) in 2002 to 89,345 TPY in 2014, a 76% decrease. SO_2 from EGUs in Ohio decreased from 1,132,069 TPY in 2002 to 290,402 TPY in 2014, a 75% decrease. Table 1 below shows the annual reductions of SO_2 and NO_X for Ohio. These decreases were a result of CAIR and other implementation strategies. Ohio further concluded that

[2] CAIR required certain states like Ohio to reduce emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) that significantly contribute to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter ($PM_{2.5}$) and ozone. *See* 70 FR 25162 (May 12, 2005).

[3] MANE–VU is a collaborative effort of State governments, Tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the Northeastern United States. Member State and Tribal governments include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont.

[4] CSAPR was issued by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. *See* 76 FR 48208 (August 8, 2011) (final rule). CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in 28 states in the Eastern United States that significantly contribute to downwind nonattainment of the 1997 $PM_{2.5}$ and ozone NAAQS and 2006 $PM_{2.5}$ NAAQS.

with CSAPR now being implemented, additional reductions in emissions from Ohio EGUs would result because the CSAPR budgets are more stringent than under CAIR. S*ee* 80 FR 75706.

TABLE 1—ACTUAL SO_2 AND NO_X EMISSIONS

Year	SO_2 (tons)	NO_X (tons)
2002	1,132,069	370,497
2003	1,175,905	359,285
2004	1,091,520	270,449
2005	1,085,485	258,222
2006	962,288	241,995
2007	954,646	240,722
2008	709,444	237,585
2009	600,692	97,562
2010	572,164	108,048
2011	575,474	103,591
2012	323,977	84,281
2013	282,195	86,619
2014	290,403	89,345

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

Ohio noted in its progress report that it does not have any Class I areas within its boundaries, and as the applicable provisions pertain only to states containing Class I areas, no further discussion is necessary. EPA concurs, and proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308(g).

4. Analysis Tracking Emissions Changes of Visibility-Impairing Pollutants

In its progress report, Ohio tracked changes in emissions of visibility-impairing pollutants using a base year inventory of 2005 and the 2011 National Emissions Inventory, the most recent updated inventory of actual emissions for the state at the time that it developed the progress report. For both years, pollutants inventoried include NO_X, fine particulate matter ($PM_{2.5}$), coarse particulate matter (PM_{10}), ammonia (NH_3), and SO_2. The emissions inventories, include all point, nonpoint, on-road, non-road, marine-aircraft-rail (MAR), and other sources.

Table 2 below shows the progress made from 2005–2011 toward the projected 2018 emission reductions indicated in the 2011 Ohio regional haze SIP submission. In the 2005 inventory, SO_2 emissions were 1,241,414 TPY and the reduction projected by 2018 was 799,830 TPY for an annual SO_2 emission of 441,584 TPY. In 2011, SO_2 emissions had already decreased by 563,523 TPY, or achieved 70 percent of the expected reduction. With the exception of NH_3, which Ohio predicted to increase during the first implementation period (it actually decreased), all other pollutants at the time of the progress report had achieved more than 50 percent of the expected 2018 emissions reductions.

TABLE 2—EMISSIONS REDUCTIONS—2005 TO 2011 VS. PROJECTED 2018 REDUCTIONS (TPY)

	VOC	NO_X	$PM_{2.5}$	PM_{10}	NH_3	SO_2
2005 to 2018 expected reduction	151,522	392,994	3,521	4,497	−10,028	799,830
2005 to 2011 reduction	86,950	266,969	14,996	19,214	19,775	563,523
% toward 2018 RPG	57	68	426	427	N/A	70

EPA proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308.

5. Assessment of Any Significant Changes in Anthropogenic Emissions

In its progress report, Ohio indicated that no significant changes in anthropogenic emissions have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Ohio sources. The state referenced its analyses in the progress report identifying an overall downward trend in these emissions.

EPA proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308.

6. Assessment of Whether the Implementation Plan Elements and Strategies Are Sufficient To Enable Other States To Meet RPGs

In its progress report, Ohio concludes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Ohio and states where Ohio contributes to visibility impairments to meet all the established RPGs. To support this conclusion, Ohio notes that Kentucky,[5] Maine,[6] North Carolina,[7] Virginia,[8] and West Virginia [9] prepared progress reports demonstrating that visibility is improving at Class I areas and according to these reports Ohio is not interfering with the ability of these states to meet reasonable progress goals.

Ohio's long term strategy relied heavily on the emission reductions from CAIR, a program that has now been replaced by CSAPR. At the present time, the requirements of CSAPR apply to sources in Ohio under the terms of a FIP. The Regional Haze Rule requires an assessment of whether the current ''implementation plan'' is sufficient to enable the states to meet all established reasonable progress goals. 40 CFR 51.308(g). The term ''implementation plan'' is defined for purposes of the Regional Haze Rule to mean ''any [SIP], [FIP], or Tribal Implementation Plan.'' 40 CFR 51.301. EPA is, therefore, proposing to determine that we may consider measures in any issued FIP, as well as those in a state's regional haze SIP, in assessing the adequacy of the ''existing implementation plan'' under 40 CFR 51.308(g)(6) and (h).

EPA proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308. EPA views this requirement as an assessment that should evaluate emissions and visibility trends and other readily available information. Ohio determined its regional haze SIP is sufficient to enable other States to meet the RPGs for the Class I areas impacted by the State's emissions.

7. Review of the State's Visibility Monitoring Strategy

Ohio's progress report states there are no Class I areas within its borders and is not required to have a visibility monitoring strategy in place. EPA concurs, and proposes to conclude that Ohio has adequately addressed the requirements for a monitoring strategy for regional haze and propose to

[5] *https://www.federalregister.gov/documents/2017/08/07/2017-16484/air-plan-approval-kentucky-regional-haze-progress-report.*

[6] *https://www.federalregister.gov/documents/2017/07/20/2017-15266/air-plan-approval-me-regional-haze-5-year-progress-report.*

[7] *https://www.federalregister.gov/documents/2016/08/25/2016-20309/air-plan-approval-north-carolina-regional-haze-progress-report.*

[8] *https://www.federalregister.gov/articles/2014/05/02/2014-10110/approval-and-promulgation-of-implementation-plans-virginia-regional-haze-five-year-progress-report.*

[9] *https://www.federalregister.gov/articles/2015/06/05/2015-13801/approval-and-promulgation-of-implementation-plans-west-virginia-regional-haze-five-year-progress.*

determine no further modifications to the monitoring strategy are required.

B. Determination of Adequacy of Existing Regional Haze Plan

In its progress report, Ohio submitted a negative declaration to EPA regarding the need for additional actions or emission reductions in Ohio beyond those already in place and those to be implemented by 2018 according to Ohio's regional haze plan.

In the 2016 progress report submittal, Ohio determined the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's negative declaration is the finding that visibility has improved at all Class I areas in the MANE–VU region. In addition, SO_2, NO_X, and PM emissions from the latest emission inventory for Ohio have decreased by more than 50% in the five-year time period, indicating that Ohio is on track to achieve the expected emission reductions outlined in its regional haze SIP.

EPA proposes to conclude that Ohio has adequately addressed the provisions under 40 CFR 51.308(h) because monitored visibility values and emission trends indicate that Class I areas impacted by Ohio's sources are meeting or exceeding the RPGs for 2018, and are expected to continue to meet or exceed the RPGs for 2018.

C. Public Participation

On December 14, 2015, Ohio provided an opportunity for FLMs to review the revision to Ohio's SIP reporting on progress made during the first implementation period toward RPGs for Class I areas outside the state that are affected by emissions from Ohio's sources. This was 60 days in advance of the public hearing.

Ohio's progress report includes the FLM comments in Appendices B.2 and B.3, and responses to those comments in Appendix B.4 to the progress report. Comments were received from the U.S. Forest Service and National Park Service. Ohio incorporated two of the three comments into the progress report and provided an explanation for not incorporating the third comment in the progress report.

Ohio also published notification for a public hearing and solicitation for full public comment on the draft progress report in widely distributed publications. A public hearing was held on February 25, 2016. No comments were received and no testimony was provided.

EPA proposes to find that Ohio has addressed the applicable requirements in 51.308(i) regarding FLM consultation.

III. What action is EPA taking?

EPA is proposing to approve Ohio's Regional Haze five-year progress report, submitted March 11, 2016, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h).

IV. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–22230 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0413; FRL–9969–47–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the state implementation plan (SIP) revision submitted by the State of West Virginia for the purpose of updating the effective date by which the State regulations incorporate by reference the national ambient air quality standards (NAAQS), additional monitoring methods, and additional equivalent monitoring methods. This update will effectively add the following to the West Virginia SIP: The 2015 ozone NAAQS, monitoring reference and equivalent methods pertaining to fine particulate matter ($PM_{2.5}$), carbon monoxide (CO), and course particulate matter (PM_{10}), and it will revise the ozone monitoring season to March 1st through October 31st, the Federal Reference Method (FRM), the Federal Equivalent Method (FEM), and the Photochemical Assessment Monitoring Stations

(PAMS) network. The SIP revision will also change a reference from the ''West Virginia Department of Environmental Protection,'' to the ''Division of Air Quality.'' In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 15, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0413 at *http://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information on this rulemaking action to approve West Virginia's SIP revisions to update of the effective date by which the State regulations incorporate by reference the Federal NAAQS, additional monitoring methods, and additional equivalent monitoring methods, effectively adding the 2015 ozone NAAQS and ambient air monitoring reference and equivalent methods pertaining to $PM_{2.5}$, PM_{10}, and CO, and changing the reference to the state air agency, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 27, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–22255 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0437; FRL–9969–34–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions From Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision includes amendments to the Pennsylvania Department of Environmental Protection's (PADEP) regulations and addresses the requirement to adopt reasonably available control technology (RACT) for sources covered by EPA's control techniques guidelines (CTG) standards for the following categories: Miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings, as well as related cleaning activities. The SIP revision also amends regulations for graphic arts systems and mobile equipment repair and refinishing and includes related general administrative amendments. In the Final Rules section of this **Federal Register**, EPA is approving Pennsylvania's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 15, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0437 at *http://www.regulations.gov,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gregory A. Becoat, (215) 814–2036, or by e-mail at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions

of the rule that are not the subject of an adverse comment.

Dated: September 27, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–22240 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0592; FRL–9969–38–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendment to Ambient Air Quality Standard for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the state implementation plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of adding a revised 8-hour ozone standard of 0.070 parts per million (ppm) to the Virginia SIP. This revision incorporates the 2015 ozone national ambient air quality standards (NAAQS) as promulgated by EPA and is consistent with the NAAQS set out in our regulations. In the Final Rules section of this **Federal Register**, EPA is approving Virginia's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 15, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0592 at *http://www.regulations.gov/,* or via email to *stahl.cynthia@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 22, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–22242 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2017–0355; FRL–9969–75–OAR]

RIN 2060–AT55

Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, the U.S. Environmental Protection Agency (EPA) is proposing to repeal the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (EGUs), commonly referred to as the Clean Power Plan (CPP), as promulgated on October 23, 2015.

DATES: *Comments.* Comments must be received on or before December 15, 2017.

Public Hearing. If anyone contacts us requesting a public hearing on or before October 31, 2017, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2017–0355, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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 EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Instructions. Direct your comments on the proposed rule to Docket ID No. EPA–HQ–OAR–2017–0355. The EPA's policy is that all comments received will be included in the public docket and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured

and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0355. The EPA has previously established a docket for the October 23, 2015, CPP under Docket ID No. EPA–HQ–OAR–2013–0602. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 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 holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (888) 627–7764; email address: *airaction@epa.gov.*

SUPPLEMENTARY INFORMATION:

Submitting CBI. Do not submit information that you consider to be CBI electronically through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: OAQPS Document Control Officer (Room C404–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Attn: Docket ID No. EPA–HQ–OAR–2017–0355.

Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to 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. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

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

BACT Best available control technology
BDT Best demonstrated technology
BSER Best system of emission reduction
CAA Clean Air Act
CBI Confidential business information
CFR Code of Federal Regulations
CO_2 Carbon dioxide
CPP Clean Power Plan
EGU Electric utility generating unit
EPA U.S. Environmental Protection Agency
GHGs Greenhouse gases
MACT Maximum achievable control technology
NESHAP National emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
UMRA Unfunded Mandates Reform Act

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Executive Summary

By this notice, the EPA is proposing to repeal the CPP. *See* 80 FR 64662 (October 23, 2015). In accordance with Executive Order 13783, 82 FR 16093 (March 31, 2017), the EPA has reviewed the CPP and is initiating this action based on the outcome of that review. Specifically, the EPA proposes a change in the legal interpretation as applied to section 111(d) of the Clean Air Act (CAA), on which the CPP was based, to an interpretation that the Agency proposes is consistent with the CAA's text, context, structure, purpose, and legislative history, as well as with the Agency's historical understanding and exercise of its statutory authority. Under the interpretation proposed in this notice, the CPP exceeds the EPA's statutory authority and would be repealed. The EPA welcomes comment on the legal interpretation addressed in this proposed rulemaking.

The EPA has not determined the scope of any potential rule under CAA section 111(d) to regulate greenhouse gas (GHG) emissions from existing EGUs, and, if it will issue such a rule, when it will do so and what form that rule will take. The EPA is considering the scope of such a rule and is intending to issue an Advance Notice of Proposed Rulemaking (ANPRM) in the near future. That ANPRM will solicit information on systems of emission reduction that are in accord with the legal interpretation proposed in this notice (*i.e.,* those that are applicable at and to an individual source). The ANPRM will also solicit information on compliance measures and state planning requirements. However, the EPA is not soliciting comments on such information with this proposal.

CAA section 111(d) requires the EPA to promulgate emission guidelines for existing sources that reflect the ''best

system of emission reduction'' (BSER) under certain circumstances. Notwithstanding the CPP, all of the EPA's other CAA section 111 regulations are based on a BSER consisting of technological or operational measures that can be applied to or at a single source.[1] The CPP departed from this practice by instead setting carbon dioxide (CO_2) emission guidelines for existing power plants that can only realistically be effected by measures that cannot be employed to, for, or at a particular source. Instead, the CPP encompassed measures that would generally require power generators to change their energy portfolios through generation-shifting (rather than better equipping or operating their existing plants), including through the creation or subsidization of significant amounts of generation from power sources entirely outside the regulated source categories, such as solar and wind energy. This raised substantial concerns that the CPP would necessitate changes to a state's energy policy, such as a grid-wide shift from coal-fired to natural gas-fired generation, and from fossil fuel-fired generation to renewable generation.

Executive Order 13783 directs the EPA to determine whether the CPP exceeds the bounds of the authority delegated to the Agency by Congress. *See* Executive Order 13783, Sections 1(e) and 4(c). In the course of this review, the EPA is reconsidering the legal interpretation underlying the CPP and is proposing to interpret the phrase ''best system of emission reduction'' in a way that is consistent with the Agency's historical practice of determining a BSER by considering only measures that can be applied to or at the source. As discussed in more detail below, under the interpretation proposed here, the CPP exceeds the bounds of the statute. Consistent with this proposed interpretation, we propose to repeal the CPP and rescind the accompanying legal memoranda.

II. Background

A. The CPP

The EPA promulgated the CPP under section 111 of the CAA. 42 U.S.C. 7411. Clean Air Act section 111(b) authorizes the EPA to issue nationally applicable new source performance standards limiting air pollution from ''new sources'' in source categories that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. *Id.* § 7411(b)(1). In 2015, the EPA issued such a rule for CO_2 emissions from certain new fossil fuel-fired power plants[2] in light of the Agency's assessment ''that [greenhouse gases] endanger public health, now and in the future.'' Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Generating Units, 80 FR 64510, 64518 (October 23, 2015) (New Source Rule); *see also* Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 FR 66496 (December 15, 2009).[3] Under certain circumstances, when the EPA issues a CAA section 111(b) standard, the EPA must then prescribe CAA section 111(d) regulations under which each state must submit a plan to establish standards for existing sources in the same category. 42 U.S.C. 7411(d)(1). The EPA relied on that authority to issue the CPP, which, for the first time, required states to submit plans specifically designed to limit CO_2 emissions from certain fossil fuel-fired power plants.

The CPP established emission guidelines for states to follow in limiting CO_2 emissions from those plants. These emission guidelines included nationally uniform CO_2 emission performance rates for two subcategories of existing fossil fuel-fired power plants: Electric utility steam generating units and stationary combustion turbines. *See* 80 FR 64707.

In the CPP, the EPA determined that the BSER for CO_2 emissions from existing fossil fuel-fired power plants was the combination of emission rate improvements and limitations on overall emissions by affected power plants that can be accomplished through a combination of three sets of measures, which the EPA called ''building blocks'':

1. Improving heat rate at affected coal-fired steam generating units;

2. Substituting increased generation from lower-emitting existing natural gas combined cycle units for decreased generation from higher-emitting affected steam generating units; and

3. Substituting increased generation from new zero-emitting renewable energy generating capacity for decreased generation from affected fossil fuel-fired generating units. *Id.* at 64707.

While building block 1 constituted measures that could be applied directly to a source—that is, integrated into its design or operation—building blocks 2 and 3 employed measures that departed from this traditional, source-specific approach to regulation and that were expressly designed to shift the balance of coal-, gas-, and renewable-generated power at the grid-wide level, subjecting these building blocks to claims that they constituted energy, rather than environmental, policy.

That the CPP depends on the employment of measures that cannot be applied at and to an individual source is evident from its treatment of coal-fired power plants. The rule established performance standards for coal-fired plants assuming a uniform emissions rate well below that which could be met by existing units through any retrofit technology of reasonable cost available at the time. This means that, in order to comply, many owners or operators of existing coal-fired units were expected to shift generation from such units to gas-fired units or to renewable generation. Similarly, the rule contemplated that gas-fired units would shift generation to renewable generation. The rule, therefore, is formulated in reliance on and anticipation of actions taken across the electric grid, rather than actions taken at and applied to individual units.

B. Judicial Challenge to the CPP

Due to concerns about the EPA's legal authority and record, 27 states and a number of other parties sought judicial review of the CPP in the United States Court of Appeals for the District of Columbia Circuit. *West Virginia* v. *EPA,* No. 15–1363 (and consolidated cases) (D.C. Cir.). On February 9, 2016, the Supreme Court stayed implementation of the CPP pending judicial review. Order in Pending Case, *West Virginia* v. *EPA,* No. 15A773 (U.S. February 9, 2016). The cases were argued before the D.C. Circuit, sitting *en banc,* on September 27, 2016. Following oral argument, the EPA moved to hold the cases in abeyance, and, on April 28, 2017, the court granted motions to hold the cases in abeyance for 60 days and directed the parties to file briefs addressing whether the cases should be remanded to the Agency rather than held in abeyance. Order, Docket Entry No. 1673071. On August 8, 2017, the court issued an order holding the cases in abeyance for a further 60-day period

[1] This is true not only for all of the handful of existing CAA section 111(d) regulations issued prior to the CPP, but also of the much larger set of new source performance standards issued under CAA section 111(b), which are predicated on the same key statutory term ''best system of emission reduction.''

[2] The rule identified ''[f]ossil fuel-fired EGUs'' as ''by far the largest emitters of [greenhouse gases] among stationary sources in the U.S., primarily in the form of CO_2.'' 80 FR 64510, 64522 (October 23, 2015).

[3] The substance of the 2009 Endangerment Finding is not at issue in this proposed rulemaking, and we are not soliciting comment on the EPA's assessment of the impacts of GHGs with this proposal.

and directed the EPA to file status reports at 30-day intervals. Order, Docket Entry No. 1687838.

C. Executive Order 13783 and the EPA's Review of the CPP

On March 28, 2017, President Trump issued Executive Order 13783, which affirms the ''national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.'' *See* Executive Order 13783, Section 1(a). The Executive Order directs all executive departments and agencies, including the EPA, to ''immediately review existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.'' *Id.* Section 1(c). The Executive Order further affirms that it is ''the policy of the United States that necessary and appropriate environmental regulations comply with the law.'' *Id.* Section 1(e). Moreover, the Executive Order specifically directs the EPA to review and initiate reconsideration proceedings to ''suspend, revise, or rescind'' the CPP, ''as appropriate and consistent with law.'' *Id.* Section 4(a)–(c). (The Executive Order also directs the EPA to undertake this process of review and reconsideration with regard to the New Source Rule issued under CAA section 111(b), which was a condition precedent to the promulgation of the CPP.)

In a document signed the same day as Executive Order 13783, and published in the **Federal Register** at 82 FR 16329 (April 4, 2017), the EPA announced that, consistent with the Executive Order, it was initiating its review of the CPP and providing notice of forthcoming proposed rulemakings consistent with the Executive Order.[4]

The EPA has concluded its initial review of the CPP, as directed by Executive Order 13783. That review raised substantial concerns that the CPP is not consistent with the policy articulated in Section 1 of the Executive Order. *See* Executive Order 13783, Section 4(a). For example, numerous states, regulated entities and other stakeholders warned that the CPP threatened to impose massive costs on the power sector and consumers; invaded traditional areas of state regulation over the mix of energy generation within their borders; departed radically from prior regulatory practice and longstanding reading of the statute; and did not adequately ensure the national interest in affordable, reliable electricity, including from coal generation. *See id.* Section 1(b).

In the course of the EPA's review of the CPP, the Agency also reconsidered its interpretation of CAA section 111, and it is on that basis that the Agency now proposes to repeal the CPP. Section 1 of the Executive Order recognizes that the EPA should, ''to the extent permitted by law, . . . take appropriate actions to promote clean air and clean water for the American people, while also respecting the proper roles of Congress and the States concerning these matters in our constitutional republic.'' *Id.* Section 1(d). As discussed below, the EPA proposes to determine that the CPP is not within Congress's grant of authority to the Agency under the governing statute. It is not in the interests of the EPA, or in accord with its mission of environmental protection consistent with the rule of law, to expend its resources along the path of implementing a rule, receiving and passing judgment on state plans, or promulgating federal plans in furtherance of a policy that is not within the bounds of our statutory authority.

The EPA is proposing to repeal the CPP in its entirety. The EPA proposes to take this action because it proposes to determine that the rule exceeds its authority under the statute, that those portions of the rule which arguably do not exceed its authority are not severable and separately implementable, and that it is not appropriate for a rule that exceeds statutory authority—especially a rule of this magnitude and with this level of impact on areas of traditional state regulatory authority—to remain in existence pending a potential, successive rulemaking process. Specifically, the performance standards that the CPP established for existing sources were predicated on a combined use of the three ''building blocks'' described above. Because, under the interpretation proposed here, the second and third ''building blocks'' exceed the EPA's authority under CAA section 111, and because, as the EPA determined when it issued the CPP, the first ''building block,'' as designed, could not stand on its own if the other ''building blocks'' were repealed, any potential future rule that regulates GHG emissions from existing EGUs under CAA section 111(d) must begin with a fundamental reevaluation of appropriate and authorized control measures and recalculation of performance standards.

The EPA's mission is to ''protect and enhance the quality of the Nation's air resources,'' 42 U.S.C. 7401(b)(1), but the Agency must do so within the authority delegated to it by Congress. To that end, ''[a] primary goal'' of the CAA ''is to encourage or otherwise promote *reasonable* Federal, State, and local governmental actions, *consistent with the provisions* of [the CAA] . . . .'' 42 U.S.C. 7401(c) (emphases added). Where the EPA's regulations exceed the Agency's statutory authority, it is appropriate for the Agency to correct that error and consider what statutory tools are duly available to it, to ensure that its regulations are effective, enforceable, administrable, and grounded in valid authority. Accordingly, the EPA continues to consider whether it should issue another CAA section 111(d) rule addressing GHG emissions from existing EGUs and, if so, what would be the appropriate form and scope of that rule. *See, e.g., API* v. *EPA,* 52 F.3d 1113, 1119 (D.C. Cir. 1995) (''It is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress'') (internal citations omitted); *see also Michigan* v. *EPA,* 268 F.3d 1075 (D.C. Cir. 2001) (same). The EPA is engaged in the process of considering the scope of such a rule, and is intending to issue an ANPRM in the near future to solicit information on systems of emission reduction that are in accord with the legal interpretation proposed in this notice (*i.e.,* those that are applicable to and at an individual source), as well as information on compliance measures and state planning requirements. This notice does not solicit comment on such issues, which will be open for comment in the ANPRM.

III. Basis for Proposed Repeal of the CPP

The basis for the proposed repeal of the CPP is the EPA's proposed interpretation of CAA section 111, which is discussed in this notice. The EPA proposes to determine that this interpretation is the most appropriate reading of the statute in light of the text, its legislative history, prior practice under CAA section 111, statutory context, and in consideration of broader policy implications. If the proposed

[4] The EPA also withdrew the proposed federal plan and model trading rules, proposed amendments to certain regulations under 40 CFR subpart B implementing CAA section 111(d), and proposed rule regarding the Clean Energy Incentive Plan. 82 FR 16144 (April 3, 2017).

interpretation is finalized, the CPP would be repealed.[5]

The EPA's ability to revisit existing regulations is well-grounded in the law. Specifically, the EPA has inherent authority to reconsider, repeal, or revise past decisions to the extent permitted by law so long as the Agency provides a reasoned explanation. The CAA complements the EPA's inherent authority to reconsider prior rulemakings by providing the Agency with broad authority to prescribe regulations as necessary. 42 U.S.C. 760l(a). The authority to reconsider prior decisions exists in part because the EPA's interpretations of statutes it administers ''[are not] instantly carved in stone,'' but must be evaluated ''on a continuing basis.'' *Chevron U.S.A. Inc.* v. *NRDC, Inc.,* 467 U.S. 837, 863–64 (1984). This is true when, as is the case here, review is undertaken ''in response to . . . a change in administrations.'' *National Cable & Telecommunications Ass'n* v. *Brand X Internet Services,* 545 U.S. 967, 981 (2005). Indeed, ''[a]gencies obviously have broad discretion to reconsider a regulation at any time.'' *Clean Air Council* v. *Pruitt,* 862 F.3d 1, 8–9 (D.C. Cir. 2017).

After reconsidering the statutory text, context, and legislative history, and in consideration of the EPA's historical practice under CAA section 111 as reflected in its other existing CAA section 111 regulations, the Agency proposes to return to a reading of CAA section 111(a)(1) (and its constituent term, ''best system of emission reduction'') as being limited to emission reduction measures that can be *applied to or at* an individual stationary source. That is, such measures must be based on a physical or operational change to a building, structure, facility, or installation at that source, rather than measures that the source's owner or operator *can implement on behalf of* the source at another location. The EPA believes that this is the best construction of CAA section 111(a)(1), as explained in detail below, for several reasons. First, it accords with the meaning and application of relevant terms and phrases in CAA section 111 as they are used in other, related sections of the CAA. Second, it aligns with the Congressional intent underlying CAA section 111 as informed by relevant legislative history. Third, it aligns with the EPA's prior understanding of CAA section 111 as reflected in the Agency's prior regulatory actions.[6] Fourth, it avoids illogical results when considered in light of other provisions of the statute. Finally, it avoids a policy shift of great significance for the relationship between the federal government and the states and avoids conflict with other federal legislation and interference with the separate role and jurisdiction of another federal agency, where there is inadequate indication that Congress intended to authorize the EPA to take actions leading to those results.

A. Statutory Text

The phrase ''system of emission reduction'' provides the starting point for developing performance standards under CAA section 111. An expansive interpretation of the phrase ''system of emission reduction'' would yield a greater universe of measures that could be considered to establish emission limits; conversely, a narrower reading would have the opposite effect. *See* 80 FR 64720 (explaining that the ''first step'' is to ''identify 'system[s] of emission reduction' that have been 'adequately demonstrated' for a particular category.'').[7] Thus, the phrase's scope correlates directly with the breadth of the Administrator's discretion in determining what system is the best for purposes of establishing the degree of emission limitation to be reflected in a standard of performance. *See* 42 U.S.C. 7411(a)(1) (''[t]he term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the [BSER]'').

Though not further defined in the CAA, the phrase ''system of emission reduction'' cannot be read in isolation. In promulgating the CPP, the EPA explained that the phrase carries important limitations. *Id.* at 64762. Specifically, the EPA reasoned that ''because the 'degree of emission limitation' must be '*achievable* through the *application* of the best system of emission reduction' (emphasis added), the 'system of emission reduction' must be limited to a set of measures that work together to reduce emissions that are implementable by the sources themselves.'' *Id.* ''As a practical matter,'' the EPA continued, ''the 'source' includes the 'owner or operator' of any building, structure, facility, or installation for which a standard of performance is applicable.'' *Id.* ''Thus, a 'system of emission reduction' for purposes of CAA section 111(d) means a set of measures that source owners or operators can implement to achieve an emission limitation applicable to their existing source.'' *Id.* In reaching this conclusion, the EPA noted that ''the terms 'implement' and 'apply' are used interchangeably.'' *See* Legal Memorandum at 84 n.175. Here, contrary to the conclusion in the CPP, the EPA is proposing to interpret the phrase ''through the application of the best system of emission reduction'' as requiring that the BSER be something that can be *applied to* or *at* the source and not something that the source's owner or operator can implement *on behalf of* the source at another location. Interpreting the statute as carrying this additional limiting principle ensures conformity with the statutory context and congressional intent.

The EPA's proposed interpretation is also guided by CAA section 111(d)'s direction that standards be established ''*for* any existing source,'' (emphasis added) and not for other sources or entities. *See also* 42 U.S.C. 7401(a)(3) (finding that ''air pollution control *at its source* is the primary responsibility of States and local governments'') (emphasis added). Further, the ''for any existing source'' phrasing in CAA section 111(d) mirrors the ''for new sources'' phrasing in the first sentence of section 111(b)(1)(B). In other words, as applied to both new source standards and existing source standards promulgated under CAA section 111, if standards must be set *for* individual sources, it is reasonable to expect that such standards would be predicated on measures that can be applied to or at those same individual sources.

Adopting a source-oriented reading of ''through the application of the best system of emission reduction'' also keeps CAA section 111 in line with other CAA standard-setting provisions. The term ''application'' is used throughout the statute in many different contexts. But under the CAA's standard-setting provisions, it signals a physical

[5] Under the EPA's proposal, the Agency lacks authority to consider measures other than those that apply at, to, and for a particular source when determining the BSER. Because the CPP is in large part premised on such measures, if the proposed interpretation is finalized, the CPP would be repealed. Although on-site efficiency measures may be considered in a future CAA section 111 standard, as explained in the CPP, building block 1, as analyzed, cannot stand on its own. 80 FR 64758 n.444; *see also id.* at 64658 (discussing severability of the building blocks). As noted above, the EPA is not taking comment on on-site efficiency measures with this proposal.

[6] As noted above, the EPA's prior understanding of this statutory section and its key term ''best system of emission reduction'' is reflected not only in the handful of existing CAA section 111(d) rules that predated the CPP, but also in the much larger set of new-source rules under CAA section 111(b).

[7] Historically, this step is referred to as a ''technology review,'' and leads to a level of control ''commonly referred to as best demonstrated technology (BDT).'' *See* Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Review, 76 FR 52738, 52741 (August 23, 2011); Regulating Greenhouse Gas Emissions Under the Clean Air Act, 73 FR 44354, 44486 (July 30, 2008).

or operational change to a source—for example, maximum achievable control technology (MACT) is developed ''through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—(A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications, (B) enclose systems or processes to eliminate emissions, (C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point, (D) are design, equipment, work practice, or operational standards . . . , or (E) are a combination of the above;'' [8] best available control technology (BACT) is developed ''through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control;'' [9] and motor vehicle and engine standards reflect the ''application of technology,'' [10] and the ''application of the requisite control measures'' to specific sources.[11] In short, the term suggests that—while a source's owner or operator indeed implements each of these measures—the measures should be *applied to* the source itself (*i.e.,* from the perspective of the source and not its owner or operator).

B. Legislative History

Even if the term ''application'' did not denote a source-oriented ''system of emission reduction,'' the term ''system'' too is historically rooted in a physical or operational change to the source itself. As discussed in the CPP, CAA section 111(a)(1)—particularly the phrase ''system of emission reduction''—evolved from a joint conference between committees of the House and Senate during the 1970 CAA Amendments. 80 FR 64763–64. The underlying House bill provided that new sources must be ''designed and equipped'' to control emissions using ''available technology.'' H.R. Rep. No. 91–1146 (June 3, 1970), 1970 CAA Legis. Hist. at 900; see also H.R. 17255, 5, 1970 CAA Legis. Hist. at 922. The Senate bill provided that standards of performance reflect achievable limits ''through application of the latest available control technology, processes, operating methods, or other alternatives.'' S. 4358, 6, 1970 CAA Legis. Hist. at 555. Though the Senate's formulation is broader than the House bill, ''other alternatives'' should be interpreted *ejusdem generis* (of the same kind, class, or nature) with the preceding control techniques. ''Control technology,'' ''processes,'' and ''operating methods'' are properly read to denote measures applied at or to, and implementable at the level of, the individual source—and ''other alternatives'' should be read in the same fashion. Thus, the emission-reduction measures contemplated by the Senate also targeted a physical or operational change to the source itself. In short, both bills were premised on physical or operational changes that would be applied to a source, and there is no indication that the enacted phrase ''system of emission reduction'' was intended to expand the scope of CAA section 111 to authorize the EPA to determine that the BSER encompasses measures that extend beyond-the-source itself.[12]

The 1977 CAA Amendments do not undermine this understanding. Congress added the word ''technological'' to ''system of emission reduction'' in order to ''upgrade'' standards of performance ''to require the use of the best technological system'' and ''preclude the use of low-sulfur coal alone as a means of compliance.'' [13] H.R. Rep. No. 95–654 (August 3, 1977), 1977 CAA Legis. Hist. at 510. Thus, as explained in the House report, the addition of the word ''technological'' was intended to prohibit sole reliance on a particular control technique from being considered the BSER. It was not an indication that CAA section 111 previously authorized beyond-the-source controls. The question of whether a control technique or emission reduction system is or is not ''technological'' is a distinct question from whether it applies at and is limited to the level of the individual source.

Though the 1990 CAA Amendments removed the term ''technological'' from CAA section 111(a)(1), there is no indication that Congress intended to expand the phrase ''system of emission reduction'' beyond a physical or operational change to the source. With the newly enacted Acid Rain provisions under title IV (which instituted a sulfur dioxide (SO_2) cap-and-trade program for fossil fuel-fired power plants), Congress no longer required the use of technological controls under CAA section 111, but provided that if the SO_2 cap for new sources was abolished, then CAA section 111 would again impose a technological standard. 1990 CAA Amendments, Public Law 101–549, 403, 104 Stat. at 2631 (November 15, 1990). In effect, this authorized the EPA to consider revising standards to once again allow new sources to use low-sulfur coal in lieu of installing the latest technological control. But there is nothing in the statutory text or its legislative history to suggest that CAA section 111 standards may be based on something other than a physical or operational change to the source itself.

C. Prior Agency Practice

Associating a ''system of emission reduction'' with a physical or operational change to the source itself

[8] 42 U.S.C. 7412(d)(2).

[9] 42 U.S.C. 7479(e).

[10] 42 U.S.C. 7521(a)(3)(A)(i) (applying technology available by model year for mobile sources).

[11] 42 U.S.C. 7521(a)(3)(D) (concerning rebuilding practices of heavy-duty engines).

[12] ''System'' appears in a few places in the 1970 CAA Amendments. Most notably, Congress used the term throughout Title II, which sheds light on what Congress may have understood ''system'' to mean at the time. Specifically, section 202 of the CAA provided that ''[s]uch standards shall be applicable to such vehicles and engines for their useful life . . . whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.'' H.R. Rep. No. 91–1783 (December 17, 1970), 1970 CAA Legis. Hist. at 166. *See also, e.g.,* section 203, *id.* at 170 (''for the purpose of permitting modifications to the emission control device or system of such vehicle''); section 206, *id.* (''The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine'' and ''the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles''). In each of these instances, the word ''system'' appears to be more expansive than a discrete emission control device, but is nonetheless a vital part of the source: The vehicle or vehicle engine. It is evident, therefore, that Congress associated the word ''system'' with phrases that correspond with a source-specific scope. In CAA section 111, the word ''system'' as used within the phrase ''best system of emission reduction'' and its relevance in setting standards of performance, which are themselves established ''for new sources'' and ''for any existing source,'' similarly suggest that a ''system of emission reduction'' is applied to or at the source.

[13] In the CPP, the EPA explained that Congress added ''precombustion cleaning or treatment of fuels'' to CAA section 111 because it recognized that even technological ''systems of emission reduction'' could involve actions that were implemented on behalf of the source and not merely applied to the source. 80 FR 64765; Legal Memorandum at 87, 129. First, Congress added ''precombustion cleaning or treatment of fuels'' to the definition of ''technological system of continuous emission reduction'' in CAA section 111(a)(7) because Congress also redefined ''standard of performance'' to require fossil fuel-fired power plants to achieve ''a percentage reduction in the emissions . . . which would have resulted from the use of fuels which are not subject to treatment prior to combustion.'' 1977 CAA Amendments, Public Law 95–95, 109, 91 Stat. 685, 700 (August 7, 1977). Second, precombustion cleaning or treatment of fuels is integral to the operation of a regulated source and does not necessarily occur off-site of an existing source. And regardless of where these preparatory measures are conducted, the *use* of the fuels is a measure applicable to and performed at the level of, and at or within, the bounds of an individual source. Finally, to the extent that fuel cleaning does occur off-site, this demonstrates that Congress understood CAA section 111 to be limited to source-specific measures unless specific authorization was otherwise provided.

reflects the EPA's historical understanding of this statutory provision as reflected in its prior regulatory actions under this statutory provision. Indeed, the EPA has issued numerous rules under CAA section 111 (both the limited set of existing source rules under CAA section 111(d) and the much larger set of new source rules under CAA section 111(b)). All those rules limited their BSER to physical or operational measures taken at and applicable to individual sources, with only one exception—a rule that was vacated by the D.C. Circuit on other grounds.[14]

The EPA first interpreted the phrase ''system of emission reduction'' as it relates to CAA section 111(d) when the Agency promulgated procedures and requirements for the submittal of state plans in 1975. At the time of the 1970 CAA Amendments, CAA section 111(d) required states to submit plans that established ''emission standards'' for existing sources, a term that the statute did not define. In its 1974 notice of proposed rulemaking, the EPA interpreted that term by explaining that CAA ''section 111(d) permits [the Administrator] to approve State emission standards only if they reflect application of the best *systems of emission reduction* (considering the cost of such reduction) that are available for designated facilities.'' 39 FR 36102, 36102 (October 7, 1974) (emphasis added). By interpreting ''emission standards'' as requiring application of the BSER, however, many commenters were confused and assumed that the degree of control required would be the same as that required by a ''standard of performance'' for new sources under CAA section 111(b), which Congress had explicitly defined in that way.[15] To clear up this confusion, the EPA explained that, ''[a]lthough the general principle (application of best adequately demonstrated *technology,* considering costs) will be the same in both cases, the degrees of control represented by the Agency's emission guidelines will ordinarily be less stringent than those required by standards of performance for new sources because the costs of *controlling existing facilities* will ordinarily be greater than those for control of new sources.'' [16] 40 FR 53340, 53341 (November 17, 1975) (emphases added). The EPA also described the legislative history of CAA section 111, explaining that Congress ''intended the *technology-based approach* of that section to extend (making allowances for the costs of *controlling existing sources*) to action under section 111(d). In this view, it was unnecessary . . . to specify explicit substantive criteria in section 111(d) because the intent to require a *technology-based* approach could be inferred from placement of the provision in section 111.'' *Id.* at 53342 (emphases added); *see also id.* at 53343 (''[T]he approach taken in section 111(d) may be viewed as . . . [a] decision[ ] . . . [t]o adopt a technology-based approach similar to that for new sources.''). Thus, in 1975, the EPA clearly interpreted the phrase ''system of emission reduction'' to be technology-based and source-focused for both CAA section 111(b) standards of performance and CAA section 111(d) emission standards.[17] The EPA believes that the Agency's historical interpretation of CAA section 111(d) and the phrase ''system of emission reduction,'' expressed at the point in time closest to when Congress enacted those provisions, is the most appropriate reading of the statute.

D. Statutory Context

The EPA's proposed interpretation of CAA section 111 is reinforced by the section's broader statutory context. Indeed, interpreting CAA section 111(a)(1) to extend beyond-the-source could have the unintended consequence of imposing greater emissions reductions under CAA section 111 than could be established as the BACT under CAA section 165, which relies on CAA section 111 standards as a floor.[18] *See* 40 CFR 52.21(b)(12); *see also* 40 CFR 51.165(a)(1)(xiii) (defining ''lowest achievable emission rate,'' *i.e.,* LAER, as in no event authorizing emissions ''in excess of the amount allowable under an applicable new source performance standard''). BACT requires certain major emitting sources [19] to achieve an emission limitation ''through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control.'' 42 U.S.C. 7479(3). Traditionally, the EPA has recommended that permitting

[14] The Clean Air Mercury Rule, 70 FR 28606 (May 18, 2005), as discussed in footnote 21, was still ultimately predicated on measures taken at the level of individual sources, an approach fundamentally different than the CPP's second and third ''building blocks.''

[15] Currently, the same statutory definition in CAA section 111(a)(1) applies to new and existing sources, and we can identify no legislative history to suggest that Congress had a different scope in mind for existing sources. We think it unlikely that Congress would have intended a significantly broader scope without indicating some intent to do so. Indeed, the opposite may be true. In 1977, Congress expressly declined to apply the term ''technological'' to existing source performance standards. But after the 1990 CAA Amendments, the same definition applies to new *and* existing source performance standards.

[16] The EPA's historical view that emission guidelines for existing sources would be less stringent than standards of performance for new sources also weighs against the expansive interpretation of ''system of emission reduction'' adopted in the CPP. As many commenters on that rule pointed out, the EPA's approach in the CPP, relying on measures beyond those that can be applied to and at an individual source, resulted in the uniform performance rates prescribed by the CAA section 111(d) emission guidelines being more stringent than the standards of performance the Agency promulgated for new sources under CAA section 111(b). 80 FR 64785–87. We justified this result in two primary ways. First, we pointed out the timing differences between the two rules' requirements, noting that the CAA section 111(b) standards of performance were applicable as of the date of the proposed rule, whereas the CPP's requirements were not applicable until 7 years after promulgation, with final compliance due in 2030. *Id.* at 64785. Thus, we concluded that the proper ''point of comparison'' was the year 2023, right after the first obligations under the CPP were due and the Agency's 8-year review of the CAA section 111(b) standards would be complete. *Id.* Second, we argued that the CPP contained sufficient flexibilities, both for sources and for states, that any comparison between the two rules was inapt. *Id.* at 64785–86. The EPA has reconsidered these arguments and now considers them insufficient justification for abandoning the Agency's historical view of the appropriate relative stringency of CAA section 111(b) and 111(d) requirements. With respect to timing, it is entirely speculative that some *future* standard of performance promulgated under CAA section 111(b) might be more stringent than the *current* CAA section 111(d) emission guidelines. And while the CPP does contain certain flexibilities to ease the burdens of compliance, such as phased-in compliance deadlines, those flexibilities were only necessary because actual affected sources could not meet the overly stringent uniform performance rates (or the equivalent rate- or mass-based goals) without them.

[17] Additionally, the EPA historically equated the phrase ''system of emission reduction'' with the CAA's ''best available retrofit technology'' (BART) requirement. *See* 45 FR 80084, 80090 (December 2, 1980) (*codified* at 40 CFR 51.301) (defining BART as an ''emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility''). While the EPA's BART regulations permit states, subject to certain conditions, to implement trading programs and other ''alternative'' measures in lieu of BART, *see* 40 CFR 51.308(e)(2), these measures are not considered to be BART. Instead, states may adopt them ''rather than requiring sources to *install, operate, and maintain BART,*'' but only if they will achieve ''greater reasonable progress'' toward Congress's national visibility goal. *Id.* (emphasis added).

[18] Although BACT applies to new and modified sources, like CAA section 111(b), the EPA can discern no textual basis in CAA section 111(a)(1) to interpret the BSER differently for purposes of CAA section 111(d). Indeed, the EPA ruled out generation-shifting measures for new sources based on practicability rather than legal grounds. *See* Legal Memorandum at 1–5. Accordingly, interpretative constraints applicable to CAA section 111(a)(1) for purposes of CAA section 111(b) should also apply for purposes of CAA section 111(d).

[19] 42 U.S.C. 7479(1) (defining ''major emitting facility'' as sources within certain source categories ''which emit, or have the potential to emit, one hundred tons per year or more of any air pollutant'' or ''any other source with the potential to emit two hundred and fifty tons per year or more of any air pollutant.'').

authorities ''conduct a separate BACT analysis *for each emissions unit* at a facility,'' but more recently has interpreted CAA section 169 to include control methods that can be used facility-wide. *EPA, PSD and Title V Permitting Guidance for Greenhouse Gases,* 22–23 (March 2011). Nonetheless, the EPA has consistently held that BACT encompasses ''all 'available' control options . . . that have the potential for practical *application to the emissions unit* and the regulated pollutant under evaluation.'' *Id.* at 24.

In other words, BACT must be applied to the source itself (on a unit-specific or facility-wide basis) and does not include control options that are beyond-the-source, such as generation-shifting measures.[20] Accordingly, the EPA proposes to determine that the statutory scheme is appropriately read to harmonize these provisions. Under this interpretation, the BSER should be interpreted as a source-specific measure, in light of the fact that BACT standards, for which the BSER is expressly linked by statutory text, are unambiguously intended to be source-specific.

Neither title IV nor the interstate-transport rulemakings (*e.g.,* the Cross-State Air Pollution Rule) supports a different interpretation of CAA section 111. In the CPP, the EPA identified the Acid Rain program under title IV and the various interstate-transport rulemakings as evidence of the viability of cap-and-trade programs for the utility power sector. 80 FR 64696–97. But recognizing ''the long history of trading'' under title IV and CAA section 110(a)(2)(D)(i)(I) to demonstrate the ''achievability'' of the ''performance rates'' in the CPP does not clarify the interpretive question the Agency faces under CAA section 111(a)(1)—*i.e.,* what is the ''best system of emission reduction'' that can be applied to an affected source? To the contrary, Congress expressly established the cap-and-trade program under title IV, 42 U.S.C. 7651–7651o, and expressly authorized the use of ''marketable permits'' to implement ambient air quality standards under CAA section 110, *id.* at § 7410(a)(2)(A). We think it unlikely that Congress would have silently authorized the Agency to point to trading in order to justify generation-shifting as a ''system of emission reduction.'' [21]

Therefore, the EPA proposes that the BSER be limited to measures that physically or operationally can be applied to or at the source itself to reduce its emissions. Generation shifting—which accounts for a significant percentage of the emissions reductions projected in the CPP and without which individual sources could not meet the CPP's requirements—fails to comply with this limitation. Accordingly, the EPA proposes to repeal the CPP.

E. Broader Policy Concerns

Finally, the EPA's proposed interpretation is more consistent with certain broader policy concerns of the Agency and stakeholders. Those policy concerns are discussed below, and the EPA invites comment generally on the policy implications of the legal interpretation proposed in this action. The EPA notes that States, the regulated community, and other commenters identified potentially serious economic and political implications arising from the CPP's reliance on measures that extend beyond those that can be applied at and to a particular, individual source, such as generation shifting, which in turn raised questions as to whether the interpretations underlying the CPP violated the ''clear statement'' rule. *See Util. Air Regulatory Grp.* v. *EPA,* 134 S. Ct. 2427, 2444 (2014) (quoting *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 160 (2000)) (holding that, under certain circumstances, an interpretation that would have ''vast 'economic and political significance' '' requires a clear statement from Congress assigning the agency that authority). The EPA seeks comment on whether the interpretation proposed today, by substantially diminishing the potential economic and political consequences of any future regulation of CO_2 emissions from existing fossil fuel-fired EGUs, has the advantage of not implicating this doctrine, in that it would avoid potentially transformative economic, policy, and political significance in the absence of a clear Congressional statement of intent to confer such authority on the Agency.

In addition, while the EPA is authorized to regulate emissions from sources in the power sector and to consider the impact of its standards on the generation mix in setting standards to avoid negative energy impacts, regulation of the nation's generation mix itself is not within the Agency's authority. Regulation of the energy sector *qua* energy sector is generally undertaken by the Federal Energy Regulatory Commission (FERC) and states, depending on which markets are being regulated. The EPA recognizes that Part II of the Federal Power Act (sections 201–223 (16 U.S.C. 824–824w)) establishes long-recognized regulatory authority for the FERC over electric utilities engaged in interstate commerce, including wholesale sales, transmission of electric energy in interstate commerce, and reliability. Moreover, section 310 of the CAA, 42 U.S.C. 7610(a), states that the Act ''shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of the Administrator or any other Federal officer, department, or agency.'' The EPA solicits comment on whether the CPP exceeded the EPA's proper role and authority in this regard and whether the Agency's proposed reading in this notice, which limits the BSER to measures that can be applied to or at individual sources, would ensure that CAA section 111 has not been construed in a way that supersedes or limits the authorities and responsibilities of the FERC or that infringes upon the roles of the states.

F. Proposed Rescission of Legal Memorandum

As part of this action, the EPA is also proposing to rescind the documents in the CPP docket titled ''Legal Memorandum for Proposed Carbon Pollution Emission Guidelines for Existing Electric Utility Generating Units'' (in the docket for the proposed rule) and ''Legal Memorandum Accompanying Clean Power Plan for Certain Issues'' (a supplementary document in the docket for the final rule), to the extent those memoranda are inconsistent with the statutory interpretation that the EPA has proposed in this notice. The EPA is proposing to rescind these documents because, as is evident from the discussion above, they are in large part and in fundamental premise inconsistent with the statutory interpretation proposed here.

Specifically, significant portions of the documents are devoted to arguing that the BSER on which performance standards under CAA section 111(d) is based can encompass measures other than physical or operational changes taken at the level of and applicable to an individual source. The point of departure for this interpretation is a perceived ambiguity in the word ''system'' within the phrase ''best system of emissions reduction.'' For the

[20] *See* U.S. EPA, *PSD and Title V Permitting Guidance for Greenhouse Gases,* 24 (March 2011) (BACT encompasses ''all 'available' control options . . . that have the potential for practical *application to the emissions unit*'').

[21] Even the cap-and-trade program promulgated in the since-vacated Clean Air Mercury Rule, was ''based on control technology available'' for installation at individual existing sources. 70 FR 28617. It was not predicated on a BSER that encompassed measures that could not be applied at or to a particular source.

reasons stated above, the EPA is proposing to determine that, in full consideration of the statutory text and context, the legislative history, the Agency's historical practice under CAA section 111(d), and certain policy consequences of the statutory interpretation underlying the CPP, the best reading of the statute is that the BSER does not encompass the types of measures that constitute the second and third ''building block'' of the CPP. To the extent that the statutory interpretation embodied in the legal memoranda contradicts or is otherwise inconsistent with the interpretation proposed in this action, the EPA intends that the interpretation proposed here, to the extent it is finalized, shall supersede the interpretation in the memoranda. The EPA welcomes comment on this proposed interpretation.

Further, other significant portions of the memoranda, especially the supplemental one, are concerned with defending particular aspects of the CPP's constituent ''building blocks.'' For the reasons stated above, the EPA is proposing to determine that the second and third ''building blocks'' exceed the Agency's authority under the statute, and, in accord with the Agency's position when it issued the CPP, that the first ''building block'' cannot stand on its own in the form in which it was issued. The two legal memoranda are therefore in material part either inconsistent with this proposal or rendered moot by it.

Accordingly, to the extent that the EPA finalizes its statutory interpretation as proposed in this notice, the Agency proposes to rescind the documents to the extent they are inconsistent with the finalized positions. The EPA is intending to issue an ANPRM in the near future to solicit comment on the existing EGUs. Other issues discussed in the memoranda may be relevant to such a potential rulemaking, and the EPA's position with regard to those issues will be determined in the course of any such rulemaking, as required and appropriate.

G. Conclusion

For these reasons discussed above, the EPA is proposing that the BSER must be something that physically or operationally changes the source itself, and that is taken at or applied to individual, particular sources. Generation shifting—which accounts for a significant percentage of the emissions reductions projected in the CPP and without which sources could not meet the CPP's requirements and state plans could not be approved—fails to comply with this limitation. As explained in the CPP and the accompanying Legal Memorandum, generation shifting is accomplished through actions that owners or operators take on behalf of an affected source that might lead only indirectly to emissions reductions from the source. For example, owners or operators were expected to purchase power from qualifying lower-emitting generators or invest in lower-emitting generation, or purchase emissions credits. *See* 80 FR 64796–97 (building block 2); *id.* at 64804–06 (building block 3); and Legal Memorandum, 137–48. But none of these options involves a physical or operational change applicable to the source itself. Accordingly, the EPA proposes to repeal the CPP and supersede the legal interpretations presented in it and the accompanying Legal Memorandum.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.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 proposed action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the avoided compliance costs and forgone benefits associated with this action in the analysis years of 2020, 2025, and 2030. This analysis, which is contained in the Regulatory Impact Analysis (RIA) for this rulemaking is consistent with Executive Order 12866 and is available in the docket.

We present various preliminary approaches to assess the regulatory impacts of the CPP repeal proposal. The analysis underscores the substantial uncertainties associated with the possible benefits and costs of CPP implementation, and, therefore, the preliminary repeal being offered at this time.[22] Due to these uncertainties, the EPA requests comments on the avoided compliance costs, forgone benefits, modeling assumptions, uncertainties, and other relevant matters related to the development of the RIA for this rulemaking. This RIA uses two quantitative approaches to analyze the effects of the CPP in order to present information on the potential effects of the proposed repeal of the CPP. The first approach involves a modest reworking of the 2015 CPP RIA to increase transparency and illuminate the uncertainties associated with assessing benefits and costs of the CPP, as reflected in the 2015 analysis, as well as analyzing the potential effects of the CPP repeal. More specifically, this analysis increases transparency of the 2015 CPP analysis by presenting the energy efficiency cost savings as a benefit rather than a cost reduction and provides a bridge to future analyses that the agency is committed to performing. The current analysis also provides alternative approaches for examining the forgone benefits, including more clearly distinguishing the direct benefits from the co-benefits and exploring alternative ways to illustrate the impacts on the total net benefits of the uncertainty in health co-benefits at various $PM_{2.5}$ cutpoints. This approach shifts the focus to the domestic (rather than global) social cost of carbon, and employs both 3 percent and 7 percent discount rates. Finally, we consider how changing market conditions and technologies may have affected future actions that may have been undertaken by states to comply with the CPP and how these changes may affect the potential benefits and costs of the CPP repeal.

The second approach uses the U.S. Energy Information Administration's (EIA) 2017 Annual Energy Outlook (AEO) projections to present a series of observations on recent power sector trends and produce alternative estimates of the forgone benefits and avoided compliance costs arising from the proposed repeal of the CPP. We also provide a review of recent studies of the CPP's projected costs and CO_2 emission reductions performed by non-governmental institutions in order to provide a broader understanding of the uncertainties associated with the proposed repeal of the CPP.

The RIA presents several different estimates of avoided compliance costs using various accounting frameworks. A first set of avoided compliance costs is based upon estimates presented in the 2015 Final CPP RIA, and counts savings from energy efficiency programs as a benefit of the rule, not as a cost-savings. A second set of avoided compliance costs is based upon a comparison of the AEO2017 Reference Case (CPP) and the AEO2017 No CPP Case. Here, the

[22] The EPA plans to conduct a more robust analysis before any final action is taken by the agency and provide an opportunity for the public to comment on the re-analysis. The EPA also plans to carry forward the approach that underscores the uncertainty associated with any agency action of this magnitude, especially in actions where discretion is afforded to State governments.

accounting framework treats the value of reduced electricity demand from demand-side energy efficiency programs as a cost credit (or negative cost). However, the EPA was unable to approximate the value of energy cost savings attributable to the demand-side energy efficiency measures using the AEO2017-based information. Because the EPA could not make this adjustment to the benefits and costs estimates using the AEO2017 information, the 2015 CPP RIA-based and AEO2017-based benefit and cost estimates cannot be directly compared with each other.

We estimate the forgone climate benefits from this proposed rulemaking using a measure of the domestic social cost of carbon ($SC–CO_2$), using estimates of forgone CO_2 emission reductions from both the 2015 RIA and the AEO2017 cases. The $SC–CO_2$ is a metric that estimates the monetary value of impacts associated with marginal changes in CO_2 emissions in a given year. The $SC–CO_2$ estimates used in this RIA focus on the direct impacts of climate change that are anticipated to occur within U.S. borders. As mentioned earlier, the EPA approximated the value of energy cost savings from the reduced demand attributable to the demand-side energy efficiency measures and this value is counted as a forgone benefit. Also, under this proposed repeal, the CPP would no longer reduce emissions of certain precursor pollutants (*e.g.,* SO_2, NO_X, and directly emitted particles), which in turn would no longer lower ambient concentrations of $PM_{2.5}$ and ozone. The RIA presents the estimated forgone health co-benefits associated with the projected changes in ambient air quality under the CPP. We estimate the forgone benefits using three alternative assumptions regarding the risk of PM-related premature death.

The first approach calculates PM-related premature deaths at all levels of $PM_{2.5}$. We then present two alternative approaches: (a) Forgone $PM_{2.5}$ co-benefits fall to zero in areas whose model-predicted air quality is at or below the annual average $PM_{2.5}$ NAAQS of 12 $\mu g/m^3$ in the year 2025; and (b) forgone $PM_{2.5}$ co-benefits fall to zero the below the LML in the epidemiological studies used to derive the concentration response function (8 and 5.8 $\mu g/m^3$). To calculate the forgone co-benefits for this proposed rule, we applied a benefit-per-ton estimate corresponding to broad regions of the U.S. and that is based upon an emissions reduction scenario from the 2014 CPP proposal to the corresponding forgone emission reductions. As the benefit-per-ton estimates are based on a scenario that does not match the forgone emission reductions in this rulemaking, the estimates may over- or under-state the value of the forgone $PM_{2.5}$ and ozone-related benefits. To the extent feasible, the EPA intends to perform full-scale photochemical air quality modeling to inform subsequent CPP-related regulatory analyses. Additionally, as part of a project now underway, the EPA is systematically evaluating the uncertainty associated with its technique for generating and applying this reduced-form technique for quantifying benefits, with the goal of better understanding the suitability of this and comparable approaches to estimating the health impacts of criteria pollutant emissions changes. The EPA will make drafts of these analysis available to the public at the time of peer review, consistent with OMB's Information Quality Bulletin for Peer Review.

The co-benefit analysis draws upon estimates of forgone SO_2 and NO_X emission reductions from both the 2015 RIA and the AEO2017 cases. As the RIA analyzes costs and benefits applying a variety of different methods and discount rates, there is a relatively large number of results.

In the decision-making process, because, in part, of the interactions mentioned below, it is useful to consider the benefits due to reductions in the target pollutant relative to the costs, and whether alternative regulatory designs can achieve reductions in the targeted pollutants and/or the other affected pollutants more cost effectively. The EPA believes that this may be an appropriate way to evaluate this and future regulatory actions, and presents this information as part of its decision-making process.[23] Therefore, in Tables 1 and 2 we present a comparison of the forgone benefits from the targeted pollutant—CO_2—(the costs of this proposed rule) with the avoided compliance cost (the benefits of this proposed rule).[24]

Regulating pollutants jointly can promote a more efficient outcome in pollution control management. However, in practice regulations are promulgated sequentially and therefore, the benefit-cost analyses supporting those regulations are also performed sequentially. The potential for interaction between regulations suggests that their sequencing may affect the realized efficiency of their design and the estimated net benefits for each regulation. To note, when considering whether a regulatory action is a potential welfare improvement it is necessary to consider all impacts of the action. The EPA requests comment on the extent that the EPA should rely on consideration of the benefits due to reductions in the target pollutant relative to the costs in the decision-making process.

TABLE 1—AVOIDED COMPLIANCE COSTS, FORGONE DOMESTIC CLIMATE BENEFITS, FORGONE DEMAND-SIDE ENERGY EFFICIENCY BENEFITS, AND NET BENEFITS OF REPEAL ASSOCIATED WITH TARGETED POLLUTANT

(Billions of 2011$)

Year	Discount rate (%)	Avoided compliance costs	Forgone domestic climate benefits	Forgone demand-side energy efficiency benefits	Net benefits associated with targeted pollutant
Rate-Based					
2020	3	$3.7	$0.4	$1.2	$2.1
	7	4.2	0.1	1.2	2.9
2025	3	10.2	1.4	9.2	(0.4)

[23] Cf. Transcript of Oral Argument at 64:1–6, *Michigan* v. *EPA,* 135 Sup. Ct. 2699 (2015) (No. 14–46) (statement of Roberts, C.J.) (''[I]t's a good thing if your regulation also benefits in other ways. But when it's such a disproportion, you begin to wonder whether it's an illegitimate way of avoiding the different—quite different limitations on EPA that apply in the criteria program.'').

[24] Excluded from this comparison are the forgone benefits from the SO_2 and NO_X emission reductions that were also projected to accompany the CO_2 reductions. However, had those SO_2 and NO_X reductions been achieved through other means, then they would have been represented in the baseline for this proposed repeal (as well as for the 2015 Final CPP), which would have affected the estimated costs and benefits of controlling CO_2 emissions alone.

TABLE 1—AVOIDED COMPLIANCE COSTS, FORGONE DOMESTIC CLIMATE BENEFITS, FORGONE DEMAND-SIDE ENERGY EFFICIENCY BENEFITS, AND NET BENEFITS OF REPEAL ASSOCIATED WITH TARGETED POLLUTANT—Continued

(Billions of 2011$)

Year	Discount rate (%)	Avoided compliance costs	Forgone domestic climate benefits	Forgone demand-side energy efficiency benefits	Net benefits associated with targeted pollutant
2030	7	14.1	0.2	9.2	4.7
	3	27.2	2.7	18.8	5.7
	7	33.3	0.5	18.8	14.0
Mass-Based					
2020	3	2.6	0.4	1.2	1.0
	7	3.1	0.1	1.2	1.8
2025	3	13.0	1.6	10.0	1.4
	7	16.9	0.3	10.0	6.6
2030	3	24.5	2.7	19.3	2.5
	7	30.6	0.5	19.3	10.8

Note: Estimates are rounded to one decimal point and may not sum due to independent rounding.

TABLE 2—AVOIDED COMPLIANCE COSTS, FORGONE DOMESTIC CLIMATE BENEFITS, AND NET BENEFITS OF REPEAL ASSOCIATED WITH TARGETED POLLUTANT, BASED ON THE 2017 ANNUAL ENERGY OUTLOOK

(Billions of 2011$)

Year	Discount rate (%)	Avoided compliance costs	Forgone domestic climate benefits	Net benefits associated with targeted pollutant
2020	3	($0.3)	$0.1	($0.4)
	7	.....	0.0	(0.3)
2025	3	14.5	1.3	13.2
	7	.....	0.2	14.3
2030	3	14.4	2.5	11.9
	7	.....	0.4	14.0

Note: Estimates are rounded to one decimal point and may not sum due to independent rounding.

We also present the full suite of avoided compliance cost, forgone benefit, and net benefit results discussed in the RIA in Tables 3 through 5. Table 3 presents results for the rate-based illustrative plan scenario from the 2015 CPP RIA. Table 4 presents results for the mass-based illustrative plan scenario from the 2015 CPP RIA. Table 5 presents results based upon the EPA's analysis of the AEO2017 Reference Case (CPP) and the AEO2017 No CPP Case. The tables report two estimates of forgone benefits. One value represents the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Krewski *et al.* (2009) risk coefficient and ozone co-benefits calculated using the Bell *et al.* (2004) risk coefficient. The other value represents the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Lepeule *et al.* (2012) risk coefficient and ozone co-benefits calculated using the Levy *et al.* (2005) risk coefficient. Note again that, due to different accounting frameworks, benefits and costs presented in the EPA 2015 CPP RIA-based Tables 1 and 2 are not directly comparable to the AEO2017-based benefits and costs presented in Table 3.

TABLE 3—MONETIZED FORGONE BENEFITS, AVOIDED COMPLIANCE COSTS, AND NET BENEFITS BASED ON RATE-BASED APPROACH FROM 2015 CPP RIA

(Billions of 2011$)

Year	Discount rate (%)	Benefit of repeal: avoided costs	Cost of repeal: forgone benefits		Net benefits of repeal	
			A	B	A	B
Forgone Health Co-Benefits (Full Range of Ambient $PM_{2.5}$ Concentrations)						
2020	3	$3.7	$2.3	$3.4	$0.3	$1.4
	7	4.2	1.9	3.0	1.2	2.3
2025	3	10.2	18.0	28.4	(18.1)	(7.8)
	7	14.1	16.2	25.6	(11.5)	(2.0)
2030	3	27.2	35.8	55.5	(28.3)	(8.6)
	7	33.3	32.2	50.2	(16.9)	1.1

TABLE 3—MONETIZED FORGONE BENEFITS, AVOIDED COMPLIANCE COSTS, AND NET BENEFITS BASED ON RATE-BASED APPROACH FROM 2015 CPP RIA—Continued

(Billions of 2011$)

Year	Discount rate (%)	Benefit of repeal: avoided costs	Cost of repeal: forgone benefits		Net benefits of repeal	
			A	B	A	B
Forgone Health Co-Benefits ($PM_{2.5}$ Benefits Fall to Zero Below LML)						
2020	3	3.7	2.2	2.8	0.9	1.5
	7	4.2	1.9	2.4	1.8	2.3
2025	3	10.2	17.5	20.7	(10.5)	(7.3)
	7	14.1	15.7	18.7	(4.6)	(1.6)
2030	3	27.2	34.8	40.7	(13.5)	(7.6)
	7	33.3	31.3	36.9	(3.6)	2.0
Forgone Health Co-Benefits ($PM_{2.5}$ Benefits Fall to Zero Below NAAQS)						
2020	3	3.7	1.7	2.1	1.5	2.0
	7	4.2	1.4	1.8	2.4	2.8
2025	3	10.2	11.4	13.3	(3.1)	(1.1)
	7	14.1	10.2	12.1	2.1	4.0
2030	3	27.2	23.0	26.5	0.7	4.2
	7	33.3	20.7	24.1	9.2	12.7

Note: Estimates are rounded to one decimal point and may not sum due to independent rounding. Forgone benefits include forgone climate, energy efficiency, and air quality benefits. Estimate A is based upon the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Krewski et al. (2009) risk coefficient and ozone co-benefits calculated using the Bell et al. (2004) risk coefficient. Estimate B is based on the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Lepeule *et al.* (2012) risk coefficient and ozone co-benefits calculated using the Levy *et al.* (2005) risk coefficient.

TABLE 4—MONETIZED FORGONE BENEFITS, AVOIDED COMPLIANCE COSTS, AND NET BENEFITS BASED ON MASS-BASED APPROACH FROM 2015 CPP RIA

(Billions of 2011$)

Year	Discount rate (%)	Benefit of repeal: avoided costs	Cost of repeal: forgone benefits		Net benefits of repeal	
			A	B	A	B
Forgone Health Co-Benefits (Full Range of Ambient $PM_{2.5}$ Concentrations)						
2020	3	$2.6	$3.6	$6.4	($3.8)	($1.0)
	7	3.1	3.1	5.6	(2.5)	0.0
2025	3	13.0	18.7	28.8	(15.8)	(5.7)
	7	16.9	16.7	26.0	(9.1)	0.2
2030	3	24.5	33.8	50.1	(25.7)	(9.3)
	7	30.6	30.4	45.5	(14.8)	0.2
Forgone Health Co-Benefits ($PM_{2.5}$ Benefits Fall to Zero Below LML)						
2020	3	2.6	3.5	4.4	(1.8)	(0.9)
	7	3.1	2.9	3.8	(0.7)	0.2
2025	3	13.0	18.2	21.6	(8.5)	(5.2)
	7	16.9	16.3	19.5	(2.5)	0.7
2030	3	24.5	32.9	38.1	(13.7)	(8.4)
	7	30.6	29.7	34.7	(4.0)	0.9
Forgone Health Co-Benefits ($PM_{2.5}$ Benefits Fall to Zero Below NAAQS)						
2020	3	2.6	1.8	2.4	0.2	0.8
	7	3.1	1.5	2.0	1.1	1.7
2025	3	13.0	12.4	14.6	(1.6)	0.6
	7	16.9	11.1	13.2	3.7	5.9
2030	3	24.5	23.3	26.6	(2.1)	1.2
	7	30.6	21.0	24.2	6.4	9.6

Note: Estimates are rounded to one decimal point and may not sum due to independent rounding. Forgone benefits include forgone climate, energy efficiency, and air quality benefits. Estimate A is based upon the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Krewski *et al.* (2009) risk coefficient and ozone co-benefits calculated using the Bell *et al.* (2004) risk coefficient. Estimate B is based on the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Lepeule *et al.* (2012) risk coefficient and ozone co-benefits calculated using the Levy *et al.* (2005) risk coefficient.

TABLE 5—MONETIZED FORGONE BENEFITS, AVOIDED COMPLIANCE COSTS, AND NET BENEFITS, BASED ON EPA ANALYSIS OF AEO2017

(Billions of 2011$)

Year	Discount rate (%)	Benefit of repeal: avoided costs	Cost of repeal: forgone benefits		Net benefits of repeal	
			A	B	A	B
Forgone Health Co-Benefits (Full Range of Ambient $PM_{2.5}$ Concentrations)						
2020	3	($0.3)	($0.5)	($0.2)	($0.2)	$0.1
	7	.....	(0.5)	(0.2)	(0.1)	0.1
2025	3	14.5	9.0	19.6	(5.0)	5.5
	7	.....	7.2	16.9	(2.3)	7.3
2030	3	14.4	20.6	44.9	(30.6)	(6.3)
	7	.....	16.8	39.0	(24.6)	(2.5)
Forgone Health Co-Benefits ($PM_{2.5}$ Benefits Fall to Zero Below LML)						
2020	3	(0.3)	(0.2)	(0.1)	(0.2)	(0.2)
	7	.....	(0.2)	(0.2)	(0.2)	(0.1)
2025	3	14.5	8.4	11.5	3.1	6.1
	7	.....	6.7	9.6	5.0	7.8
2030	3	14.4	19.3	25.8	(11.4)	(4.9)
	7	.....	15.6	21.7	(7.3)	(1.3)
Forgone Health Co-Benefits ($PM_{2.5}$ Benefits Fall to Zero Below NAAQS)						
2020	3	(0.3)	0.1	0.2	(0.5)	(0.5)
	7	.....	0.0	0.1	(0.5)	(0.4)
2025	3	14.5	2.0	3.6	10.9	12.6
	7	.....	0.9	2.5	12.0	13.7
2030	3	14.4	4.0	7.3	7.1	10.4
	7	.....	1.8	5.0	9.4	12.6

Note: Estimates are rounded to one decimal point and may not sum due to independent rounding. Forgone benefits include forgone climate and air quality benefits. Estimate A is based upon the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Krewski *et al.* (2009) risk coefficient and ozone co-benefits calculated using the Bell *et al.* (2004) risk coefficient. Estimate B is based on the sum of the forgone CO_2, energy efficiency, $PM_{2.5}$ co-benefits calculated using the Lepeule *et al.* (2012) risk coefficient and ozone co-benefits calculated using the Levy *et al.* (2005) risk coefficient.

In evaluating the impacts of the proposed action, the RIA discusses a number of uncertainties. The RIA quantitatively examines uncertainties in the approaches that states and affected EGUs may have taken under the final CPP to accomplish state emission performance goals, in estimates of the avoided compliance costs, and in estimates of forgone climate, energy efficiency, and air quality benefits. Other types of uncertainties are acknowledged but remain unquantified. In addition, the EPA plans to perform updated modeling and analysis of avoided compliance costs, forgone benefits, and other impacts, which will be made available for public comment before any action that relates to the CPP is finalized. To the extent feasible, the EPA intends to perform full-scale gridded photochemical air quality modeling to support the air quality benefits assessment informing subsequent regulatory analyses of CPP-related actions. Such model predictions would supply the data needed to: (1) Quantify the $PM_{2.5}$ and ozone-related impacts of the policy case; (2) perform the full suite of sensitivity analyses summarized above, particularly the concentration cut-point assessment. The EPA further commits to characterizing the uncertainty associated with applying benefit-per-ton estimates by comparing the EPA's approach with other reduced-form techniques found in the literature. All of these analyses will be available for peer review consistent with the requirements of OMB's Information Quality Bulletin for Peer Review within 6 months.

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

This proposed rule is expected to be an EO 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's RIA.

C. Paperwork Reduction Act (PRA)

This proposed rule does not impose an information collection burden under the PRA.

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. Emission guidelines established under CAA section 111(d) do not impose any requirements on regulated entities and, thus, will not have a significant economic impact upon a substantial number of small entities. After emission guidelines are promulgated, states establish emission standards on existing sources, and it is those requirements that could potentially impact small entities. This proposed action will not impose any requirements on small entities. As a result, this action will not have a significant economic impact on a substantial number of small entities under the RFA.

Our analysis in the accompanying RIA is consistent with the analysis of the analogous situation arising when the EPA establishes NAAQS, which do not impose any requirements on regulated entities. As with the description in the RIA, any impact of a NAAQS on small entities would only arise when states take subsequent action to maintain and/or achieve the NAAQS through their state implementation plans. *See American Trucking Assoc.* v. *EPA,* 175 F.3d 1029, 1043–45 (D.C. Cir. 1999) (NAAQS do not have significant impacts upon small entities because

NAAQS themselves impose no regulations upon small entities).

E. Unfunded Mandates Reform Act (UMRA)

This proposed 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. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

The EPA proposes to conclude that the CPP would have negative federalism implications and that this proposed repeal of the CPP would restore the *status quo ante.* The EPA has concluded that this proposed action does not have negative federalism implications. It will not have substantial negative 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. It 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 the action.

Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA will engage in consultation with tribal officials during the development of this action.

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

This action is subject to Executive Order 13045 because it is an economically significant regulatory action as defined by Executive Order 12866. The CPP was anticipated to lower ambient concentrations of $PM_{2.5}$ and ozone, and some of the benefits of reducing these pollutants would have accrued to children. As previously discussed above in Section IV.A on Executive Order 12866, and as discussed in detail in the RIA that accompanies this document of proposed rulemaking, recent changes in the electric power sector have affected expectations about the impact of the CPP since its supporting analysis was conducted in 2015. In general, current expectations about future emissions of pollution from the electric power sector without the CPP are lower than they were at the time the final CPP was analyzed. Relative to its 2015 projections of the electric power sector, the EIA's 2017 AEO forecasts lower future emissions levels without the CPP. Specifically, in AEO2017, the forecast for NOx emissions from the electric power sector in 2030 without the CPP is approximately 27 percent lower than the analogous forecast in AEO2015. The forecast for SO_2 emissions from the electric power sector in 2030 is 6 percent lower in AEO2017 than in AEO2015. Therefore, there is significant uncertainty as to the current applicability of results from the 2015 CPP analysis, including the assessment human health benefits.

Furthermore, the proposed action does not affect the level of public health and environmental protection already being provided by existing NAAQS and other mechanisms in the CAA. This proposed action does not affect applicable local, state, or federal permitting or air quality management programs that will continue to address areas with degraded air quality and maintain the air quality in areas meeting current standards. Areas that need to reduce criteria air pollution to meet the NAAQS will still need to rely on control strategies to reduce emissions. To the extent that states use other mechanisms in order to comply with the NAAQS, and still achieve the criteria pollution reductions that would have occurred under the CPP, this proposed rescission will not have a disproportionate adverse effect on children's health.

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

This action, which is a significant regulatory action under Executive Order 12866, is likely to have a significant effect on the supply, distribution, or use of energy. In the RIA for the CPP, we estimated that the CPP could have a 1- to 2-percent impact on retail electricity prices on average across the U.S. in 2025 and a 22- to 23-percent reduction in coal-fired electricity generation. The EPA also estimated that the utility power sector delivered natural gas prices would increase by up to 2.5 percent in 2030. A repeal of the CPP would directionally have the opposite impact.

The energy impacts the EPA estimates from the proposed rule may be under- or over-estimates of the true energy impacts associated with the proposed repeal of the CPP. Some states are likely to pursue emissions reduction strategies independent of EPA action. Additionally, the compliance cost estimates were based upon information available in 2015, so important economic and technical factors that influence the estimates may have changed since 2015 or may change in the future. However, these estimates of energy impacts associated with the proposed action are currently the best estimates available.

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 proposed action is unlikely to 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). The CPP anticipated reductions in CO_2 emissions, as well as lower concentrations of $PM_{2.5}$ and ozone due to changes in EGU emissions. The EPA conducted a proximity analysis for the CPP and identified that low-income and minority communities located in proximity to EGUs may have experienced an improvement in air quality as a result of the emissions reductions. However, the EPA did not address the potential distribution of compliance costs associated with the CPP.

The RIA that accompanies this document of proposed rulemaking discusses how the potential impacts of this proposed action might be distributed across the population, as the impacts are not expected to be experienced uniformly by different individuals, communities, or industry sectors.

The distribution of avoided compliance costs associated with this action depends on how the degree to which costs would have been passed through to consumers. As discussed in the RIA, this proposal is expected to result in lower electricity prices. Low-income households typically spend a greater share of their household income on energy, and to the extent that this action reduces energy costs, those low-income households will experience lower energy bills. This result is complicated by expectations regarding

how energy efficiency programs may have been adopted under the CPP. However, the EPA does not know how states would have implemented those programs and, therefore, the impact of those program on low-income households. The overall distribution of the avoided compliance costs associated with this action is uncertain, but may result in lower household energy bills for low-income households.

With respect to the forgone benefits associated with this action, the EPA conducted a proximity analysis for the CPP which showed a higher percentage of low-income and minority households living in proximity to EGUs that may have reduced emissions under the CPP. These communities may experience forgone benefits as a result of this action. However, any changes in ambient air quality depends on stack height, atmospheric conditions, and dispersion patterns. Therefore, the distribution of forgone benefits is highly uncertain. Also expected, as a result of the CPP, were shifts in regional workforces, particularly in the electricity, coal, and natural gas sectors. While employment effects are not experienced uniformly across the population and may be offset by new opportunities in different sectors, localized impacts could have adversely affected individuals and their communities. Workers losing jobs in regions or occupations with weak labor markets would have been most vulnerable. With limited re-employment opportunities, or if new employment offered lower earnings, then unemployed workers could face extended periods without work, or permanently reduced future earnings. In addition, past research has suggested that involuntary job loss may increase risks to health, of substance abuse, and even of mortality. These adverse impacts may be avoided with the proposed repeal of the CPP.

V. Statutory Authority

The statutory authority for this action is provided by sections 111, 301, 302, and 307(d)(1)(V) of the CAA, as amended (42 U.S.C. 7411, 7601, 7602, 7607(d)(1)(V)). This action is also subject to section 307(d) of the CAA (42 U.S.C. 7607(d)).

Dated: October 10, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–22349 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 82, No. 198
Monday, October 16, 2017

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0053]

Notice of Determination of the Highly Pathogenic Avian Influenza and Newcastle Disease Status of Japan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we are recognizing Japan as being free of highly pathogenic avian influenza and Newcastle disease. This recognition is based on a risk evaluation we prepared and made available for public review and comment.

DATES: This change of disease status will be recognized on October 16, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Rhodes, Senior Staff Veterinarian, Regionalization Evaluation Services, National Import Export Services, VS, APHIS, USDA, 4700 River Road Unit 38, Riverdale, MD 20737–1231; *Kelly.Rhodes@aphis.usda.gov;* (301) 851–3315.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including highly pathogenic avian influenza (HPAI) and Newcastle disease. Within part 94, § 94.6 contains requirements governing the importation of carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions where HPAI and Newcastle disease is considered to exist.

In accordance with § 94.6(a)(1)(i), the Animal and Plant Health Inspection Service (APHIS) maintains a list of regions in which Newcastle disease is not considered to exist. Paragraph (a)(1)(ii) states that APHIS will add a region to this list after it conducts an evaluation of the region and finds that Newcastle disease is not likely to be present in its commercial bird or poultry populations.

In accordance with § 94.6(a)(2)(i), APHIS maintains a list of regions in which HPAI is considered to exist. Paragraph (a)(2)(ii) states that APHIS will remove a region from this list only after it conducts an evaluation of the region and finds that HPAI is not likely to be present in its commercial bird or poultry populations.

In 9 CFR part 92, § 92.2 contains requirements for requesting the recognition of the animal health status of a region (as well as for the approval of the export of a particular type of animal or animal product to the United States from a foreign region). If, after review and evaluation of the information submitted in support of the request, APHIS believes the request can be safely granted, APHIS will make its evaluation available for public comment through a document published in the **Federal Register**.

In accordance with that process, we published a notice [1] in the **Federal Register** on June 30, 2017 (82 FR 29822–29823, Docket No. APHIS–2016–0053) announcing the availability for review and comment of our evaluation of the HPAI and Newcastle disease status of Japan. Based on this evaluation, we determined that Japan is free of both HPAI and Newcastle disease.

We solicited comments on the notice for 30 days ending July 31, 2017. We received two comments by that date, both from private citizens. One commenter supported the action. The second commenter stated that our assessment did not seem to include the most recent occurrence of HPAI in Japan and requested that we explain why we made the determination that no HPAI has occurred when HPAI was reported in Japan in early 2017.

The risk evaluation that we made available for public review and comment explained that seven outbreaks of HPAI occurred in November and December of 2016, followed by five outbreaks from January through May 2017. The risk evaluation examined the biosecurity and surveillance measures that Japan employs to prevent and detect HPAI outbreaks, respectively. There was no evidence that HPAI virus is circulating in domestic poultry in Japan. Each HPAI outbreak appeared to be a point source introduction from infected wild birds, with no other epidemiological connections. These findings support our conclusion that Japan is free of HPAI. Although infection in migratory wild birds presents an ongoing risk of introduction, Japan has effective systems in place to detect and investigate potential HPAI outbreaks and a highly successful rapid response scheme.

Based on the evaluation and the reasons given in this document in response to comments, we are recognizing Japan as being free of HPAI and Newcastle disease and will add Japan to the Web-based list of regions in which Newcastle disease is not considered to exist and remove Japan from the web-based list of regions in which HPAI is considered to exist. These lists are available on the APHIS Web site at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/ct_animal_disease_status.*

An environmental assessment (EA) and finding of no significant impact (FONSI) have been prepared for this action. Based on the FONSI, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The EA and FONSI were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The EA and FONSI may be viewed on the *Regulations.gov* Web site (see footnote 1). Copies of the EA and FONSI are also available for public inspection at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m.

[1] To view the notice, risk evaluation, environmental assessment, finding of no significant impact, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0053.*

and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799–7039 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 11th day of October 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22382 Filed 10–13–17; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Kansas Advisory Committee to Discuss Next Steps in the Committee's Study of Civil Rights and School Funding in Kansas

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold meetings on Thursday, October 26, 2017 at 3 p.m. Central time. The Committee will continue discussion and preparations to hold a public hearing as part of their current study on civil rights and school funding in the state.

DATES: The meeting will take place on Thursday, October 26, 2017 at 3 p.m. Central time.

Public Call Information:

- Thursday October 26, 2017: Dial: 800–263–8506, Conference ID: 5951050

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. These meetings are available to the public through the above call in numbers. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Kansas Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=249*). Click on ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call

Civil Rights in Kansas: School funding

Future Plans and Actions

Public Comment

Adjournment

Dated: October 10, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–22265 Filed 10–13–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: Applicable October 16, 2017.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2018.

	Period to be reviewed
Antidumping Duty Proceedings	
India:	
Corrosion-Resistant Steel Products [4] A–533–863	1/4/16–6/30/17
Atlantis International Services Company Ltd.	
JSW Coated Products Limited.	
JSW Steel Ltd.	
Uttam Galva Steels (BVI) Limited.	
Uttam Galva Steels Limited.	
Uttam Galva Steels, Netherlands, B.V.	
Uttam Value Steels Limited.	
Malaysia:	
Polyethylene Retail Carrier Bags A–557–813	8/1/16–7/31/17
Euro SME Sdn Bhd.	
Mexico:	
Light-Walled Rectangular Pipe and Tube A–201–836	8/1/16–7/31/17
Maquilacero S.A. de C.V.	
Perfiles y Herrajes LM, S.A. de C.V.	
Productos Laminados de Monterrey S.A. de C.V.	
Regiomontana de Perfiles y Tubos S.A. de C.V.	
Republic of Korea:	
Large Power Transformers A–580–867	8/1/16–7/31/17
Hyundai Electric & Energy Systems Co., Ltd.	
Hyundai Heavy Industries Co., Ltd.	
ILJIN.	
Iljin Electric Co., Ltd.	
LSIS Co., Ltd.	
Hyosung Corporation.	
Socialist Republic of Vietnam:	
Certain Frozen Fish Fillets A–552–801	8/1/16–7/31/17
An Giang Agriculture and Foods Import-Export Joint Stock Company (also known as Afiex, An Giang Agriculture and Foods Import-Export Joint Stock Company, An Giang Agriculture and Food Import-Export Company, or An Giang Agriculture and Foods Import and Export Company).	
An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish or AnGiang Fisheries Import and Export).	
An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco).	
An Phat Import-Export Seafood Co. Ltd. (also known as An Phat Seafood Co. Ltd.).	
An Phu Seafood Corporation (also known as ASEAFOOD or An Phu Seafood Corp.).	
Anvifish Joint Stock Company (also known as Anvifish or Anvifish Co., Ltd.).	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish).	
Asia Pangasius Company Limited (also known as ASIA).	
Basa Joint Stock Company (BASACO).	
Ben Tre Aquaproduct Import and Export Joint Stock Company (also known as Bentre Aquaproduct or Aquatex Bentre).	
Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (also known as Bentre Forestry and Aquaproduct Import and Export Joint Stock Company or Ben Tre Forestry and Aquaproduct Import-Export Company or Ben Tre Forestry Aquaproduct Import-Export Company or Ben Tre Frozen Aquaproduct Export Company or Faquimex).	
Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., or Biendong Seafood Limited Liabilty Company).	
Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.).	
Binh Dinh Import Export Company (also known as Binh Dinh).	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as Cadovimex II or Cadovimex II Seafood Import-Export).	
Cafatex Corporation (also known as Cafatex).	
Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex).	
Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX, Can Tho Import-Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, or Can Tho Import-Export Joint Stock Company).	
C.P. Vietnam Corporation.	
Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish).	
Cuu Long Fish Joint Stock Company (also known as CL-Fish or CL-Fish Corp.).	
Da Nang Seaproducts Import-Export Corporation (also known as Da Nang or Da Nang Seaproducts Import/Export Corp.).	

	Period to be reviewed
Dai Thanh Seafoods Company Limited (also known as DATHACO or Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.).	
East Sea Seafoods LLC (also known as ESS LLC, ESS, ESS JVC, East Sea Seafoods Limited Liabiltiy Company, East Sea Seafoods Joint Venture Co., Ltd.).	
Europe Joint Stock Company (also known as Europe JSC).	
Fatifish Company Limited (also known as FATIFISH or FATIFISHCO).	
Go Dang An Hiep One Member Limited Company.	
Go Dang Ben Tre One Member Limited Liability Company.	
GODACO Seafood Joint Stock Company (also known as GODACO or GODACO Seafood J.S.C. or GODACO Seafood).	
Golden Quality Seafood Corporation (also known Golden Quality, GoldenQuality, or GoldenQuality Seafood Corporation).	
Green Farms Seafood Joint Stock Company (also know as Green Farms, GreenFarm SeaFoods Joint Stock Company or Green Farms Seafoods Joint Stock Company or Green Farms Seafood JSC).	
Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Houng Seafood).	
Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.).	
Hoa Phat Seafood Import-Export and Processing J.S.C. (also known as HOPAFISH or Hoa Phat Seafood Import-Export and Processing Joint Stock Company).	
Hoang Long Seafood Processing Company Limited (also known as HLS, Hoang Long Seafood, or Hoang Long Seafood Processing Co.,Ltd.).	
Hung Vuong—Mien Tay Aquaculture Corporation.	
Hung Vuong—Sa Dec Co., Ltd.	
Hung Vuong—Vinh Long Co., Ltd.	
Hung Vuong Ben Tre Seafood Processing Company Limited (also known as HVBT Seafood Processing).	
Hung Vuong Corporation.	
Hung Vuong Joint Stock Company.	
Hung Vuong Mascato Company Limited.	
Hung Vuong Seafood Joint Stock Company.	
International Development & Investment Corporation (also known as IDI).	
Lian Heng Investment Co., Ltd. (also known as Lien Heng Investment or Lian Heng).	
Lian Heng Trading Co., Ltd. (also known as Lian Heng or Lian Heng Trading).	
Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong or NAFISHCO or Nam Phuong Seafood or Nam PhuongSeafood Company Ltd.).	
Nam Viet Corporation (also known as NAVICO).	
Ngoc Ha Co., Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading).	
Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89, Nha Trang Seafoods, or Nha Trang Seaproduct Company).	
NTACO Corporation (also known as NTACO or NTACO Corp.).	
NTSF Seafoods Joint Stock Company (also known as NTSF or NTSF Seafoods).	
Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.).	
QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT).	
QVD Food Company, Ltd. (also known as QVD or QVD Aqucuture).	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.).	
Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFOODCO or Seafood Joint Stock Company No. 4-Branch Dong Tam Fisheries Processing Company).	
Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., or Southern Fisheries Industries Company, Ltd.).	
Sunrise Corporation.	
TG Fishery Holdings Corporation (also known as TG).	
Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung).	
Thien Ma Seafood Co., Ltd. (also known as THIMACO or Thien Ma or Thien Ma Seafood Company, Ltd. or Thien Ma Seafoods Co., Ltd.).	
Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., or Thuan An Production & Trading Service Co., Ltd.).	
Thuan Hung Co., Ltd. (also known as THUFICO).	
To Chau Joint Stock Company (also known as TOCHAU).	
Van Duc Food Export Joint Stock Company.	
Van Duc Tien Giang Food Export Company.	
Viet Hai Seafood Company Limited (also known as Viet Hai or Vietnam Fish-One Co., Ltd. or Viet Hai Seafood Co. or Fish One).	
Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation).	
Viet Phu Foods & Fish Co., Ltd.	
Vinh Hoan Corporation (also known as Vinh Hoan or Ving Hoan Co.).	
Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long or Vinh Long Import/Export Company).	
Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co.,Ltd.).	
Socialist Republic of Vietnam:	
Welded Stainless Pressure Pipe[5] A–552–816	7/1/16–6/30/17

	Period to be reviewed
Taiwan:	
Certain Steel Nails [6] A–583–854	7/1/16–6/30/17
Basso Industry Corporation.	
The People's Republic of China:	
Certain Passenger Vehicle and Light Truck Tires A–570–016	8/1/16–7/31/17
Actyon Tyre Resources Co., Limited.	
BC Tyre Group Limited.	
Best Choice International Trade Co., Limited.	
Chen Shin Tire & Rubber (China) Co., Ltd.	
Cooper (Kunshan) Tire Co., Ltd.	
Crown International Corporation.	
Dynamic Tire Corp.	
Federal Tire (Jiangxi), Ltd.	
Hangzhou Yokohama Tire Co., Ltd.	
Hankook Tire China Co., Ltd.	
Hebei Tianrui Rubber Co., Ltd.	
Highpoint Trading, Ltd.	
Hong Kong Tiancheng Investment & Trading Co., Limited.	
Hong Kong Tri-Ace Tire Co., Limited.	
Hongtyre Goup Co.	
Husky Tire Corp.	
Hwa Fong Rubber (Hong Kong) Ltd.	
Hwa Fong Rubber (Suzhou) Ltd.	
Jiangsu Hankook Tire Co., Ltd.	
Kenda Rubber (China) Co., Ltd.	
Koryo International Industrial Limited.	
Kumho Tire Co., Inc.	
Mayrun Tyre (Hong Kong) Limited.	
Qingdao Fullrun Tyre Corp. Ltd.	
Qingdao Fullrun Tyre Tech Corp. Ltd.	
Qingdao Nama Industrial Co., Ltd.	
Qingdao Nexen Tire Corporation.	
Qingdao Odyking Tyre Co., Ltd.	
Qingdao Qianzhen Tyre Co., Ltd.	
Qingdao Qihang Tyre Co., Ltd.	
Qingdao Qizhou Rubber Co., Ltd.	
Qingdao Sentury Tire Co., Ltd.	
Sailun Jinyu Group (Hong Kong) Co., Limited.	
Sailun Jinyu Group Co., Ltd.	
Sailun Tire International Corp.	
Seatex International Inc.	
Seatex PTE. Ltd.	
Shandgong Hongsheng Rubber Co. Ltd.	
Shandong Anchi Tyres Co., Ltd.	
Shandong Changfeng Tyres Co., Ltd.	
Shandong Duratti Rubber Corporation Co. Ltd.	
Shandong Guofeng Rubber Plastics.	
Shandong Guofeng Rubber Plastics Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Haolang Rubber Tire Co., Ltd.	
Shandong Haolong Rubber Co., Ltd.	
Shandong Hengyu Science & Technology Co., Ltd.	
Shandong Jinyu Industrial Co., Ltd.	
Shandong Linglong Tyre Co., Ltd.	
Shandong Longyue Rubber Co., Ltd.	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Shuangwang Rubber Co., Ltd.	
Shandong Wanda Boto Tyre Co., Ltd.	
Shandong Yongsheng Rubber Group Co., Ltd.	
Shandong Zhongyi Rubber Co., Ltd.	
Shengtai Group Co., Ltd.	
Shifeng Juxing Tire Co., Ltd.	
Shouguang Firemax Tyre Co., Ltd.	
Southeast Mariner International Co., Ltd.	
The Yokohama Rubber Company, Ltd.	
Toyo Tire (Zhangjiagang) Co., Ltd.	
Tyrechamp Group Co., Limited.	
Winrun Tyre Co., Ltd.	
Zhaoqing Junhong Co., Ltd.	
The People's Republic of China:	
Hydroflurocarbon Blends and Components Thereof A–570–028	2/1/16–7/31/17

	Period to be reviewed
Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd.	
Daikin Fluorochemicals (China) Co., Ltd.	
Dongyang Weihua Refrigerants Co., Ltd.	
Jinhua Yonghe Fluorochemical Co., Ltd.	
Shandong Huaan New Material Co., Ltd.	
Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	
T.T. International Co., Ltd.	
Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.	
Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd.	
Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	
Zhejiang Sanmei Chemical Industry Co. Ltd. (AKA Zhejiang Sanmei Chemical Ind. Co. Ltd.).	
Zhejiang Yonghe Refrigerant Co., Ltd.	
The People's Republic of China:	
Certain Steel Nails A–570–909	8/1/16–7/31/17
Air It on Inc.	
A-Jax Enterprises Ltd.	
A-Jax International Co. Ltd.	
Anhui Amigo Imp.& Exp. Co. Ltd.	
Anhui Tea Imp. & Exp. Co. Ltd.	
Anjing Caiquing Hardware Co., Ltd.	
Astrotech Steels Pvt. Ltd.	
Beijing Catic Industry Ltd.	
Beijing Qin-Li Jeff Trading Co., Ltd.	
Bodi Corporation.	
Cana (Rizhou) Hardward Co. Ltd.	
Cangzhou Xinqiao Int'l Trade Co. Ltd.	
Certified Products Taiwan Inc.	
Changzhou Kya Trading Co. Ltd.	
Chia Pao Metal Co. Ltd.	
China Dinghao Co. Ltd.	
China Staple Enterprise Co. Ltd.	
Chinapack Ningbo Imp. & Exp. Co. Ltd.	
Chite Enterprise Co. Ltd.	
Crelux Int'l Co. Ltd.	
Daejin Steel Co. Ltd.	
Dezhou Hualude Hardware Products Co. Ltd.	
Dingzhou Baota Metal Products Co. Ltd.	
Dong E Fuqiang Metal Products Co. Ltd.	
Ejen Brother Limited.	
Faithful Engineering Products Co. Ltd.	
Fastening Care.	
Fastgrow International Co. Inc.	
Foshan Hosontool Development Hardware Co. Ltd.	
Glori-Industry Hong Kong Inc.	
Guangdong Meite Mechanical Co. Ltd.	
Hangzhou Spring Washer Co. Ltd.	
Hebei Canzhou New Century Foreign Trade Co. Ltd.	
Hongyi (HK) Hardware Products Co. Ltd.	
Huaiyang County Yinfeng Plastic Factory.	
Huanghua Yingjin Hardware Products.	
Inmax Industries Sdn. Bhd.	
Jade Shuttle Enterprise Co. Ltd.	
Jiangsu General Science Technology Co. Ltd.	
Jiangsu Huaiyin Guex Tools.	
Jiaxing TSR Hardware Inc.	
Jinhai Hardware Co. Ltd.	
Jinsco International Corp.	
Jinsheung Steel Corporation.	
Koram Inc.	
Korea Wire Co. Ltd.	
Liaocheng Minghui Hardware Products.	
Maanshan Lilai International Trade. Co. Ltd.	
Mingguang Abundant Hardware Products Co. Ltd.	
Mingguang Ruifeng Hardware Products Co. Ltd.	
Nailtech Co. Ltd.	
Nanjing Caiquing Hardware Co. Ltd.	
Nanjing Nuochun Hardware Co. Ltd.	
Nanjing Tianxingtong Electronic Technology Co. Ltd.	
Nanjing Tianyu International Co. Ltd.	
Nanjing Zeejoe International Trade.	
Ningbo Adv. Tools Co. Ltd.	
Ningbo Fine Hardware Production Co. Ltd.	
Overseas Distribution Services Inc.	

	Period to be reviewed
Overseas International Steel Industry.	
Paslode Fasteners Co. Ltd.	
Patek Tool Co. Ltd.	
President Industrial Inc.	
Promising Way (Hong Kong) Ltd.	
Qingda Jisco Co. Ltd.	
Qingdao D&L Hardware Co. Ltd.	
Qingdao Gold Dragon Co. Ltd.	
Qingdao Hongyuan Nail Industry Co. Ltd.	
Qingdao Meijialucky Industry and Co.	
Qingdao MST Industry and Commerce Co. Ltd.	
Qingdao Top Steel Industrial Co. Ltd.	
Qingdao Uni-Trend International.	
Quzhou Monsoon Hardware Co. Ltd.	
Region Industries Co. Ltd.	
Region System Sdn. Bhd.	
Rise Time Industrial Ltd.	
Romp Coil Nail Industries Inc.	
R-Time Group Inc.	
SDC International Australia Pty. Ltd.	
Shandong Liaocheng Minghua Metal Pvt. Ltd.	
Shandong Oriental Cherry Hardware Group Co. Ltd.	
Shandong Oriental Cherry Hardware Import & Export Co. Ltd.	
Shandong Qingyun Hongyi Hardware Co. Ltd.	
Shanghai Curvet Hardware Products Co. Ltd.	
Shanghai Haoray International Trade Co. Ltd.	
Shanghai Jade Shuttle Hardware Tools Co. Ltd.	
Shanghai Pioneer Speakers Co. Ltd.	
Shanghai Seti Enterprise Int'l Co. Ltd.	
Shanghai Yueda Nails Co. Ltd.	
Shanxi Easyfix Trade Co. Ltd.	
Shanxi Hairut Trade Co. Ltd.	
Shanxi Pioneer Hardware Industrial Co. Ltd.	
Shanxi Tianli Industries Co. Ltd.	
Shaoxing Chengye Metal Producing Co. Ltd.	
Shenzhen Xinjintal Hardware Co. Ltd.	
S-Mart (Tianjin) Technology Development Co. Ltd.	
Stanley Black & Decker Inc.	
Suntec Industries Co. Ltd.	
Suzhou Xingya Nail Co. Ltd.	
Taizhou Dajiang Ind. Co. Ltd.	
The Stanley Works (Langfang) Fastening Systems Co.,Ltd.	
Theps International.	
Tianji Hweschun Fasteners Manufacturing Co. Ltd.	
Tianjin Baisheng Metal Products Co. Ltd.	
Tianjin Bluekin Indusries Ltd.	
Tianjin Coways Metal Products Co. Ltd.	
Tianjin Dagang Jingang Nail Factory.	
Tianjin Evangel Imp. & Exp. Co. Ltd.	
Tianjin Fulida Supply Co. Ltd.	
Tianjin Huixingshangmao Co. Ltd.	
Tianjin Jin Xin Sheng Long Metal Products Co. Ltd.	
Tianjin Jinchi Metal Products Co. Ltd.	
Tianjin Jinghai County Hongli Industry and Business Co. Ltd.	
Tianjin Jinghai Yicheng Metal Pvt.	
Tianjin Jinlin Pharmaceutical Factory.	
Tianjin Jinmao Imp. & Exp. Corp. Ltd.	
Tianjin Lianda Group Co. Ltd.	
Tianjin Tianhua Environmental Plastics Co. Ltd.	
Tianjin Universal Machinery Imp. & Exp.	
Tianjin Yong Sheng Towel Mill.	
Tianjin Yongye Furniture Co. Ltd.	
Tianjin Zhonglian Metals Ware Co. Ltd.	
Tianjin Zhonglian Times Technology.	
Tianjin Zhongsheng Garment Co. Ltd.	
Unicore Tianjin Fasteners Co. Ltd.	
Win Fasteners Manufactory (Thailand) Co. Ltd.	
Wulian Zhanpeng Metals Co. Ltd.	
Xi'An Metals and Minerals Imp. & Exp. Co. Ltd.	
Yongchang Metal Product Co.	
Yuyao Dingfeng Engineering Co. Ltd.	
Zhangjiagang Lianfeng Metals Products Co. Ltd.	
Zhangjiagang Longxiang Industries Co. Ltd.	

	Period to be reviewed
Zhaoqing Harvest Nails Co. Ltd.	
Zhejiang Best Nail Industry Co. Ltd.	
Zhejiang Jihengkang (JHK) Door Ind. Co. Ltd.	
Zhejiang Yiwu Yongzhou Imp. & Exp. Co. Ltd.	
Zhong Shan Daheng Metal Products Co. Ltd.	
Zhong Shan Shen Neng Metals Products Co. Ltd.	
Zhucheng Jinming Metal Products Co. Ltd.	
Zhucheng Runfang Paper Co. Ltd.	
The People's Republic of China:	
Polyethylene Retail Carrier Bags A–570–886	8/1/16–7/31/17
Crown Polyethylene Products (International) Ltd.	
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa).	
High Den Enterprises Ltd.	
Countervailing Duty Proceedings	
Italy:	
Certain Pasta [7] C–475–819	1/1/16–12/31/16
Antico Pastificio Morelli 1860 S.r.l.	
Republic of Korea:	
Corrosion-Resistant Steel Products [8] C–580–879	11/6/15–12/31/16
Dongkuk Steel Mill Co., Ltd.	
Jeil Sanup Co., Ltd.	
Seil Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
The People's Republic of China:	
Certain Passenger Vehicle and Light Truck Tires C–570–017	1/1/16–12/31/16
Best Industries Ltd.	
BC Tyre Group Limited.	
Cooper (Kunshan) Tire Co., Ltd.	
Crown International Corporation.	
Dongying Zhongyi Rubber Co., Ltd.	
Hangzhou Yokohama Tire Co., Ltd.	
Hankook Tire China Co., Ltd.	
Hong Kong Tiancheng Investment & Trading Co., Limited.	
Hongtyre Group Co.	
Jiangsu Hankook Tire Co., Ltd.	
Jiangsu Sanhe Aluminum.	
Kenda Rubber (China) Co., Ltd.	
Koryo International Industrial Limited.	
Mayrun Tyre (Hong Kong) Limited.	
Qingdao Jinhaoyang International Co., Ltd.	
Qingdao Nama Industrial Co., Ltd.	
Qingdao Odyking Tyre Co., Ltd.	
Qingdao Sentury Tire Co., Ltd.	
Roadclaw Tyre (Hong Kong) Limited.	
Shandong Anchi Tyres Co., Ltd.	
Shandong Changfeng Tyres Co., Ltd.	
Shandong Changhong Rubber Technology Co., Ltd.	
Shandong Guofeng Rubber Plastics Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Haolong Rubber Co., Ltd.	
Shandong Hengyu Science & Technology Co., Ltd.	
Shandong Linglong Tyre Co., Ltd.	
Shandong Longyue Rubber Co., Ltd.	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Shuangwang Rubber Co., Ltd.	
Shandong Wanda Boto Tyre Co., Ltd.	
Shandong Yongsheng Rubber Group Co., Ltd.	
Shandong Zhongyi Rubber Co., Ltd.	
Shengtai Group Co., Ltd.	
Shouguang Firemax Tyre Co., Ltd.	
The Yokohama Rubber Company, Ltd.	
Tyrechamp Group Co., Limited.	
Winrun Tyre Co., Ltd.	
Zhaoqing Junhong Co., Ltd.	
Zhongce Rubber Group Company Limited.	
Suspension Agreements	
None	

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in the Department's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

The Department's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[9] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[10] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

[4] In the notice of initiation for July anniversary cases, published in the **Federal Register** on September 13, 2017 (82 FR 42974), the Department incorrectly identified ''Netherland, B.V.'' and ''Uttam Galva Steels'' as two separate companies when it should have been listed as a single company: Uttam Galva Steels, Netherlands, B.V. The Department hereby corrects that initiation notice and is publishing the names of all companies for which requests for review were received for the POR.

[5] In the initiation notice that published on September 13, 2017 (82 FR 42974) the Department inadvertently initiated a review of Welded Stainless Pressure Pipe from Socialist Republic of Vietnam for Mejonson Industrial Vietnam Co., Ltd. We did not intend to initiate a review of this company. This notice serves as a correction to the *Initiation Notice.*

[6] The company listed above was misspelled in the initiation notice that published on September 13, 2017 (82 FR 42974). The correct spelling of the company name is listed in this notice.

[7] In *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 42074 (September 13, 2017), there was an error in the name of the company listed above. The company Antico Pastificio Morelli 1860 S.r.l. was incorrectly identified as Antico Pastificio Morelli 1870 S.r.l.. This notice serves as a correction to the initiation notice.

[8] The companies listed below were either misspelled or inadvertently omitted in the initiation notice that published on September 13, 2017 (82 FR 42974). This notice serves as a correction to the initiation Notice.

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

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

Dated: October 10, 2017.

James Maeder,

Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–22327 Filed 10–13–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for November 2017

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in October 2017 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Reviews).

With respect to the orders on Steel Wire Garment Hangers from Vietnam, we have advanced the initiation date of these Sunset Reviews upon determining that initiation of the Sunset Reviews for all of the Steel Garment Hangers orders on the same date would promote administrative efficiency.

	Department contact
Antidumping Duty Proceedings	
Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from China (A–570–979) (1st Review).	Matthew Renkey, (202) 482–2312.
Honey from China (A–570–863) (3rd Review)	Matthew Renkey, (202) 482–2312.
Steel Wire Garment Hangers from Taiwan (A–583–849) (1st Review)	Matthew Renkey, (202) 482–2312.
Steel Wire Garment Hangers from Vietnam (A–552–812) (1st Review)	Matthew Renkey, (202) 482–2312.
Countervailing Duty Proceedings	
Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from China (1st Review) (C–570–980).	Jacqueline Arrowsmith, (202) 482–5255.
Steel Wire Garment Hangers from Vietnam (C–552–813) (1st Review)	Matthew Renkey, (202) 482–2312.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in November 2017.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Reviews* provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 10, 2017.

James Maeder,

Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–22326 Filed 10–13–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review; 2015

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

SUMMARY: On July 25, 2017, the Department of Commerce (the Department) published the preliminary results of the administrative review of the countervailing duty order on pasta from Italy. The period of review (POR) is January 1, 2015, through December 31, 2015. The review covers one producer/exporter of subject merchandise. We invited parties to comment on the *Preliminary Results.* None were received. Accordingly, for the final results, we continue to find that that Liguori Pastificio dal 1820 S.p.A. (Liguori) received countervailable subsidies during the POR.

DATES: Applicable October 16, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2017, the Department published the *Preliminary Results* of the administrative review.[1] The Department gave interested parties an opportunity to

[1] *See Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review; 2015,* 82 FR 34481 (July 25, 2017) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

comment on the *Preliminary Results.* None were received. The Department has conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

Imports covered by the *Order* are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by the scope of the *Order* is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the *Order* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the *Order.*[2] Pursuant to the Department's May 12, 2011 changed circumstances review, effective January 1, 2009, gluten-free pasta is also excluded from the scope of the *Order.*[3] Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order.*[4]

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers and made available to U.S. Customs and Border Protection or the Department of Commerce upon request.

The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the *Order* is dispositive.

[2] *See* Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

[3] *See Certain Pasta from Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part,* 76 FR 27634 (May 12, 2011).

[4] *See Certain Pasta from Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part* 79 FR 58319, 58320 (September 29, 2014).

Final Results of Review

Because the Department received no comments after the *Preliminary Results* for consideration for these final results, we have made no changes to the *Preliminary Results.* As a result of this review, we determine that countervailable subsidies were provided to the respondent for the period January 1, 2015, through December 31, 2015, at the following rate: [5]

Producer/exporter	Net subsidy rate (percent)
Liguori Pastificio dal 1820 S.p.A.	1.62

Assessment Rates

In accordance with 19 CFR 351.212(b)(2), the Department intends to issue assessment instructions to U.S. Customs and Boarder Protection (CBP) 15 days after the date of publication of these final results to liquidate shipments of subject merchandise produced by Liguori entered, or withdrawn from warehouse, for consumption on or after January 1, 2015 through December 31, 2015 at the *ad valorem* rate listed above.

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amount shown above for shipments of subject merchandise by Liguori entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

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

[5] We have made no changes to this rate since the *Preliminary Results.* Therefore, no additional disclosure of calculations is necessary for these final results under 19 CFR 351.224(b).

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 10, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–22328 Filed 10–13–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–844]

Narrow Woven Ribbons With Woven Selvedge From Taiwan; Final Determination of No Shipments; 2015–2016

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

SUMMARY: On June 8, 2017, the Department of Commerce (the Department) published the preliminary results of the 2015–2016 administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge (NWR) from Taiwan. The period of review (POR) is September 1, 2015, through August 31, 2016. We received no comments from interested parties. Therefore, the Department continues to find that Fujian Rongshu Industry Co., Ltd. (Fujian Rongshu), Roung Shu Industry Corporation (Roung Shu), and Xiamen Yi He Textile Co., Ltd. (Xiamen Yi He) had no shipments of subject merchandise to the United States during the POR.

DATES: Applicable October 16, 2017.

FOR FURTHER INFORMATION CONTACT: David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3693.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2017, the Department published the *Preliminary Results* in the **Federal Register**.[1] After the *Preliminary Results,* we conducted verification of the no-shipment claim submitted by Roung Shu, in accordance with section

[1] *See Narrow Woven Ribbons With Woven Selvedge From Taiwan; Preliminary Determination of No Shipments and Rescission, in Part, of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 26664 (June 8, 2017) (*Preliminary Results*).

782(i)(3) of the Tariff Act of 1930, as amended (the Act).[2] We invited interested parties to comment on the preliminary results of the review.[3] The Department conducted this administrative review in accordance with section 751(a)(1) of the Act.

Scope of the Order

The scope of this order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene teraphthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

- Also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an ''ornamental trimming;''
- be wound on spools; attached to a card; hanked (*i.e.,* coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this antidumping duty order.

Excluded from the scope of the order are the following:

(1) Formed bows composed of narrow woven ribbons with woven selvedge;

(2) ''pull-bows'' (*i.e.,* an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;

(3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (*i.e.,* filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;

(4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;

(5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;

(6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;

(7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;

(8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;

(9) narrow woven ribbons constructed from pile fabrics (*i.e.,* fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);

(10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a ''belly band'' around a pair of pajamas, a pair of socks or a blanket;

(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and

(13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050; and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

Final Determination of No Shipments

As noted in the *Preliminary Results,* we preliminarily determined that Fujian Roungshu, Roung Shu, and Xiamen Yi He had no shipments of subject merchandise during the POR. Also in the *Preliminary Results,* the Department stated that, consistent with its practice, it would complete the review with respect to these companies and issue appropriate instructions to U.S.

[2] *See* Memorandum, ''Verification of the Sales Response of Roung Shu Industry Corporation in the 2015–2016 Antidumping Duty Adminsitrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan,'' dated September 21, 2017.

[3] *See Preliminary Results,* 82 FR at 26666.

Customs and Border Protection (CBP) based on the final results.[4]

After issuing the *Preliminary Results,* the Department received no comments from interested parties, and has not received any information that would cause it to alter its preliminary determination. Therefore, because the record indicates that these companies did not export subject merchandise to the United States, the Department continues to find that Fujian Roungshu, Roung Shu, and Xiamen Yi He had no shipments of subject merchandise during the POR. As the Department received no comments for consideration in these final results, the Department has not prepared an Issues and Decision Memorandum for this review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review. Additionally, because the Department determined that Fujian Roungshu, Roung Shu, and Xiamen Yi He had no shipments of subject merchandise during the POR, any suspended entries that entered under Fujian Roungshu, Roung Shu, or Xiamen Yi He's case number (*i.e.,* at that exporter's rate) will be liquidated at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[5]

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

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

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: October 6, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–22329 Filed 10–13–17; 8:45 am]

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[4] *See Preliminary Results,* 82 FR at 26666.

[5] *See Antidumping and Countervailing Duty Proveedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF754

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Citizen Science Advisory Panel Data Management; Volunteers; Communication/Outreach/Education; Projects/Topics Management; Finance & Infrastructure Action Teams via webinar.

DATES: The Data Management Team meeting will be held Thursday, November 2, 2017 at 2 p.m.; Volunteers Team on Friday, November 3, 2017 at 10 a.m.; Communication/Outreach/Education Team on Friday, November 3, 2017 at 2 p.m.; Projects/Topics Management Team on Monday, November 6 at 4 p.m.; and Finance & Infrastructure Team on Thursday, November 9, 2017 at 2 p.m. Each meeting is scheduled to last approximately 90 minutes. Additional Action Team webinar and plenary webinar dates and times will publish in a subsequent issue in the **Federal Register**.

ADDRESSES:

Meeting address: The meetings will be held via webinar and are open to members of the public. Webinar registration is required and registration links will be posted to the Citizen Science program page of the Council's Web site at *www.safmc.net.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Citizen Science Program Manager, SAFMC; phone: (843) 302–8433 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *amber.vonharten@safmc.net.*

SUPPLEMENTARY INFORMATION: The Council created a Citizen Science Advisory Panel Pool in June 2017. The Council appointed members of the Citizen Science Advisory Panel Pool to five Action Teams in the areas of Volunteers, Data Management, Projects/Topics Management, Finance, and Communication/Outreach/Education to develop program policies and operations for the Council's Citizen Science Program.

Each Action Team will meet to continue work on developing recommendations on program policies and operations to be reviewed by the Council's Citizen Science Committee. Public comment will be accepted at the beginning of the meeting. Items to be addressed during these meetings:

1. Discuss work on tasks in the Terms of Reference
2. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 11, 2017.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22361 Filed 10–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF743

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Salmon Technical Team and Model Evaluation Workgroup will hold a joint meeting via webinar. The meeting is open to the public.

DATES: The webinar meeting will be held on Thursday, November 2, 2017, from 9 a.m. until 3 p.m., or until business for the day is completed.

ADDRESSES: The meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar (1) join the meeting by visiting this link *https://www.gotomeeting.com/webinar,* (2) enter the Webinar ID: 801–211–715, and (3) enter your name and email address (required). After logging in to the webinar, please (1) dial this TOLL number 1–213–929–4232 (not a toll-free number), (2) enter the attendee phone audio access code 705–203–131, and (3) then enter your audio phone pin (shown after joining the webinar). **Note:** We have disabled Mic/Speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and system requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (see the *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps*). You may send an email to Mr. Kris Kleinschmidt at *Kris.Kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 411 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Ehlke, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss items on the November 2017 Pacific Council meeting agenda. Major topics include, but are not limited to: Salmon Methodology Review, the 2018 Salmon Management Schedule, and Final Recommendations on the Sacramento River Winter Chinook Control Rule. If time allows, additional topics may be discussed, including but not limited to future Council agenda items.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (503) 820–2411 at least 10 business days prior to the meeting date.

Dated: October 11, 2017.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22359 Filed 10–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF752

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Joint Whiting Committee and Advisory Panel on October 30, 2017, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, October 30, 2017 at 10 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Hampton Inn, 2100 Post Road, Warwick, RI 02886; Telephone: (401) 739–8888.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

After hearing analysis and recommendations from the Whiting Plan Development Team, the Committee and Advisory Panel will approve Draft Amendment 22 alternatives that would trigger whiting and red hake possession limit reductions for limited access Category 2 and Incidental Permits when catches exceed Annual Catch Limits, overfishing occurs, or other circumstances. Final approval of the Draft Amendment 22 document is expected at the December 2017 Council meeting. Council staff will report on progress of SSC approval of 2018–20 specifications, the specifications document, the Draft Amendment 22 document, 2018 priorities and other business.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 11, 2017.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22360 Filed 10–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF759

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a half day webinar meeting of its Standing and Reef Fish Scientific and Statistical Committees (SSC).

DATES: The meeting will convene via webinar on Tuesday, October 31, 2017, from 12 p.m. until 5 p.m. EDT.

ADDRESSES: The meeting will be via WEBINAR; you may access the link below and on the Council's Web site.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; *steven.atran@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, October 31, 2017, 12 p.m.–5 p.m., EDT

I. Introductions and Adoption of Agenda
II. Approval of Minutes
  a. March 27–29, 2017 SSC meeting
  b. May 10, 2017 SSC webinar
III. Review of Relevant Legislative Approaches to Recreational Red Snapper Management
IV. SEDAR Activities
  a. Status of SEDAR 48—black grouper benchmark assessment
  b. FWC Gulf hogfish update assessment—Terms of Reference
  c. SEDAR 61 Gulf red grouper standard assessment
  i. Terms of reference
  ii. Project schedule
  iii. Assessment workshop appointments
  d. SEDAR 58 Stock ID TORs for cobia
V. A Comparison of Recent Stock Assessment Results Using SS3 vs. DLMToolkit
  a. Greater amberjack
  b. Gray triggerfish
VI. Review of Framework Action to Modify the ACT for Red Snapper Federal For-Hire and Private Angler Components
VII. Preliminary Discussion on Approaches to estimating Red Snapper Biomass off Each Gulf State
VIII. Other Business
—Meeting Adjourns

You may register for the SSC Meeting: Standing and Reef Fish on or before Tuesday, October 31, 2017 at the link provided below: *https://attendee.gotowebinar.com/register/4747113251445458690*

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. Click on the ''Library Folder'', then scroll down to ''SSC meeting–2017–10–webinar''.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: October 11, 2017.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22363 Filed 10–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF757

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting via webinar to discuss revisions to the Acceptable Biological Catch (ABC) Control Rule.

DATES: The Council meeting will be held from 9 a.m. to 12 p.m. on Monday, November 6, 2017.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Registration is required. Registration information will be posted on the Council's Web site at: *http://safmc.net/meetings/council-meetings/.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The meeting will be held via webinar. Meeting information including agenda and briefing book materials will be posted on the Council's Web site as they become available at: *http://safmc.net/meetings/council-meetings/.* Public comment on agenda items will be accepted at the beginning of the meeting.

The items of discussion are as follows:

1. Update on Scientific and Statistical Committee (SSC) discussions pertaining to revisions to the ABC Control Rule,
2. Review options for possible actions, and
3. Discuss and provide guidance.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management

Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1810 *et seq.*

Dated: October 11, 2017.

Jeffrey N. Lonergan,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–22362 Filed 10–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–HA–0036]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD HA), DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 15, 2017.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Cortney Higgins, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: TRICARE Award Fee Provider Survey; OMB Control Number 0720–0048.

Type of Request: Reinstatement.

Number of Respondents: 1,224.

Responses per Respondent: 1.

Annual Responses: 1,224.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 102.

Needs and Uses: The information collection requirement is necessary to obtain and record TRICARE network civilian provider-user satisfaction with the administrative processes/services of managed care support contractors (MCSC) in three TRICARE regions within the United States (North, West, and South) and three regions internationally (Europe, Pacific and Latin America). The survey will obtain TRICARE network civilian provider opinions regarding claims processing, customer service, and administrative support by the TRICARE regional contractors. The reports of findings from these surveys, coupled with performance criteria from other sources, will be used by the TRICARE Regional Administrative Contracting Officers to determine incentive award fee determination.

Affected Public: Businesses or other for profit; not for-profit institutions.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Cortney Higgins.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: October 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–22321 Filed 10–13–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Innovation Board; Notice of Federal Advisory Committee Meeting

AGENCY: Deputy Chief Management Officer, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Innovation Board (DIB) will take place.

DATES: Open to the public, Tuesday, October 24, 2017 from 9:00 a.m. to 11:00 a.m.

ADDRESSES: The meeting will be held at 1776 Crystal City, 2231 Crystal Drive, Arlington, VA 22202. Additionally, the meeting will be live streamed for those who are unable to physically attend the meeting.

FOR FURTHER INFORMATION CONTACT: Roma Laster, (703) 695–7563 (Voice), (703) 614–4365 (Facsimile), *roma.k.laster.civ@mail.mil* (Email). Mailing address is Defense Innovation Board, 9000 Defense Pentagon, Room 5E572, Washington, DC 20350.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Defense Innovation Board was unable to provide public notification concerning its meeting on October 24, 2017, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DIB is to examine and provide the Secretary of Defense and the Deputy Secretary of Defense independent advice and recommendations on innovative means to address future challenges in terms of integrated change to organizational structure and processes, business and functional concepts, and technology applications. The DIB focuses on (a) technology and capabilities, (b) practices and operations, and (c) people and culture.

Agenda: The DIB will discuss potential recommendations to (1) Establish a Department of Defense

Accelerator, (2) Develop an Innovation Career Track, and (3) Build Innovation Capacity with Partners and Allies. The DIB will invite selected experts to provide analysis and inputs related to innovation, innovation cells, and innovation activities within DoD. The DIB will invite selected experts to provide analysis and inputs related to workforce innovation initiatives; potential experts include representatives from the Office of the Vice Chief of Staff of the Air Force, Illuminate at U.S. Fleet Forces Command, the Future Concepts team at U.S. Army Special Operations Command, the Joint Development Technology Accelerator, and NextLog at USMC Installations & Logisitcs. The DIB will receive an update on the Science & Technology subcommittee's current work on software acquisition and reform guidance. The DIB's Executive Director will brief the DIB on DoD's latest implementation activities related to DIB recommendations. Members of the public will have an opportunity to provide input on the DIB's potential recommendations to establish a DoD accelerator, develop an innovation career track, and build innovation capacity with partners and allies.

Meeting Accessibility: Pursuant to Federal statutes and regulations (FACA, the Government in the Sunshine Act and 41 CFR 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from 9:00 a.m. to 11:00 a.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting or wanting to receive a link to the live stream webcast should contact the Executive Director to register no later than October 20, 2017, by email at *osd.innovation@mail.mil.*

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Executive Director at least five business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.140, the public or interested organizations may submit written comments to the DIB about its approved agenda pertaining to this meeting or at any time regarding the DIB's mission. Individuals submitting a written statement must submit their statement to the Executive Director at *osd.innovation@mail.mil.* Written comments that do not pertain to a scheduled meeting may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at the planned meeting, then such comments must be received in writing not later than October 20, 2017. The Executive Director will compile all written submissions received by the deadline and provide them to Board Members prior to the meeting. Comments received after this date may not be provided to or considered by the DIB until a later date.

Oral Presentations: Individuals wishing to make an oral statement to the DIB at the public meeting may be permitted to speak for up to three minutes. Anyone wishing to speak to the DIB should submit a request by email at *osd.innovation@mail.mil* not later than October 20, 2017 for planning. Requests for oral comments should include a copy or summary of planned remarks for archival purposes. Individuals may also be permitted to submit a comment request at the public meeting; however, depending on the number of individuals requesting to speak, the schedule may limit participation. Webcast attendees will be provided instructions with the live stream link if they wish to submit comments during the open meeting.

Dated: October 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–22367 Filed 10–13–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0126]

Agency Information Collection Activities; Comment Request; Student Assistance General Provision—Subpart I—Immigration Status Confirmation

AGENCY: Federal Student Aid (FSA), 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 December 15, 2017.

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–0126. 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 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: Student Assistance General Provision—Subpart I—Immigration Status Confirmation.

OMB Control Number: 1845–0052.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households; Private Sector.

Total Estimated Number of Annual Responses: 142,706.

Total Estimated Number of Annual Burden Hours: 17,838.

Abstract: This request is for an extension of the reporting requirements

currently in Student Assistance General Provisions, 34 CFR 668, Subpart I which governs the Immigration-Status Confirmation authorized by section 484(g) of the Higher Education Act of 1965, as amended. This collection updates the usage by individuals and schools. This is necessary to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds.

Dated: October 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–22307 Filed 10–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0125]

Agency Information Collection Activities; Comment Request; Third Party Servicer Data Collection

AGENCY: Federal Student Aid, Department of Education.

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 December 15, 2017.

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–0125. 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 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: Third Party Servicer Data Collection.

OMB Control Number: 1845–0130.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households; Private Sector.

Total Estimated Number of Annual Responses: 325.

Total Estimated Number of Annual Burden Hours: 334.

Abstract: The Department of Education (ED) is seeking continued approval of a Third Party Servicer Data Collection form to be used to collect information from Third Party Servicers, validate the information reported to ED by higher education institutions regarding third party servicers that administer one or more aspects of the administration of the Title IV, Higher Education Act of 1965, as amended, programs on an institution's behalf, and to collect additional information required for effective oversight of these entities.

Dated: October 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–22306 Filed 10–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0127]

Agency Information Collection Activities; Comment Request; Comprehensive Transition Program (CTP) for Disbursing Title IV Aid to Students With Intellectual Disabilities Expenditure Report

AGENCY: Federal Student Aid (FSA), 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 December 15, 2017.

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–0127. 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 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tammy Gay, 816–804–0848.

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: Comprehensive Transition Program (CTP) for Disbursing Title IV Aid to Students with Intellectual Disabilities Expenditure Report.

OMB Control Number: 1845–0113.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 70.

Total Estimated Number of Annual Burden Hours: 140.

Abstract: The Higher Education Opportunity Act, Public Law 110–315, added provisions for the Higher Education Act of 1965, as amended, in section 750 and 766 that enable eligible students with intellectual disabilities to receive Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, and Federal Work Study funds if they are enrolled in an approved program. The Comprehensive Transition Program (CTP) for Disbursing Title IV Aid to Students with Intellectual Disabilities expenditure report is the tool for reporting the use of these specific funds. The data will be used by the Department to monitor program effectiveness and accountability of fund expenditures. The data is used in conjunction with institutional program reviews to assess the administrative capability and compliance of the applicant.

Dated: October 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–22308 Filed 10–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Electrical Interconnection of the Vantage to Pomona Heights Transmission Line Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to interconnect the Vantage to Pomona Heights Transmission Line Project in Grant and Yakima Counties, Washington. BPA has decided to implement its part of the Vantage to Pomona Heights 230-kilovolt (kV) Transmission Line Project (Project) that was analyzed in the *Vantage to Pomona Heights 230-kV Transmission Line Project Final Environmental Impact Statement* (EIS) (DOI–BLM–OR–134–2013–0002–EIS and DOE/EIS–0505, October 2016). Pacific Power will construct, operate, and maintain the Project, which will be a new 230-kV transmission line that will extend from PacifiCorp's existing Pomona Heights Substation in Yakima County, Washington to BPA's existing Vantage Substation in Grant County, Washington. The U.S. Bureau of Land Management (BLM) was the Lead Federal Agency under the National Environmental Policy Act (NEPA) for preparation of the EIS for the Project. Twelve other public entities, including BPA, were involved in the EIS as cooperating agencies under NEPA. BPA has adopted the Final EIS for the Project.

BPA's action related to the Project is to allow the interconnection of Pacific Power's transmission line to BPA's Vantage Substation. To allow this interconnection, BPA will execute a Line and Load Interconnection agreement with PacifiCorp [1] to provide interconnection facilities and services for the transmission line. Interconnection will involve connecting Pacific Power's transmission line to an existing substation bay at BPA's Vantage Substation, connecting the transmission line's fiber to the Vantage Substation control house, and installing and operating related electrical, metering, and relay equipment. The interconnection facilities will be located mostly on BPA-owned property within the Vantage Substation fence line.

Pacific Power has recently received approvals from the BLM and the U.S. Bureau of Reclamation (Reclamation) to construct, operate and maintain one of the alternatives—the New Northern Route (NNR) Alternative with an Overhead Design Option—that was considered and analyzed in the Final EIS for the Project. BPA's decision to implement its part of the Project is consistent with those approvals.

All the required design features and mitigation measures for the transmission line described in the Draft EIS, Supplemental Draft EIS, and updated in the Final EIS have been adopted by Pacific Power. Pacific Power will be responsible for executing mitigation measures identified in the EIS.

ADDRESSES: The ROD will be available to all interested parties and affected persons and agencies. Copies of the ROD, Draft EIS, Supplemental Draft EIS, and Final EIS can be accessed at BPA's Project Web site at *www.bpa.gov/goto/V2PInterconnection.*

FOR FURTHER INFORMATION, CONTACT: Katey Grange, Bonneville Power Administration—ECT–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number 1–800–622–4519; fax number 503–230–5699; or email *kcgrange@bpa.gov.*

Issued in Portland, Oregon, on October 3, 2017.

Elliot Mainzer,

Administrator and Chief Executive Officer.

[FR Doc. 2017–22046 Filed 10–13–17; 8:45 am]

BILLING CODE 6450–01–P

[1] Pacific Power is a division of PacifiCorp. Pacific Power has proposed the construction of the Vantage to Pomona Heights Transmission Line Project, while PacifiCorp has requested interconnection of the Project to BPA's Vantage Substation.

DEPARTMENT OF ENERGY

Certification Notice—250; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of filing.

SUMMARY: On September 12, 2017, NTE Carolinas II, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity Delivery and Energy Reliability, Mail Code OE–20, Room 8G–024, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence at (202) 586–5260.

SUPPLEMENTARY INFORMATION: On September 12, 2017, NTE Carolinas II, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations in 10 CFR 501.60, 61. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. 42 U.S.C. 8311(d) and 10 CFR 501.61(c). Title II of FUA, as amended (42 U.S.C. 8301 *et seq.*), provides that no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. Pursuant to the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. 42 U.S.C. 8311.

The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations in 10 CFR 501.60, 61:

Owner: NTE Carolinas II, LLC

Capacity: 500 megawatts (MW)

Plant Location: Reidsville, NC 27320

In-Service Date: Early as November 2020

Issued in Washington, DC, on October 10, 2017.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017–22314 Filed 10–13–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–5–000.

Applicants: Voyager Wind II, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Voyager Wind II, LLC.

Filed Date: 10/10/17.

Accession Number: 20171010–5216.

Comments Due: 5 p.m. ET 10/31/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2097–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2017–10–06_Deficiency Response to Dynamic NCA Filing to be effective 1/4/2018.

Filed Date: 10/6/17.

Accession Number: 20171006–5161.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–41–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–10–06_Continuous Improvement 3_RFP Staggering & Guidance Narrative Filing to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5173.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–42–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–10–06_Continuous Improvement 4_Proposal Submission & Eval Process Filing to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5189.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–43–000.

Applicants: Wisconsin Power and Light Company, Quilt Block Wind Farm LLC.

Description: § 205(d) Rate Filing: LBA Agreement Between WPL and Quilt Block Wind Farm LLC to be effective 9/18/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5193.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–44–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–10–06_Continuous Improvement 5_Multi-Facility & Mixed Facility Eval Filing to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5195.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–45–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SA No. 972, DSA for Moreno Valley, Kitching Street to be effective 11/3/2017.

Filed Date: 10/10/17.

Accession Number: 20171010–5013.

Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–46–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1636R20 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 10/1/2017.

Filed Date: 10/10/17.

Accession Number: 20171010–5165.

Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–47–000.

Applicants: Voyager Wind II, LLC.

Description: Baseline eTariff Filing: MBR Application to be effective 12/10/2017.

Filed Date: 10/10/17.

Accession Number: 20171010–5200.

Comments Due: 5 p.m. ET 10/31/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 10, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22280 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2420–001.
Applicants: Alcoa Power Generating Inc.
Description: Tariff Amendment: Amendment to Supplemental TSA to be effective 7/1/2016.
Filed Date: 10/10/17.
Accession Number: 20171010–5214.
Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–49–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Service Agreement Recollation to be effective 10/10/2017.
Filed Date: 10/10/17.
Accession Number: 20171010–5250.
Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–50–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Administrative Filing Amendment for ER17–2379–000 to be effective 8/30/2017.
Filed Date: 10/10/17.
Accession Number: 20171010–5265.
Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–51–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Interconnection Service Agreement No. 3808, Queue No. AB2–050 to be effective 9/7/2017.
Filed Date: 10/10/17.
Accession Number: 20171010–5285.
Comments Due: 5 p.m. ET 10/31/17.

Docket Numbers: ER18–52–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Service Agreement No. 4795; Queue AC2–139 (WMPA) to be effective 9/8/2017.
Filed Date: 10/10/17.
Accession Number: 20171010–5291.
Comments Due: 5 p.m. ET 10/31/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 10, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22279 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–2580–000]

SEMASS Partnership; 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 SEMASS Partnership'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 October 26, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 6, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22275 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–2–000.
Applicants: Oncor Electric Delivery Company LLC, Sempra Energy.
Description: Joint Application for Expedited Approval of the Disposition of Jurisdictional Facilities under Section 203 of the FPA of Oncor Electric Delivery Company LLC, et al.
Filed Date: 10/5/17.
Accession Number: 20171005–5145.
Comments Due: 5 p.m. ET 10/26/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2487–004*; ER15–2380–002*.
Applicants: Pacific Summit Energy LLC, Willey Battery Utility, LLC.
Description: Supplement to June 27, 2017 Triennial Market Power Update for the Northeast Region of the Sumitomo Companies.
Filed Date: 10/6/17.
Accession Number: 20171006–5085.
Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER15–1029–003.
Applicants: Chubu TT Energy Management Inc.
Description: Clarification to June 30, 2017 Triennial Market Power Update for

the Northeast Region of Chubu TT Energy Management Inc.

Filed Date: 10/5/17.

Accession Number: 20171005–5153.

Comments Due: 5 p.m. ET 10/26/17.

Docket Numbers: ER17–2340–000.

Applicants: Golden Hills North Wind, LLC.

Description: Amendment to August 21, 2017 Golden Hills North Wind, LLC tariff.

Filed Date: 10/4/17.

Accession Number: 20171004–5162.

Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: ER17–2381–000.

Applicants: Scott-II Solar LLC.

Description: Third Supplement to August 30, 2017 Scott-II Solar LLC tariff filing.

Filed Date: 10/6/17.

Accession Number: 20171006–5099.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–1–001.

Applicants: California Independent System Operator Corporation.

Description: Tariff Amendment: 2017–10–05 Amendment to Filing to Correct Tariff Record RSI Phase 1B and Phase 2 to be effective 2/15/2018.

Filed Date: 10/5/17.

Accession Number: 20171005–5139.

Comments Due: 5 p.m. ET 10/26/17.

Docket Numbers: ER18–33–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: Tariff Cancellation: Niagara Mohawk filing—cancellation of SGIA 1488 w/Selkirk Cogen Partners to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5027.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–34–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: MAIT submits Engineering and Construction Services Agreement SA No. 4718 to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5031.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–35–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PSCo-HLYCRS–O&M Agrmt–430–0.0.0 Filing to be effective 6/1/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5033.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–36–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Queue Position #AA1–043, Original Service Agreement No. 4807 to be effective 9/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5063.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–37–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: GIA & Amended DSA Phoenix Wind Project SA Nos 971 & 17 to be effective 10/7/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5090.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–38–000.

Applicants: DV Trading, LLC.

Description: Baseline eTariff Filing: DV Trading New Company's Tariff (Initial Tariff Baseline) to be effective 10/15/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5131.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–39–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–10–06_Continuous Improvement_Misc Revisions, Improvements & Clarifications to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5163.

Comments Due: 5 p.m. ET 10/27/17.

Docket Numbers: ER18–40–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–10–06_Continuous Improvement 2_Developer Recertification Enhancements to be effective 12/6/2017.

Filed Date: 10/6/17.

Accession Number: 20171006–5172.

Comments Due: 5 p.m. ET 10/27/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–2–000.

Applicants: Mississippi Power Company.

Description: Application of Mississippi Power Company for Extension of Authorization to Issue Securities under Section 204 of the Federal Power Act and of Exemption from Competitive Bidding Requirements and Request for Expedited Action.

Filed Date: 10/4/17.

Accession Number: 20171004–5177.

Comments Due: 5 p.m. ET 10/25/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 6, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22274 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP18–2–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: Application for Authorization of Abandonment for Rate Schedule X–72.

Filed Date: 10/3/17.

Accession Number: 20171003–5096.

Comments Due: 5 p.m. ET 10/24/17.

Docket Numbers: CP18–3–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C., et al.

Description: Joint Abbreviated Application to Abandon and Acquire Facilities and Related Authorizations.

Filed Date: 10/3/17.

Accession Number: 20171003–5169.

Comments Due: 5 p.m. ET 10/24/17.

Docket Numbers: RP18–15–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Union Electric Negotiated Rate Filing RP18- to be effective 11/1/2017.

Filed Date: 10/4/17.

Accession Number: 20171004–5025.

Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–16–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: CNE Gas Supply Negotiated Rate Filing RP18- to be effective 11/1/2017.

Filed Date: 10/4/17.

Accession Number: 20171004–5028.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–17–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 10–04–2017 Encana to be effective 10/4/2017.
Filed Date: 10/4/17.
Accession Number: 20171004–5040.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–18–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to MacQuarie NRAgreement to be effective 10/4/2017.
Filed Date: 10/4/17.
Accession Number: 20171004–5048.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–19–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 100417 Negotiated Rates—Mercuria Energy America, Inc. R–7540–02 to be effective 11/1/2017.
Filed Date: 10/4/17.
Accession Number: 20171004–5106.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–20–000.
Applicants: High Island Offshore System, L.L.C.
Description: § 4(d) Rate Filing: Amendment to FT–2 Contract to be effective 11/1/2017.
Filed Date: 10/5/17.
Accession Number: 20171005–5022.
Comments Due: 5 p.m. ET 10/17/17.

Docket Numbers: RP18–21–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Amendments to Neg Rate Agmts (FPL 41618–30, 41619–16) to be effective 10/5/2017.
Filed Date: 10/5/17.
Accession Number: 20171005–5028.
Comments Due: 5 p.m. ET 10/17/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 5, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22277 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–7–000.
Applicants: Enable Gas Transmission, LLC.
Description: Annual Report of Total Penalty Revenue Credits of Enable Gas Transmission, LLC.
Filed Date: 10/3/17.
Accession Number: 20171003–5076.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–8–000.
Applicants: Enable Gas Transmission, LLC.
Description: Annual Report of Linked Firm Service Penalty Revenue Credits of Enable Gas Transmission, LLC.
Filed Date: 10/3/17.
Accession Number: 20171003–5077.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–9–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—10/3/2017 to be effective 10/3/2017.
Filed Date: 10/3/17.
Accession Number: 20171003–5092.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–10–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (PH 41455 to Texla 48604) to be effective 10/3/2017.
Filed Date: 10/3/17.
Accession Number: 20171003–5093.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–11–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 100317 Negotiated Rates—Consolidated Edison Energy Inc. R–2275–12 to be effective 11/1/2017.
Filed Date: 10/3/17.
Accession Number: 20171003–5112.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–12–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 100317 Negotiated Rates—Consolidated Edison Energy Inc. R–2275–13 to be effective 11/1/2017.
Filed Date: 10/3/17.
Accession Number: 20171003–5113.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–13–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 100317 Negotiated Rates—Spark Energy Gas, LLC R–3045–21 to be effective 11/1/2017.
Filed Date: 10/3/17.
Accession Number: 20171003–5117.
Comments Due: 5 p.m. ET 10/16/17.

Docket Numbers: RP18–14–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 100317 Negotiated Rates—Spark Energy Gas, LLC R–3045–20 to be effective 11/1/2017.
Filed Date: 10/3/17.
Accession Number: 20171003–5125.
Comments Due: 5 p.m. ET 10/16/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 4, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–22276 Filed 10–13–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

EPA–HQ–OAR–2016–0546; FRL–9969–55–OAR]

Proposed Information Collection Request; Comment Request; Aircraft Engines—Supplemental Information Related to Exhaust Emissions (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is planning to submit an information collection request (ICR), ''Aircraft Engines—Supplemental Information Related to Exhaust Emissions (Renewal)'' (EPA ICR No. 2427.04, OMB Control No. 2060–0680), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). As the first step in the process, the EPA is soliciting public comments on specific aspects of the proposed renewal of, and amendment to, an existing information collection as described below. The current ICR is approved through September 30, 2018. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 15, 2017.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2016–0546 online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Cullen Leggett, Office of Transportation and Air Quality, Office of Air and Radiation, Environmental Protection Agency; telephone number: (734) 214–4514; fax number: (734) 214–4816; email address: *leggett.cullen@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this renewal of an existing ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond,

including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and revise the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Using its Clean Air Act authority in sections 231 and 114, 42 U.S.C. 7571 and 7414, the EPA is proposing to renew the existing data collection requirement for new aircraft engines to report emissions information, production volumes, and technical parameters. Also, at this time, the EPA is proposing to amend this existing requirement to collect data on non-volatile particulate matter (nvPM) emissions from some classes of aircraft engines.

Form Numbers: EPA Form Number: 5900–223 (proposed revision).

Respondents/affected entities: Respondents affected by this action are the manufacturers of aircraft gas turbine engines. Manufacturers producing aircraft gas turbine engines with a sea level static thrust greater than 26.7 kN will be subject to the new requirement for nvPM reporting. Table 1 below presents some examples of potentially affected entities according to NAICS code. Table 1 is not intended to be exhaustive, but rather provides a guide for respondents regarding facilities likely to be affected by this amendment to and renewal of the existing ICR.

TABLE 1—EXAMPLES OF POTENTIALLY AFFECTED ENTITIES BY CATEGORY

Category	NAICS code	Example of potentially affected entities
	336412	Aircraft Engine and Engine Parts Manufacturing.

Respondent's obligation to respond: Mandatory (pursuant to section 114 of the Clean Air Act).

Estimated number of respondents: 7 (total).

Frequency of response: Annual.

Total estimated response burden: 502 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $129,597 (total).

Dated: October 5, 2017.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2017–22355 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9967–58]

Access to Confidential Business Information by Patriot L.L.C. and Its Identified Subcontractor, Vision Technologies, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Patriot L.L.C. of Columbia, MD, and Vision Technologies, Inc. (VTI) of Glen Burnie, MD, its identified subcontractor to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than October 23, 2017.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number:

(202) 564–8257; fax number: (202) 564–8251; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004 is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under EPA contract number HHSN316201200065W, order number HHSN31600002, contractor Patriot L.L.C. of 9520 Berger Road, Suite 212, Columbia, MD; and VTI of 530 McCormick Drive, Suite 6, Glen Burnie, MD will assist EPA's Office of Research and Development by supporting the desktop systems on which the CBI will reside. The contractor will also provide information technology support and solutions to enhance science and research results.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number HHSN316201200065W, order number HHSN31600002, Patriot and VTI will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. Patriot and VTI personnel will be given access to information submitted to EPA under all section(s) of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide Patriot and VTI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until February 27, 2022. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

Patriot and VTI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 13, 2017.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–22366 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9968–57]

Receipt of Information Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of information submitted pursuant to a rule, order, or consent agreement issued under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which information has been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the information received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: John Schaeffer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8173; email address: *schaeffer.john@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information received about the following chemical substances and/or mixtures is provided in Unit IV.:

A. Octamethylcyclotetrasiloxane (D4) (CASRN: 556–67–2).

B. 2-Oxiranemethanamine, N-[4-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)- (CASRN 5026–74–4).

II. Authority

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of information submitted pursuant to a rule, order, or consent agreement promulgated under TSCA section 4 (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document, which announces the receipt of the information. Upon EPA's completion of its quality assurance review, the information received will be added to the docket identified in Unit IV., which represents the docket used for the TSCA section 4 rule, order, and/or consent agreement. In addition, once completed, EPA reviews of the information received will be added to the same docket. Use the docket ID number provided in Unit IV. to access the information received and any available EPA review.

EPA's dockets are available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 556–1744, and the telephone number for the OPPT Docket is (202) 556–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

IV. Information Received

As specified by TSCA section 4(d), this unit identifies the information received by EPA.

A. Octamethylcyclotetrasiloxane (D4) (CASRN: 556–67–2)

1. *Chemical Uses:* D4 is used as an intermediate for silicone copolymers and other chemicals. D4 is also used in industrial processing applications as a solvent (which becomes part of a product formulation or mixture), finishing agent, and an adhesive and sealant chemical. It is also used for both consumer and commercial purposes in paints and coatings, and plastic and rubber products and has consumer uses in polishes, sanitation, soaps, detergents, adhesives, and sealants.

2. *Applicable Rule, Order, or Consent Agreement:* Enforceable Consent Agreement for Environmental Testing for Octamethylcyclotetrasiloxane (D4) (CASRN 556–67–2).

3. *Information Received:* The following listing describes the nature of the information received. The information will be added to the docket for the applicable TSCA section 4 rule, order, or consent agreement and can be found by referencing the docket ID number provided. EPA reviews of information will be added to the same docket upon completion.

a. *Letter to EPA with responses to EPA comments on Section 4 Interim Progress Report 6.*

b. *D4 Environmental Testing Final Report (2 volumes including Text, Figures, Tables and Appendices A through ZA).*

The docket ID number assigned to this information is EPA–HQ–OPPT–2012–0209.

B. 2-Oxiranemethanamine, N-[4-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)- (CASRN 5026–74–4)

1. *Chemical Uses: 2-Oxiranemethanamine, N-[4-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)-* is used in resin and synthetic rubber manufacturing and aerospace and parts manufacturing.

2. *Applicable Rule, Order, or Consent Agreement:* Chemical testing requirements for third group of high production volume chemicals (HPV3), 40 CFR 799.5089.

3. *Information Received:* EPA received the following information: Equivalence Data: Oral (Gavage) 2 Generation Reproductive Toxicity Study, Final Report.

The docket ID number assigned to this information is EPA–HQ–OPPT–2009–0112.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 29, 2017.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–22369 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0371; FRL–9968–83–OAR]

Proposed Information Collection Request; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''National Volatile Organic Compound Emission Standards for Architectural Coatings,'' (EPA ICR No. 1750.08, OMB Control No. 2060–0393) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 15, 2017.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2011–0371 in the subject line, online using *www.regulations.gov* (our preferred method), by email to: *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Teal, Sector Polices and Programs Division (Mail Code D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5580; fax number: (919) 541–4991; email address: *teal.kim@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about the EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, the EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The EPA is required under section 183(e) of the Clean Air Act (CAA) to regulate volatile organic compound (VOC) emissions from the use of consumer and commercial products. Pursuant to CAA section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). Architectural and industrial maintenance coatings are included on the list, and the standards for such coatings are codified at 40 CFR part 59, subpart D. The information collection includes initial reports and periodic

recordkeeping necessary for the EPA to ensure compliance with federal standards for VOC in architectural coatings. Respondents are manufacturers, distributors, and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action as respondents are manufacturers, distributors, or importers of architectural and industrial maintenance coatings and coating components for sale or distribution in the United States, including the District of Columbia and all United States territories.

Respondent's obligation to respond: Mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings.

Estimated number of respondents: 500 (total).

Frequency of response: On occasion.

Total estimated burden: 14,436 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,377,634 (per year). There are no annualized capital or operation and maintenance costs.

Changes in Estimates: This notice reflects differences in the total estimated respondent burden compared with the ICR currently approved by OMB. Specifically, the total estimated respondent burden hours have changed from 14,661 to 14,436 and the total estimated respondent burden cost has changed from $1,261,526 to $1,377,634, which is a reflection of a mathematical error that was identified during the development of this renewal. The individual elements that are compiled to reflect total respondent burden hours and cost have not changed since the last renewal, we're only correcting the math error for the total estimated burden.

Dated: October 10, 2017.

Panagiotis Tsirigotis,

Director, Sector Policies and Programs Division.

[FR Doc. 2017–22330 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ -OW–2002–0011; FRL–9969–53–OW]

Proposed Information Collection Request; Comment Request; Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* Under the Safe Drinking Water Act'' (EPA ICR No. 2067.06, OMB Control No. 2040–0246) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection request as described below. This is a proposed extension of the ICR, which is currently approved through March 31, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 15, 2017.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2002–0011, online using *www.regulations.gov* (our preferred method), by email to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Dan Hautman, Technical Support Center (TSC), Office of Ground Water and Drinking Water, (MC–140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: 513–569–7274; fax number: 513–569–7191; email address: *Hautman.dan@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Under the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), EPA requires public water systems (PWSs) to use approved laboratories when conducting *Cryptosporidium* monitoring. The Code of Federal Regulations (CFR) at 40 CFR 141.705(a) provides for approval of *Cryptosporidium* laboratories by ''an equivalent'' state laboratory certification program (*i.e.,* equivalent to EPA's Laboratory Quality Assurance Evaluation Program). In the preamble to the LT2ESWTR as well as several other notices, EPA has described the criteria for approval of laboratories to analyze *Cryptosporidium* samples under the LT2ESWTR. See the following **Federal Register** notices: 78 FR 54643 (September 5, 2013), 74 FR 8529 (February 25, 2009), 71 FR 727 (January 5, 2006) and 67 FR 9731 (March 4, 2002).

State responsibilities for *Cryptosporidium* laboratory approval and oversight will be comparable to their certification responsibilities for the chemistry and microbiology laboratories that they oversee in their current programs (*e.g.,* initial evaluation of laboratory capability; ongoing assessment of the laboratory—including an assessment of Proficiency Test results; and on-site audits, at least triennially). Whereas 40 CFR 142.10(b) generally requires the establishment and maintenance of a laboratory ''certification'' program for all regulated analytes, state approval programs for *Cryptosporidium* laboratories are optional based on the structure of the LT2ESWTR (40 CFR 141.705(a)).

If a laboratory is located in a state that does not operate a *Cryptosporidium* laboratory certification/accreditation program, that laboratory can still support LT2ESWTR monitoring if the laboratory has been approved by another state's laboratory certification/accreditation program that: (1) Has demonstrated substantial conformity to procedures described in Chapter 7 of ''Supplement 2 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water'' *https://www.epa.gov/dwlabcert/supplement-2-fifth-edition-manual-certification-laboratories-analyzing-drinking-water;* and (2) uses auditors that have passed EPA's Technical Support Center's (TSC) *Cryptosporidium* Laboratory Certification Officers Training Course. PWSs should be aware that their states may establish requirements that are more stringent than EPA's regulations; state requirements would take precedence.

Consistent with the longstanding laboratory certification program approach, and resources-permitting, TSC will: (1) Train state/regional Certification Officers (CO) responsible for auditing *Cryptosporidium* laboratories; (2) provide written guidance to state/regional COs; (3) provide day-to-day technical support to states, EPA Regions, and laboratories; (4) review/assist the regional programs that oversee state certification/accreditation programs; and (5) maintain a list of links to state Web sites naming certified laboratories and/or a list of certified laboratories on EPA's Web site.

Form Numbers: None.

Respondents/affected entities: Interested states and laboratories.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 43 labs and 20 states/territories.

Frequency of response: Annual.

Total estimated burden: 3,741 hours (per year). Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* $669,490, includes $332,891 annualized capital or operation & maintenance costs.

Changes in Estimates: There is decrease of 1,731 hours and $134,284 in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to a reduced number of laboratories (45 to 43), re-evaluation of hours for tasks, and an improved demonstration of capability by the laboratories.

Dated: October 4, 2017.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2017–22350 Filed 10–13–17; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2017–6011]

Agency Information Collection Activities: Comments Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Our customers will be able to submit this form on paper or electronically. This form is used by insurance brokers to register with Export-Import Bank. It provides EXIM staff with the information necessary to make a determination of the eligibility of the broker to receive commission payments under Export-Import Bank's credit insurance programs.

DATES: Comments must be received on or before December 15, 2017 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Mia Johnson, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571. Form can be viewed at *https://www.exim.gov/sites/default/files/pub/pending/eib92-79.pdf.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–79 Broker Registration Form.

Form Title: EIB 92–79 Broker Registration Form.

OMB Number: 3048–0024.

Type of Review: Regular.

Need and Use: This form is used by insurance brokers to register with Export Import Bank. The form provides Export Import Bank staff with the information necessary to make a determination of the eligibility of the broker to receive commission payments under Export Import Bank's credit insurance programs.

Affected Public: This form affects entities engaged in brokering export credit insurance policies.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 15 minutes.

Frequency of Reporting or Use: Once every three years.

Government Expenses:

Review Time per Response: 2 hours.

Reviewing Time per Year: 100 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $4,250.

Benefits and Overhead: 20%.

Total Government Cost: $5,100.

Bassam Doughman,

IT Specialist.

[FR Doc. 2017–22297 Filed 10–13–17; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice 2017–6010]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The collection provides EXIM staff with the information necessary to monitor the borrower's payments for exported goods covered under its short and medium-term export credit insurance policies. It also alerts EXIM staff of defaults, so they can manage the portfolio in an informed manner.

DATES: Comments must be received on or before December 15, 2017 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Mia Johnson, Export-Import Bank of the

United States, 811 Vermont Ave. NW., Washington, DC 20571.

Form can be viewed at *https://www.exim.gov/sites/default/files/pub/pending/eib92-27.pdf.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–27 Report of Overdue Accounts Under Short-Term Policies.

OMB Number: 3048–0027.

Type of Review: Regular.

Need and Use: The collection provides EXIM staff with the information necessary to monitor the borrower's payments for exported goods covered under its short- and medium term export credit insurance policies. It also alerts Ex-Im Bank staff of defaults, so they can manage the portfolio in an informed manner.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 745.

Estimated Time per Respondent: 15 minutes.

Annual Burden Hours: 186.25 hours.

Frequency of Reporting or Use: Monthly.

Government Expenses:

Reviewing Time per Year: 186.25 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $7,915.62.

Benefits and Overhead: 20%.

Total Government Cost: $9,498.75.

Bassam Doughman,

IT Specialist.

[FR Doc. 2017–22298 Filed 10–13–17; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1186]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 15, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1186.

Title: Rural Call Completion Recordkeeping and Reporting Requirements, WC Docket No. 13–39.

Form Number: FCC Form 480.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 60 respondents; 280 responses.

Estimated Time per Response: 26 hours per quarter (on average).

Frequency of Response: Quarterly reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 201, 202, 217, 218, 220(a), and 403 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,240 hours.

Total Annual Cost: $550,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Any respondent that submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The recordkeeping and reporting requirements as adopted apply to long-distance service providers and other covered providers that make the initial long-distance call path choice for more than 100,000 retail long-distance subscribers lines. Based on the Commission's experience to date with these rules, we estimate approximately 60 wireline, wireless, and wholesale providers will be required to file an electronic report with the FCC. We note that the number of providers this estimate replaces, 225, was also an approximation.

The Commission believes that rural call completion is a continuing problem and that continued Commission focus on the issue is warranted. Given the approaching deadline to renew OMB approval for this information collection, and the fact that the rules underlying this information collection are still in effect and will remain so while Commission action on this matter is pending, we request an extension of the current approval. We expect that the Commission's proposals to modify these rules will be resolved within the time frame of the extension, at which point the Commission would seek any necessary modification to the current collection.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22340 Filed 10–13–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0222]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 15, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–0222.

Title: Section 97.213, Telecommand of an Amateur Station.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 40,000 respondents and 40,000 responses.

Estimated Time per Response: 5 minutes (.084 hours).

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is approved under 47 U.S.C. 303, 151–155, 301–609.

Total Annual Burden: 3,360 hours.

Annual Cost Burden: No cost.

Privacy Act Impact Assessment: Yes. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the FCC rules.

The respondents' telephone numbers are collected in the Commission's Universal Licensing System (ULS) database and are covered under the System of Records Notice (SORN), FCC/WTB–1, ''Wireless Services Licensing Records.''

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information except for respondents' telephone numbers which are not made available to the public and are covered under FCC/WTB–1, ''Wireless Services Licensing Records.''

Needs and Uses: The third party disclosure requirement contained in 47 CFR 97.213 consists of posting a photocopy of the amateur station license, a label with the name, address, and telephone number of the station licensee, and the name of at least one authorized control operator in a conspicuous place at the station location. This requirement is necessary so that quick resolution of any harmful interference problems can be identified and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended.

This information is used by FCC personnel during inspections and investigations to determine who is responsible for the proper operation of the remotely controlled station. In the absence of this third party disclosure requirement, field inspections and investigations related to harmful interference could be severely hampered and needlessly prolonged due to inability to determine the responsible licensee.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22341 Filed 10–13–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10401—Blue Ridge Savings Bank, Inc.; Asheville, North Carolina

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Blue Ridge Savings Bank, Inc., Asheville, North Carolina (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Blue Ridge Savings Bank, Inc. on October 14, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this

notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: October 11, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–22290 Filed 10–13–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 1, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Nathan Halverson,* Mason City, Iowa; individually and as co-trustee of the Richard A. Halverson Disclaimer Trust, and as a group acting in concert with Kelli Halverson, Scottsdale, Arizona, and the Richard A. Halverson Disclaimer Trust, Mason City, Iowa, co-trustees Richard A. Halverson and Nathan Halverson, both of Mason City, Iowa; to join Richard A. Halverson as members of the Halverson Family Control Group; to retain voting shares of Farmers State Bancshares, Inc., Mason City, Iowa, and thereby indirectly retain shares of Farmers State Bank, Northwood, Iowa.

Board of Governors of the Federal Reserve System, October 11, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–22353 Filed 10–13–17; 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 November 13, 2017.

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 or *Comments.applications@rich.frb.org:*

1. *Howard Bancorp, Inc.,* Ellicott City, Maryland; to acquire voting shares of First Mariner Bank, Baltimore, Maryland.

Board of Governors of the Federal Reserve System, October 11, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–22354 Filed 10–13–17; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Board Member Meeting: Federal Retirement Thrift Investment Board

Agenda

Federal Retirement Thrift Investment Board Members' Meeting, October 23, 2017, 8:30 a.m. (In-Person).

Open Session

1. Approval of the Minutes of the September 18, 2017 Board Members' Meeting
2. Investment Manager Annual Service Review
3. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
4. Quarterly Reports
   (c) Investment Policy
   (d) Budget Review
   (e) Audit Status
5. Mid-Year Financial Audit
6. ORM Annual Report
7. OEP Annual Report/Survey
8. Blended Retirement Update
9. IT Update

Closed Session

Information covered under 5 U.S.C. 552b(c)(9)(B).

Adjourn

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: October 12, 2017.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2017–22487 Filed 10–12–17; 4:15 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the Federal Trade Commission (''FTC'' or ''Commission'') is seeking public comments on its request to the Office of Management and Budget (''OMB'') for a three-year extension of the current PRA clearance for the information collection requirements contained in the Gramm-Leach-Bliley Financial Privacy Rule (GLB Privacy Rule). That clearance expires on October 31, 2017.

DATES: Comments must be received by November 15, 2017.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Privacy Rule: Paperwork Comment: FTC File No. P085405'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/glbfinancialrulepra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), 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 J), Washington, DC 20024.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail-are subject to delays due to heightened security precautions. Thus, comments can also be sent via email to *wliberante@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to David Lincicum, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW., Drop Box 8232, Washington, DC 20580, (202) 326–2773.

SUPPLEMENTARY INFORMATION:

Title: GLB Privacy Rule (officially titled Privacy of Consumer Financial Information Rule), 16 CFR part 313.

OMB Control Number: 3084–0121.

Type of Review: Extension of a currently approved collection.

Abstract: The Privacy Rule is designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the financial institutions with which they conduct business. As mandated by the Gramm-Leach-Bliley Act (GLBA), 15 U.S.C. 6801–6809, the Rule requires financial institutions to disclose to consumers: (1) Initial notice of the financial institution's privacy policy when establishing a customer relationship with a consumer and/or before sharing a consumer's non-public personal information with certain nonaffiliated third parties; (2) notice of the consumer's right to opt out of information sharing with such parties; (3) annual notice of the institution's privacy policy to any continuing customer; [1] and (4) notice of changes in the institution's practices on information sharing. These requirements are subject to the PRA. The Rule does not require recordkeeping. For PRA burden calculations the FTC has attributed to itself the burden for all motor vehicle dealers that do not routinely extend credit to consumers directly without assigning the credit to unaffiliated third parties (hereafter, motor vehicle dealers), and then shares equally the remaining PRA burden with the CFPB for other types of financial institutions over which both agencies have enforcement authority. *See* 12 U.S.C. 5519.

On July 7, 2017, the Commission sought comment on the Rule's information collection requirements.[2] The Commission did not receive any germane comments. As required by OMB regulations, 5 CFR 1320, the FTC is providing this second opportunity for public comment.

Privacy Rule Burden Statement

Estimated annual hours burden: 1,725,600 annual hours (FTC portion).

As noted in previous burden estimates for the Privacy Rule, determining the PRA burden of the Rule's disclosure requirements is very difficult because of the highly diverse group of affected entities, consisting of financial institutions not regulated by a Federal financial regulatory agency. *See* 15 U.S.C. 6805 (committing to the Commission's jurisdiction entities that are not specifically subject to another agency's jurisdiction).

The burden estimates represent the FTC staff's best assessment, based on its knowledge and expertise relating to the financial institutions subject to the Commission's jurisdiction under this law. To derive these estimates, staff considered the wide variations in covered entities. In some instances, covered entities may make the required disclosures in the ordinary course of business, apart from the Privacy Rule. In addition, some entities may use highly automated means to provide the required disclosures, while others may rely on methods requiring more manual effort. The burden estimates shown below include the time that may be necessary to train staff to comply with the regulations. These figures are averages based on staff's best estimate of the burden incurred over the broad spectrum of covered entities.

Staff estimates that the number of entities each year that will address the Privacy Rule for the first time will be 5,000 and the number of established entities already familiar with the Rule will be 100,000. While the number of established entities familiar with the Rule would theoretically increase each year with the addition of new entrants, staff retains its estimate of established entities for each successive year given that a number of the established entities will close in any given year, and also given the difficulty of establishing a more precise estimate.

Staff believes that the usage of the model privacy form and the availability of the form builder simplify and automate much of the work associated with creating the disclosure documents for new entrants. Staff thus estimates 1 hour of clerical time and 2 hours of professional/technical time per new entrant.

For established entities, staff similarly believes that the usage of the model privacy form and the availability of the Online Form Builder reduces the time associated with the modification of the notices. Staff thus estimates 7 hours of clerical time and 3 hours of professional/technical time per respondent. Staff estimates that no more than 1% of the estimated 100,000 established-entity respondents would make additional changes to privacy policies at any time other than the occasion of the annual notice. Furthermore, under Section 503(f), businesses who have not changed their privacy notice since the last notice sent and who do not share information with

[1] On December 4, 2015, Congress amended the GLBA as part of the Fixing America's Surface Transportation Act (FAST Act). This amendment, titled Eliminate Privacy Notice Confusion (FAST Act, Pub. L. 114094, section 75001) added new GLBA section 503(f). This subsection provides an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers. Section 503(f) requires that to qualify for this exception, a financial institution must not share nonpublic personal information about customers except as described in certain statutory exceptions, under which sharing does not trigger a customer's statutory right to opt out of the sharing. In addition, section 503(f)(2) requires that the financial institution must not have changed its policies and practices with regard to disclosing nonpublic personal information from those that the institution disclosed in the most recent privacy notice the customer received.

[2] *See* FR 31604 (60-Day **Federal Register** Notice).

non-affiliated third parties outside of certain statutory exceptions do not have to issue annual notices to their customers. Staff estimates that at least 80% of businesses covered by the rule will, accordingly, not be required to issue annual notices.

The complete burden estimates for new entrants and established entities are detailed in the charts below.

START-UP HOURS AND LABOR COSTS FOR ALL NEW ENTRANTS (TABLE IA)

Event	Hourly wage and labor category *	Hours per respondent	Approximate number of respondents	Approximate total annual hours	Approximate total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions **.	$42.76 Professional/Technical	20	5,000	100,000	$4,276,000
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	$17.91 Clerical	1	5,000	5,000	89,550
	$42.76 Professional/Technical	2	5,000	10,000	427,600
Disseminating initial disclosure (including opt-out notices).	$17.91 Clerical	15	5,000	75,000	1,343,250
	$42.76 Professional/Technical	10	5,000	50,000	2,138,000
Total	.....	.....	.....	240,000	8,274,400

* Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on mean wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (*e.g.,* compliance evaluation and/or planning, designing and producing notices, reviewing and updating information systems), and clerical time (*e.g.,* reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See BLS Occupational Employment and Wages, May 2016, Table 1 at *http://www.bls.gov/news.release/pdf/ocwage.pdf.* Labor cost totals reflect solely that of the commercial entities affected. Staff estimates that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

** Reviewing instructions includes all efforts performed by or for the respondent to: Determine whether and to what extent the respondent is covered by an agency collection of information, understand the nature of the request, and determine the appropriate response (including the creation and dissemination of documents and/or electronic disclosures).

Burden for established entities already familiar with the Rule predictably would be less than for startup entities because start-up costs, such as crafting a privacy policy, are generally one-time costs and have already been incurred. Staff's best estimate of the average burden for these entities is as follows:

BURDEN HOURS AND COSTS FOR ALL ESTABLISHED ENTITIES (TABLE IB)

Event	Hourly wage and labor category *	Hours per respondent	Approximate number of respondents **	Approximate total annual hrs.	Approximate total labor costs
Reviewing GLB Act-implementing policies and practices.	$42.76 Professional/Technical	4	100,000	400,000	$17,104,000
Disseminating initial notices to new customers.	$17.91 Clerical	15	100,000	1,500,000	26,865,000
Disseminating annual disclosure to pre-existing customers.	$17.91 Clerical	15	14,000	210,000	3,761,100
	$42.76 Professional/Technical	5	14,000	70,000	2,993,200
Changes to privacy policies and related disclosures.	$17.91 Clerical	7	1,000	7,000	125,370
	$42.76 Professional/Technical	3	1,000	3,000	128,280
Total	.....	.....	.....	2,190,000	50,976,950

* Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on mean wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (*e.g.,* compliance evaluation and/or planning, designing and producing notices, reviewing and updating information systems), and clerical time (*e.g.,* reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See BLS Occupational Employment and Wages, May 2016, Table 1 at *http://www.bls.gov/news.release/pdf/ocwage.pdf.* Labor cost totals reflect solely that of the affected commercial entities. Consumers have a continuing right to opt out, as well as a right to revoke their opt-out at any time. When a respondent changes its information sharing practices, consumers are again given the opportunity to opt out. Again, staff assumes that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

** The estimate of respondents which are required to disseminate annual notices is based on the following assumptions: (1) 100,000 established respondents, approximately 70% of whom maintain customer relationships exceeding one year, (2) no more than 20% (14,000) of whom have made changes to their policies and share nonpublic information outside of the statutory exceptions, and therefore are required to provide annual notices under GLBA 503(f). See CFPB, Proposed Rule, 81 FR 44801, 44809 (July 11, 2016); (3) and no more than 1% (1,000) of whom make additional changes to privacy policies at any time other than the occasion of the annual notice; and (4) such changes will occur no more often than once per year.

As calculated above, the total annual PRA burden hours and labor costs for all affected entities in a given year would be 2,430,000 hours and $59,251,350, respectively.

The FTC now carves out from these overall figures the burden hours and labor costs associated with motor vehicle dealers. This is because the CFPB does not enforce the Privacy Rule for those types of entities. We estimate the following:

ANNUAL START-UP HOURS AND LABOR COSTS FOR NEW MOTOR VEHICLE DEALER ENTRANTS ONLY (TABLE IIA)

Event	Hourly wage and labor category	Hours per respondent	Approximate number of respondents (Table IA inputs × 0.57) **	Approximate total annual hrs.	Approximate total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions **.	$42.76 Professional/Technical	20	2,100	42,000	$21,795,920
Creating disclosure document or electronic disclosure (including initial, annual, and opt -out disclosures).	$17.91 Clerical	1	2,100	2,100	37,611
	$42.76 Professional/Technical	2	2,100	4,200	179,592
Disseminating initial disclosure (including opt-out notices).	$17.91 Clerical	15	2,100	31,500	564,165
	$42.76 Professional/Technical	10	2,100	21,000	897,960
Total				100,800	3,475,248

** Multiply the number of respondents from the comparable table above on all new entrants by the following allocation (43,708/105,000) = 0.42. The number in the denominator represents the total of the FTC's existing Privacy Rule estimates for new entrants (5,000) and established entities (100,000). The numerator represents an estimate of motor vehicle respondents. For this category, Commission staff relied on the following industry estimates: 16,708 new car dealers per *National Automobile Dealers Association* data (2016) and 12,000 independent/used car dealers who do not extend credit directly to consumers without routinely assigning the credit to third-parties per *National Independent Automobile Dealers Association* data (2012), respectively, in addition to 15,000 dealers of other motor vehicles (motorcycles, boats, other recreational vehicles) per the 2012 economic census, which are also covered within the definition of ''motor vehicle dealer'' under section 1029(a) of the Dodd-Frank Act.

ANNUAL BURDEN HOURS AND LABOR COSTS FOR ESTABLISHED MOTOR VEHICLE DEALERS ONLY (TABLE IIB)

Event	Hourly wage and labor category *	Hours per respondent	Approximate number of respondents ** (Table IB inputs × 0.57)	Approximate total annual hrs.	Approximate total labor costs
Reviewing GLB Act-implementing policies and practices.	$42.76 Professional/Technical	4	42,000	168,600	$7,209,336
Disseminating initial notices to new customers.	$17.91 Clerical	15	42,000	630,000	11,283,300
Disseminating annual disclosure	$17.91 Clerical	15	5,880	88,200	1,579,662
	$42.76 Professional/Technical	5	5,880	29,400	1,257,144
Changes to privacy policies and related disclosures.	$17.91 Clerical	7	420	2,940	52,655
	$42.76 Professional/Technical.	3	420	1,260	53,878
Total				920,400	21,435,975

The FTC's portion of the annual hourly burden would be 1,021,200 + ((2,430,000 − 1,021,200)/2) = 1,725,600 annual hours. The FTC's portion of the annual cost burden would be $24,911,223 + $((59,251,350 − 24,911,223)/2) = $42,081,287.

Estimated Capital/Other Non-Labor Costs Burden

Staff believes that capital or other non-labor costs associated with the document requests are minimal. Covered entities will already be equipped to provide written notices (*e.g.,* computers with word processing programs, copying machines, mailing capabilities). Most likely, only entities that already have online capabilities will offer consumers the choice to receive notices via electronic format. As such, these entities will already be equipped with the computer equipment and software necessary to disseminate the required disclosures via electronic means.

Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before November 15, 2017. Write ''Privacy Rule: Paperwork Comment: FTC File No. P085405'' 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 Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

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, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/glbfinancialrulepra2* by following the instructions on the web-based form. When this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Privacy Rule: Paperwork Comment: FTC File No. P085405'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), 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,

Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail are subject to delays due to heightened security precautions. Thus, comments can also be sent via email to *wliberante@omb.eop.gov.*

Because your comment will be placed on the publicly accessible FTC Web site 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 Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, 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.

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 November 15, 2017. 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.*

Christian S. White,

Acting General Counsel.

[FR Doc. 2017–22334 Filed 10–13–17; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend, for three years, the current PRA clearance for information collection requirements contained in its Trade Regulation Rule entitled Power Output Claims for Amplifiers Utilized in Home Entertainment Products (Amplifier Rule or Rule) (OMB Control Number 3084–0105). That clearance expires on January 31, 2018.

DATES: Comments must be submitted by December 15, 2017.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Amplifier Rule: FTC File No. P974222'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/amplifierrulepra1* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), 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 J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2984.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Commission's Amplifier Rule, 16 CFR part 432 (OMB Control Number 3084–0105). The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

Amplifier Rule Burden Statement

Estimated annual hours burden: 450 hours (300 testing-related hours; 150 disclosure-related hours).

The Rule's provisions require affected entities to test the power output of amplifiers in accordance with a specified FTC protocol. The Commission staff estimates that approximately 300 new amplifiers and receivers come on the market each year. High fidelity manufacturers routinely conduct performance tests on these new products prior to sale. Because manufacturers conduct such tests, the Rule imposes no additional costs except to the extent that the FTC protocol is more time-consuming than alternative testing procedures. In this regard, a warm-up period that the Rule requires before measurements are taken may add approximately one hour to the time testing would otherwise entail. Thus, staff estimates that the Rule imposes approximately 300 hours (1 hour × 300 new products) of added testing burden annually.

In addition, the Rule requires disclosures if a manufacturer makes a power output claim for a covered product in an advertisement, specification sheet, or product brochure. This requirement does not impose any additional costs on manufacturers because, absent the Rule, media advertisements, as well as manufacturer specification sheets and product brochures, would contain a power specification obtained using an alternative to the Rule-required testing protocol. The Rule, however, also requires disclosure of harmonic distortion, power bandwidth, and impedance ratings in manufacturer specification sheets and product brochures that might not otherwise be included.

Staff assumes that manufacturers produce one specification sheet and one brochure each year for each new amplifier and receiver. The burden of disclosing the harmonic distortion, bandwidth, and impedance information on the specification sheets and brochures is limited to the time needed to draft and review the language pertaining to the aforementioned specifications. Staff estimates the time involved for this task to be a maximum of fifteen minutes (or 0.25 hours) for each new specification sheet and brochure for a total of 150 hours (derived from [300 new products × 1 specification sheet) + (300 new products × 1 brochure)] × 0.25 hours).

The total annual burden imposed by the Rule, therefore, is approximately 450 burden hours for testing and disclosures.

Estimated annual cost burden: $23,463.

Generally, electronics engineers perform the testing of amplifiers and receivers. Staff estimates a labor cost of $14,967 for such testing (300 hours for testing × $49.89 mean hourly wages). Staff assumes advertising or promotions managers prepare the disclosures contained in product brochures and manufacturer specification sheet and estimates a labor cost of $8,496 (150 hours for disclosures × $56.64 mean hourly wages). Accordingly, staff estimates the total labor costs associated with the Rule to be approximately $23,463 per year ($14,967 for testing + $8,496 for disclosures).[1]

The Rule imposes no capital or other non-labor costs because its requirements are incidental to testing and advertising done in the ordinary course of business.

Request for Comment

You can file a comment online or on paper. December 15, 2017. Write ''Amplifier Rule: FTC File No. P974222'' 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 Web site, 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/amplifierrulepra1* by following the instructions on the web based form. If this Notice appears at *https://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Amplifier Rule: FTC File No. P974222'' 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 C), 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, 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 Web site at *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 Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, 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 Commission Web site at *https://www.ftc.gov* to read this Notice. 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 December 15, 2017. You can find more information, including routine uses permitted by the Privacy Act, in

[1] The wage rates for electronics engineers and advertising and promotions managers are based on recent data from the Bureau of Labor Statistics Occupational Employment Statistics Survey at *https://www.bls.gov/news.release/ocwage.htm.*

the Commission's privacy policy, at *https://www.ftc.gov/site-information/privacy-policy.*

Christian S. White,

Acting General Counsel.

[FR Doc. 2017–22335 Filed 10–13–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2017–0090, NIOSH–301]

Application of Biological Monitoring Methods for Chemical Exposures in Occupational Health

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: Notice of draft document for public comment.

SUMMARY: The National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of a draft chapter to be published in the NIOSH Manual of Analytical Methods (NMAM) entitled ''Application of Biological Monitoring Methods for Chemical Exposures in Occupational Health'' now available for public comment. To view the draft chapter and related materials, visit *https://www.regulations.gov* and enter CDC–2017–0090 in the search field and click ''Search.''

DATES: Electronic or written comments must be received by December 15, 2017.

ADDRESSES: You may submit comments, identified by CDC–2017–0090 and docket number NIOSH–301, 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 information received in response to this notice must include the agency name and docket number [CDC–2017–0090; NIOSH–301]. 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: Dale Shoemaker, Ph.D., NIOSH/DART, 1090 Tusculum Avenue, MS R–7, Cincinnati, OH 45226,(513) 841–4523 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background: The NIOSH Manual of Analytical Methods (NMAM) was first published in 1974. Currently in its Fifth Edition, the NMAM contains 60 methods and 11 chapters that can be used by the occupational safety and health professionals to measure worker exposures. NIOSH has written an updated chapter covering the application and validation of biological monitoring methods for chemical exposures to be included in the NMAM. NIOSH is requesting public comment on this draft.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–22342 Filed 10–13–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Performance Review Board Members

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) is publishing the names of the Performance Review Board Members who are reviewing performance for Fiscal Year 2017.

FOR FURTHER INFORMATION CONTACT: Sharon O'Brien, Deputy Director, Executive and Scientific Resources Office, Human Resources Office, Centers for Disease Control and Prevention, 4770 Buford Highway NE., Mailstop K–15, Atlanta, Georgia 30341, Telephone (770) 488–1781.

SUPPLEMENTARY INFORMATION: Title 5, U.S.C. Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register**.

The following persons will serve on the CDC Performance Review Boards or Panels, which will oversee the evaluation of performance appraisals of Senior Executive Service members for the Fiscal Year 2017 review period:

Branche, Christine, Co-Chair
Shelton, Dana, Co-Chair
Arispe, Irma
Boyle, Coleen
Curlee, Robert C.
Dean, Hazel
Henderson, Joseph
Kosmos, Christine
Kotch, Alan
Qualters, Judith
Smagh, Kevin

Dated: October 10, 2017.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2017–22282 Filed 10–13–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–1061; Docket No. CDC–2017–0077]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the Behavioral Risk Factor Surveillance System (BRFSS), a system of customized telephone surveys conducted by U.S. states, territories, and the District of Columbia to produce state-level data about health-related risk behaviors, chronic health conditions, use of preventive services, and emerging health issues.

DATES: CDC must receive written comments on or before December 15, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0077 by any of the following methods:

• *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all Federal comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Behavioral Risk Factor Surveillance System (BRFSS) (OMB Control Number 0920–1061, expiration 3/31/2018)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting OMB approval to continue information collection for the Behavioral Risk Factor Surveillance System (BRFSS) for the period of 2018–2021. The BRFSS is a nationwide system of cross-sectional telephone health surveys administered by health departments in states, territories, and the District of Columbia (collectively referred to here as states) in collaboration with CDC. The BRFSS produces state-level information primarily on health risk behaviors, health conditions, and preventive health practices that are associated with chronic diseases, infectious diseases, and injury.

Designed to meet the data needs of individual states and territories, the CDC sponsors the BRFSS information collection project under a cooperative agreement with states and territories. Under this partnership, BRFSS state coordinators determine questionnaire content with technical and methodological assistance provided by CDC. For most states and territories, the BRFSS provides the only sources of data amenable to state and local level health and health risk indicator uses. Over time, it has also developed into an important data collection system that federal agencies rely on for state and local health information and to track national health objectives such as Healthy People.

CDC bases the BRFSS questionnaire on modular design principles to accommodate a variety of state-specific needs within a common framework. All participating states are required to administer a standardized core questionnaire, which provides a set of shared health indicators for all BRFSS partners. The BRFSS core questionnaire consists of fixed core, rotating core, and emerging core questions. Fixed core questions are asked every year. Rotating core questions cycle on and off the core questionnaire during even or odd years, depending on the question. Emerging core questions are included in the core questionnaire as needed to collect data on urgent or emerging health topics such as influenza.

In addition, the BRFSS includes a series of optional modules on a variety of topics. In off years, when the rotating questions are not included in the core questionnaire, they are offered to states as an optional module. This framework allows each state to produce a customized BRFSS survey by appending selected optional modules to the core survey. States may select which, if any, optional modules to administer. As needed, CDC provides technical and methodological assistance to state BRFSS coordinators in the construction of their state-specific surveys.

The CDC and BRFSS partners produce a new set of state-specific BRFSS questionnaires each calendar year (*i.e.,* 2016 BRFSS questionnaires, 2017 BRFSS questionnaires, etc.). CDC submits an annual Change Request to OMB that outlines updates to the BRFSS core survey and optional modules that have occurred since the previous year. Each state administers its BRFSS questionnaire throughout the calendar year.

The current estimated average burden for the core BRFSS interview is 15 minutes. For the optional modules, the estimated average burden per response varies by state and year, but is currently estimated at an additional 15 minutes. Finally, the BRFSS allows states to customize some portions of the questionnaire through the addition of state-added questions, which CDC does not review nor approve. State-added questions are not included in CDC's burden estimates.

CDC periodically updates the BRFSS core survey and optional modules as new modules or adopt emerging core questions. The purpose of this Revision request is to extend the information collection period for three years and to incorporate field-testing into the approved information collection plan.

Field-testing is the final check of changes in the questionnaire, which have occurred in the preceding year. Researchers conduct field-testing in a manner that mimics the full-scale project protocol, to the degree that is feasible. Field-testing allows for necessary changes in data collection methods and data collection software. Researchers use field tests to identify problems with instrument documentation or instructions, problems with conditional logic (*e.g.,* skip patterns), software errors or other implementation and usability issues. Researchers conduct field-testing with all new modules, emerging core questions, sections, which precede and/

or follow any new or changed items and extant sections, which are topically related. Researchers also conduct this testing to identify redundant and overlapping questions. Extant sections of the questionnaire unrelated to new items do not require testing. The demographic questions on the core BRFSS survey are included on each field test.

CDC will submit change requests to OMB annually to gain approval to implement modifications identified in field tests. Researchers typically conduct field tests in a single state with appropriate computer-assisted telephone interview (CATI) capability.

Individuals who participate in field-testing are drawn from a different sample than individuals who participate in the BRFSS surveys. Participation is voluntary and there is no cost to participate. The average time burden per response will be 22 minutes. The total time burden across all respondents will be approximately 241,518 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
U.S. General Population	Landline Screener	375,000	1	1/60	6,250
	Cell Phone Screener	292,682	1	1/60	4,878
	Field Test Screener	900	1	1/60	15
Annual Survey Respondents (Adults >18 Years).	BRFSS Core Survey	480,000	1	15/60	120,000
	BRFSS Optional Modules	440,000	1	15/60	110,000
Field Test Respondents (Adults >18 Years).	Field Test Survey	500	1	45/60	375
Total					241,518

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. 2017–22317 Filed 10–13–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–1083]

Agency Forms Undergoing Paperwork Reduction Act Review—Evaluation of the National Tobacco Prevention and Control Public Education Campaign; Correction

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice; correction.

SUMMARY: The Centers for Disease Control and Prevention (CDC) published a document in the **Federal Register** of October 3, 2017, concerning request for comments on Agency Forms Undergoing Paperwork Reduction Act Review—*Evaluation of the National Tobacco Prevention and Control Public Education Campaign.* The document provided the incorrect proposed project type (Revision).

FOR FURTHER INFORMATION CONTACT: Leroy Richardson, 1600 Clifton Road, MS D–74, Atlanta, GA 30333; telephone (404) 639–4965; email: *omb@cdc.gov.*

Correction

In the **Federal Register** of October 3, 2017, in FR Doc. 2017–21122, on page 46059, in the first column (Proposed Project), correct the proposed project type to read:

Evaluation of the National Tobacco Prevention and Control Public Education Campaign (OMB Control Number 0920–1083, Expiration 09/30/2017)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Dated: October 10, 2017.

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. 2017–22256 Filed 10–13–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Community-Based Family Resource and Support Grants (Name changed to Child Abuse Prevention Program—OIS notified 6/2007).

OMB No.: 0970–0155.

Description: The Program Instruction, prepared in response to the enactment of Community-Based Child Abuse Prevention (CBCAP) program, as set forth in Title II of the Child Abuse Prevention and Treatment Reauthorization Act of 2010 (Pub. L. 111–320) or CAPTA, provides direction to the states and territories to accomplish the purposes of (1) supporting community-based efforts to develop, operate, expand, and where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect, and; (2) fostering an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect. This Program Instruction contains information collection requirements that are found in CAPTA and pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute, complete the calculation of the grant award entitlement, and provide training and technical assistance to the grantee.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2,080
Annual Report	52	1	24	1,248

Estimated Total Annual Burden Hours: 3,328.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded 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. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments 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 of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Reports Clearance Officer.

[FR Doc. 2017–22294 Filed 10–13–17; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0329]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by November 15, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0776. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act OMB Control Number 0910–0776—Extension

This information collection supports the Agency's guidance on fees for human drug compounding outsourcing facilities under the Federal Food, Drug, and Cosmetic Act (the FD&C Act). On November 27, 2013, the President signed the Drug Quality and Security Act (DQSA) (Pub. L. 113–54) into law. The DQSA added a new section, 503B (21 U.S.C. 353B), to the FD&C Act, creating a category of entities called ''outsourcing facilities.'' Outsourcing facilities, as defined in section 503B(d)(4) of the FD&C Act, are facilities that meet certain requirements described in section 503B, including registering with FDA as an outsourcing facility and paying associated fees. Drug products compounded in an outsourcing facility can qualify for exemptions from the FDA approval requirements in section 505 of the FD&C Act (21 U.S.C. 355), and the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)), if the requirements in section 503B of the FD&C Act are met.

The guidance is intended for entities that compound human drugs and elect to register as outsourcing facilities under section 503B of the FD&C Act. Once an entity has elected to register as an outsourcing facility, it must pay certain fees to be registered as an outsourcing facility. The guidance describes the types and amounts of fees that outsourcing facilities must pay, the adjustments to fees required by law, the way in which outsourcing facilities may submit payment to FDA, the consequences of outsourcing facilities' failure to pay fees, and the way an outsourcing facility may qualify as a small business to obtain a reduction in fees.

In the **Federal Register** of June 15, 2017 (82 FR 27493), we published a 60-day notice requesting public comment on the proposed extension of this collection of information. No comments were received. We therefore estimate the burden associated with the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN—ESTABLISHMENT FEE [1]

Type of reporting	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Payment of annual establishment fee	60	1	60	.5 (30 minutes)	30
Request for Small Business Establishment Fee Reduction (Form FDA 3908)	15	1	15	25	375
Total					405

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN—RE-INSPECTION FEE AND DISPUTE RESOLUTION REQUESTS [1]

Type of reporting	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Payment of re-inspection fee	15	1	15	.5 (30 minutes)	7.50
Reconsideration request	3	1	3	1	3
Appeal request	1	1	1	1	1
Total					11.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Type of recordkeeping	Number of recordkeepers	Number of record per recordkeeper	Total annual records	Average burden per record	Total hours
Copy of small business designation letter	15	1	15	.5 (30 minutes)	7.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As described in section III.A of the guidance, upon receiving registration information from a facility seeking to register as an outsourcing facility, FDA will send an invoice for an establishment fee to the outsourcing facility. The invoice contains instructions for paying the establishment fee, as discussed in section III.E of the guidance. This process would be repeated annually under the timeframes described in the guidance. An outsourcing facility is not considered registered until the required establishment fee is paid for that fiscal year.

We estimate that annually a total of 60 outsourcing facilities (''no. of respondents'' in table 1, row 1) will pay to FDA 60 establishment fees (''total annual responses'' in table 1, row 1) as described in the guidance. We also estimate that it will take an outsourcing facility 0.5 hour to prepare and submit to FDA each establishment fee (''average burden per response'' in table 1, row 1).

As described in section III.C of the guidance, outsourcing facilities that are re-inspected will be assessed a re-inspection fee for each re-inspection. The re-inspection fee is designed to reimburse FDA when it must visit a particular outsourcing facility more than once because of noncompliance identified during a previous inspection. A re-inspection fee will be incurred for each re-inspection that occurs. After FDA conducts a re-inspection, we will send an invoice to the email address indicated in the facility's registration file. The invoice contains instructions for paying the re-inspection fee, as discussed in section III.E of the guidance.

We estimate that annually a total of 15 outsourcing facilities (''no. of respondents'' in table 2, row 1) will pay to FDA 15 re-inspection fees (''total annual responses'' in table 2, row 1) as described in the guidance. We also estimate that it will take an outsourcing facility 0.5 hour to prepare and submit to FDA each re-inspection fee (''average burden per response'' in table 2, row 1).

As described in section III.D of the guidance, certain outsourcing facilities may qualify for a small business reduction in the amount of the annual establishment fee. To qualify for this reduction, an outsourcing facility must submit to FDA a written request certifying that the entity meets the requirements for the reduction. For every fiscal year that the firm seeks to qualify as a small business and receive the fee reduction, the written request must be submitted to FDA by April 30 of the preceding fiscal year. For example, an outsourcing facility must submit a written request for the small business reduction by April 30, 2015, to qualify for a reduction in the fiscal year 2016 annual establishment fee. As described in the guidance, section 744K of the FD&C Act (21 U.S.C. 379j–62) also requires an outsourcing facility to submit its written request for a small business reduction in a format specified by FDA in the guidance. The guidance specifies that Form FDA 3908 is the format for submitting requests for a small business fee reduction.

We estimate that annually a total of 15 outsourcing facilities (''no. of respondents'' in table 1, row 2) will submit to FDA a request for a small business reduction in the amount of the annual establishment fee. We estimate that 15 outsourcing facilities will submit Form FDA 3908 (''total annual responses'' in table 1, row 2) to FDA annually, as described in the guidance, and that it will take an outsourcing facility 25 hours to prepare and submit to FDA each Form FDA 3908 (''average burden per response'' in table 1, row 2).

As described in section III.D of the guidance, those outsourcing facilities that request a small business reduction in the amount of the annual establishment fee will receive a small business designation letter notifying the facility of FDA's decision. Outsourcing facilities eligible to pay a reduced fee should maintain a copy of the small business designation letter applicable to that fiscal year for their records.

We estimate that annually a total of 15 outsourcing facilities (''no. of recordkeepers'' in table 3) will keep a copy of their small business designation letter (''total annual records'' in table 3), and that maintaining each record will take 0.5 hour (''average burden per recordkeeping'' in table 3).

As described in section V.B of the guidance, an outsourcing facility may request reconsideration under 21 CFR 10.75 of an FDA decision related to the fee provisions of section 744K of the FD&C Act. As explained in the guidance, the request should state the facility's rationale for its position that the decision was in error and include any additional information that is relevant to the outsourcing facility's argument.

We estimate that a total of three outsourcing facilities (''no. of respondents'' in table 2, row 2) annually will submit to FDA a request for reconsideration as described in the guidance. We estimate that it will take an outsourcing facility approximately 1 hour to prepare and submit to FDA each request for reconsideration (''average burden per response'' in table 2, row 2).

As described in section V.B of the guidance, an outsourcing facility may appeal, as set forth in § 10.75, an FDA denial of a request for reconsideration of an FDA decision related to the fee provisions of section 744K of the FD&C Act.

We estimate that a total of one outsourcing facility (''no. of respondents'' in table 2, row 3) annually will submit an appeal of an FDA denial of a request for reconsideration. We estimate that it will take an outsourcing facility 1 hour to prepare and submit each appeal under § 10.75 (''average burden per response'' in table 2, row 3).

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22283 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1429]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by November 15, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0777. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act OMB Control Number 0910–0777—Extension

This information collection supports the above captioned Agency guidance. A facility that compounds drugs may elect to register with FDA as an outsourcing facility under section 503B of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 353b), as added by the Drug Quality and Security Act (DQSA). Drug products compounded in a registered outsourcing facility can qualify for exemptions from the FDA approval requirements in section 505 of the FD&C Act (21 U.S.C. 355), the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)), and drug supply chain security requirements in section 582 of the FD&C Act (21 U.S.C. 360eee) if the requirements in section 503B of the FD&C Act are met.

After the initial registration, under section 503B(b) of the FD&C Act, a facility that elects to register with FDA as an outsourcing facility must also do so annually between October 1 and December 31. Upon registration, the outsourcing facility must provide its name, place of business, a unique facility identifier, and a point of contact email address and phone number. The outsourcing facility must also indicate whether it intends to compound, within the next calendar year, a drug that appears on FDA's drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e), and whether it compounds from bulk drug substances, and, if so, whether it compounds sterile or non-sterile drugs from bulk drug substances.

Outsourcing facilities that elect to register should submit the following registration information to FDA for each facility:

- Name of the facility;
- Place of business;
- Unique facility identifier;
- Point of contact email address and phone number;
- Whether the facility intends to compound drugs that appear on FDA's drug shortage list in effect under section 506E of the FD&C Act; and
- An indication of whether the facility compounds from bulk drug substances, and if so, whether it compounds sterile or nonsterile drugs from bulk drug substances.

Registration information should be submitted to FDA electronically using the Structured Product Labeling (SPL) format and in accordance with section IV of the FDA guidance entitled ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing.'' Under the final guidance, outsourcing facilities may request a waiver from the SPL electronic submission process by submitting a written request to FDA explaining why the use of electronic means is not reasonable.

In the **Federal Register** of June 20, 2017 (82 FR 28076), FDA published a 60-day notice requesting public

comment on the proposed collection of information. No comments were received.

We therefore estimate the burden associated with the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

Compounding outsourcing facility	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic Submission of Registration Information Using SPL Format	62	1	62	4.5	279
Waiver Request From Electronic Submission of Registration Information	1	1	1	1	1
Total					280

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We estimate that approximately 62 outsourcing facilities (''number of respondents'' and ''total annual responses'' in table 1, row 1) will annually submit to FDA registration information using the SPL format as specified in the guidance, and that preparing and submitting this information will take approximately 4.5 hours per registrant (''average burden per response'' in table 1, row 1). We expect to receive no more than one waiver request from the electronic submission process annually (''number of respondents'' and ''total annual responses'' in table 1, row 2), and that each request should take approximately 1 hour to prepare and submit to us (''average burden per response'' in table 1, row 2).

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22284 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5226]

Department of Health and Human Services, Supply Service Center et al.; Withdrawal of Approval of 27 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice entitled ''Department of Health and Human Services, Supply Service Center et al.; Withdrawal of Approval of 27 Abbreviated New Drug Applications'' that appeared in the **Federal Register** of September 21, 2017 (82 FR 44185). The document announced the withdrawal of approval of 27 abbreviated new drug applications (ANDAs) from multiple applicants. The document was published with the incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring, MD 20993–0002, 301–796–9115, *lisa.granger@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, September 21, 2017, in FR Doc. 2017–20107, on page 44185 the following correction is made:

On page 44185, in the second column, under the docket number FDA–2017–N–5526 is corrected to read ''FDA–2017–N–5226''.

Dated: October 11, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22299 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–5928]

Post-Complete Response Letter Meetings Between the Food and Drug Administration and Abbreviated New Drug Application Applicants Under the Generic Drug User Fee Act; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Post-Complete Response Letter Meetings Between FDA and ANDA Applicants Under GDUFA.'' This guidance is intended to clarify the criteria for granting post-complete response letter (CRL) meeting requests and the scope of discussions for granted meeting requests. This guidance provides procedures that will promote well-managed post-CRL meetings and help ensure that such meetings are scheduled and conducted in accordance with the time frames set forth in the GDUFA Reauthorization Performance Goals and Program Enhancements Fiscal Years 2018–2022 (GDUFA II Goals or Commitment Letter).

DATES: Submit either electronic or written comments on the draft guidance by December 15, 2017 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your

comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–5928 for ''Post-Complete Response Letter Meetings Between FDA and ANDA Applicants Under GDUFA; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Tamara R. Coley, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Building 75, Rm. 1668, Silver Spring, MD 20903, 240–402–6903.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Post-Complete Response Letter Meetings Between FDA and ANDA Applicants Under GDUFA.'' The Generic Drug User Fee Amendments of 2017 (GDUFA II), reauthorizing generic drug user fees for Fiscal Years 2018–2022, was signed into law on August 18, 2017, to facilitate timely access to quality, affordable generic medicines. In accordance with the GDUFA II Commitment Letter [1] that accompanied the legislation, FDA agreed to certain review goals and procedures for the review of post-CRL meetings received on or after October 1, 2017.

The GDUFA II Commitment Letter adds time frames within which FDA will provide a scheduled date for, and will conduct, post-CRL meetings. Under GDUFA I, FDA committed to close out a certain number of teleconference requests in fiscal year (FY) 2015 through FY 2017. In accordance with the GDUFA II Commitment Letter, FDA committed to schedule and conduct 90 percent of post-CRL meetings within prescribed time frames.

As described in the GDUFA II Commitment Letter, post-CRL meetings will be used by applicants ''to seek clarification concerning deficiencies identified in a CRL.'' Under GDUFA II, post-CRL meetings are available for both major and minor CRLs and for first and subsequent review cycles. FDA will grant any complete post-CRL meeting request that satisfies the criteria outlined in section IV. FDA will only grant post-CRL meeting requests that pose questions to clarify identified deficiencies. Other issues, including questions requiring further Agency review, disputes about classification of complete response amendments, or new information submitted by the applicant, will not be addressed in a post-CRL meeting.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Post-Complete Response Letter Meetings Between FDA and ANDA Applicants Under GDUFA.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

[1] Available at *http://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM525234.pdf.*

Dated: October 3, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22288 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0094]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by November 15, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0562. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations

OMB Control Number 0910–0562—Extension

The Food Quality Protection Act of 1996, which amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (the FD&C Act), established a new safety standard for pesticide residues in food, with an emphasis on protecting the health of infants and children. The Environmental Protection Agency (EPA) is responsible for regulating the use of pesticides (under FIFRA) and for establishing tolerances or exemptions from the requirement for tolerances for residues of pesticide chemicals in food commodities (under the FD&C Act). EPA may, for various reasons, *e.g.,* as part of a systematic review or in response to new information concerning the safety of a specific pesticide, reassess whether a tolerance for a pesticide residue continues to meet the safety standard in section 408 of the FD&C Act (21 U.S.C. 346a). When EPA determines that a pesticide's tolerance level does not meet that safety standard, the registration for the pesticide may be canceled under FIFRA for all or certain uses. In addition, the tolerances for that pesticide may be lowered or revoked for the corresponding food commodities. Under section 408(l)(2) of the FD&C Act, when the registration for a pesticide is canceled or modified due to, in whole or in part, dietary risks to humans posed by residues of that pesticide chemical on food, the effective date for the revocation of such tolerance (or exemption in some cases) must be no later than 180 days after the date such cancellation becomes effective or 180 days after the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

When EPA takes such actions, food derived from a commodity that was lawfully treated with the pesticide may not have cleared the channels of trade by the time the revocation or new tolerance level takes effect. The food could be found by FDA, the Agency that is responsible for monitoring pesticide residue levels and enforcing the pesticide tolerances in most foods (the U.S. Department of Agriculture has responsibility for monitoring residue levels and enforcing pesticide tolerances in egg products and most meat and poultry products), to contain a residue of that pesticide that does not comply with the revoked or lowered tolerance. We would normally deem such food to be in violation of the law by virtue of it bearing an illegal pesticide residue. The food would be subject to FDA enforcement action as an ''adulterated'' food. However, the channels of trade provision of the FD&C Act addresses the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical for which the tolerance has been revoked, suspended, or modified by EPA. The channels of trade provision (section 408 (l)(5) of the FD&C Act) states that food containing a residue of such a pesticide shall not be deemed ''adulterated'' by virtue of the residue, if the residue is within the former tolerance, and the responsible party can demonstrate to FDA's satisfaction that the residue is present as the result of an application of the pesticide at a time and in a manner that were lawful under FIFRA.

In the **Federal Register** of May 18, 2005 (70 FR 28544), we announced the availability of a guidance document entitled ''Channels of Trade Policy for Commodities With Residues of Pesticide Chemicals, for Which Tolerances Have Been Revoked, Suspended, or Modified by the Environmental Protection Agency Pursuant to Dietary Risk Considerations.'' The guidance represents FDA's current thinking on its planned enforcement approach to the channels of trade provision of the FD&C Act and how that provision relates to FDA-regulated products with residues of pesticide chemicals for which tolerances have been revoked, suspended, or modified by EPA under dietary risk considerations. The guidance can be found at the following link: *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ChemicalContaminantsMetalsNaturalToxinsPesticides/ucm077918.htm.* We anticipate that food bearing lawfully applied residues of pesticide chemicals that are the subject of future EPA action to revoke, suspend, or modify their tolerances, will remain in the channels of trade after the applicable tolerance is revoked, suspended, or modified. If we encounter food bearing a residue of a pesticide chemical for which the tolerance has been revoked, suspended, or modified, we intend to address the situation in accordance with provisions of the guidance. In general, we anticipate that the party responsible for food found to contain pesticide

chemical residues (within the former tolerance) after the tolerance for the pesticide chemical has been revoked, suspended, or modified will be able to demonstrate that such food was handled, *e.g.,* packed or processed, during the acceptable timeframes cited in the guidance by providing appropriate documentation to FDA as discussed in the guidance document. We are not suggesting that firms maintain an inflexible set of documents where anything less or different would likely be considered unacceptable. Rather, we are leaving it to each firm's discretion to maintain appropriate documentation to demonstrate that the food was so handled during the acceptable timeframes.

Examples of documentation that we anticipate will serve this purpose consist of documentation associated with packing codes, batch records, and inventory records. These are types of documents that many food processors routinely generate as part of their basic food production operations. Accordingly, under the PRA, we are requesting the extension of OMB approval for the information collection provisions in the guidance.

Description of Respondents: The likely respondents to this collection of information are firms in the produce and food processing industries that handle food products that may contain residues of pesticide chemicals after the tolerances for the pesticide chemicals have been revoked, suspended, or modified.

In the **Federal Register** of May 25, 2017 (82 FR 24133), we published a 60-day notice requesting public comment on the proposed extension of this collection of information. One comment was posted to the docket but did not address any of the four information collection topics solicited in our notice and so it is not discussed here.

We therefore estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Submission of documentation	1	1	1	3	3

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We expect the total number of pesticide tolerances that are revoked, suspended, or modified by EPA under dietary risk considerations in the next 3 years to remain at a low level, as there have been no changes to the safety standard for pesticide residues in food since 1996. Thus, we expect the number of submissions we will receive under the guidance document will also remain at a low level. However, to avoid counting this burden as zero, we have estimated the burden at one respondent making one submission a year for a total of one annual submission.

We base our estimate of the hours per response on the assumption that the information requested in the guidance is readily available to the submitter. We expect that the submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for submission to FDA. The submitter will almost always merely need to copy existing documentation. We believe that this effort should take no longer than 3 hours per submission.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Develop documentation process	1	1	1	16	16

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In determining the estimated annual recordkeeping burden, we believe that at least 90 percent of firms maintain documentation, such as packing codes, batch records, and inventory records, as part of their basic food production or import operations. Therefore, the recordkeeping burden was calculated as the time required for the 10 percent of firms that may not be currently maintaining this documentation to develop and maintain documentation, such as batch records and inventory records. In previous information collection requests, this recordkeeping burden was estimated to be 16 hours per record. We retain our prior estimate of 16 hours per record for the recordkeeping burden. As shown in table 1 of this document, we estimate that one respondent will make one submission per year. Although we estimate that only 1 out of 10 firms will not be currently maintaining the necessary documentation, to avoid counting the recordkeeping burden for the 1 submission per year as 1/10 of a recordkeeper, we estimate that 1 recordkeeper will take 16 hours to develop and maintain documentation recommended by the guidance.

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22285 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA 2017–N–4951]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Humanitarian Use Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of

certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for humanitarian use devices (HUDs).

DATES: Submit either electronic or written comments on the collection of information by December 15, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 15, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 15, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA 2017–N–4951 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Humanitarian Use Devices.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff Office between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Humanitarian Use Devices—21 CFR 814

OMB Control Number 0910–0332—Extension

This collection of information implements the HUDs provision of section 520(m) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(m)) and part 814, subpart H (21 CFR part 814, subpart H). Under section 520(m) of the FD&C Act, FDA is authorized to exempt an HUD from the effectiveness requirements of

sections 514 and 515 of the FD&C Act (21 U.S.C. 360d and 360e) provided that the device: (1) Is designed to treat or diagnose a disease or condition that affects no more than 8,000 individuals in the United States; (2) would not be available to a person with a disease or condition unless an exemption is granted and there is no comparable device other than another HUD approved under this exemption that is available to treat or diagnose such disease or condition; and (3) will not expose patients to an unreasonable or significant risk of illness or injury and the probable benefit to health from the use of the device outweighs the risk of injury or illness from its use, taking into account the probable risks and benefits of currently available devices or alternative forms of treatment.

Respondents may submit a humanitarian device exemption (HDE) application seeking exemption from the effectiveness requirements of sections 514 and 515 of the FD&C Act as authorized by section 520(m)(2). The information collected will assist FDA in making determinations on the following: (1) Whether to grant HUD designation of a medical device; (2) whether to exempt an HUD from the effectiveness requirements under sections 514 and 515 of the FD&C Act, provided that the device meets requirements set forth under section 520(m) of the FD&C Act; and (3) whether to grant marketing approval(s) for the HUD. Failure to collect this information would prevent FDA from making a determination on the factors listed previously in this document. Further, the collected information would also enable FDA to determine whether the holder of an HUD is in compliance with the HUD provisions under section 520(m) of the FD&C Act.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Request for HUD designation—814.102	19	1	19	40	760
HDE Application—814.104	3	1	3	320	960
HDE Amendments and resubmitted HDEs—814.106	6	5	30	50	1,500
HDE Supplements—814.108	110	1	110	80	8,800
Notification of withdrawal of an HDE—814.116(e)(3)	1	1	1	1	1
Notification of withdrawal of Institutional Review Board approval—814.124(b)	1	1	1	2	2
Periodic reports—814.126(b)(1)	35	1	35	120	4,200
Total					16,223

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeping	Total annual records	Average burden per recordkeeping	Total hours
HDE Records—814.126(b)(2)	247	1	247	2	494

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Notification of emergency use—814.124(a)	22	1	22	1	22

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The number of respondents in tables 1, 2, and 3 of this document are an average based on data for the previous 3 years, *i.e.,* fiscal years 2014 through 2016. The number of annual reports submitted under § 814.126(b)(1) in table 1 reflects 35 respondents with approved HUD applications. Under § 814.126(b)(2) in table 2, the estimated number of recordkeepers is 247.

The number of respondents has been adjusted to reflect updated respondent data. This has resulted in an overall decrease of 2,971 hours to the total estimated annual reporting burden. There have been no program changes and the estimated Average Burden per Response has not changed for any of the information collections since the last OMB approval.

Dated: October 11, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22320 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Request for Nominations for Individuals and Consumer Organizations for Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees recommended to serve as a voting or nonvoting consumer representative may be self-nominated or may be nominated by a consumer organization.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or email stating that interest to FDA (see **ADDRESSES**) by November 15, 2017, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by November 15, 2017. Nominations will be accepted for current vacancies and for those that will or may occur through November 30, 2017.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should be submitted electronically to *ACOMSSubmissions@fda.hhs.gov*; by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002; or by Fax: 301–847–8640.

Consumer representative nominations should be submitted electronically by logging into the FDA Advisory Committee Membership Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm*; by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002; or by Fax: 301–847–8640. Additional information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm*.

FOR FURTHER INFORMATION CONTACT: *For questions relating to participation in the selection process:* Kimberly Hamilton, Advisory Committee Oversight and Management Staff (ACOMS), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, 301–796–8220 email: *kimberly.hamilton@fda.hhs.gov*.

For questions relating to specific advisory committees or panels, contact the appropriate Contact Person listed in table 1.

TABLE 1—ADVISORY COMMITTEE CONTACTS

Contact person	Committee/panel
Lauren Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2426, Silver Spring, MD 20993–0002, phone: 301–796–2721, email: *Lauren.Tesh@fda.hhs.gov*.	Antimicrobial Advisory Committee.
Patricio Garcia, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G610, Silver Spring, MD 20993–0002, phone: 301–796–6875, email: *Patricio.Garcio@fda.hhs.gov*.	Clinical Chemistry and Clinical Toxicology Devices Panel.
Evella Washington, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G640, Silver Spring, MD 20993–0002, phone: 301–796–6683, email: *Evella.Washington@fda.hhs.gov*.	Ear, Nose and Throat Devices Panel, Immunology Devices Panel.
Pamela Scott, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5572, Silver Spring, MD 20993–0002, phone: 301–796–5433, email: *Pamela.Scott@fda.hhs.gov*.	Medical Devices Dispute Resolution.
Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G642, Silver Spring, MD 20993–0002, phone: 301–796–0400, email: *Aden.Asefa@fda.hhs.gov*.	Neurological Devices Panel.
LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2428, Silver Spring, MD 20993–0002, phone: 301–796–2855, email: *LaToya.Bonner@fda.hhs.gov*.	Endocrinologic and Metabolic Drugs Advisory Committee.
Karen Strambler, Center for Food Safety and Nutrition, Food and Drug Administration, FDA College Park, CPK1, Rm. 1C008, College Park, MD 20740, phone: 240–402–2589, email: *Karen.Strambler@fda.hhs.gov*.	Food Advisory Committee.
Cindy Chee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2430, Silver Spring, MD 20993–0002, phone: 301–796–0889, email: *Cindy.Chee@fda.hhs.gov*.	Gastrointestinal Drugs Advisory Committee, Pulmonary-Allergy Drugs Advisory Committee.
Jennifer Shepherd, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2434, Silver Spring, MD 20993–0002, phone: 301–796–4043, email: *Jennifer.Shepherd@fda.hhs.gov*.	Medical Imaging Advisory Committee.
Moon Hee Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2434, Silver Spring, MD 20993–0002, phone: 301–796–2894, email: *MoonHee.Choi@fda.hhs.gov*.	Non-Prescription Drugs Advisory Committee, Peripheral & Central Nervous Systems Advisory Committee.
Marieann Brill, Office of the Commissioner, Office of Medical Products and Tobacco, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993–0002, phone: 240–402–3838, email: *Mariann.Brill@fda.hhs.gov*.	Pediatrics Advisory Committee.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting and/or nonvoting consumer representatives for the vacancies listed in table 2.

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE DATE NEEDED

Committee/panel/areas of expertise needed	Type of vacancy	Approximate date needed
Antimicrobial Advisory Committee—Knowledgeable in the fields of infectious disease, internal medicine, microbiology, pediatrics, epidemiology or statistics, and related specialties.	1—Voting	November 30, 2017.
Clinical Chemistry and Clinical Toxicology Devices Panel—Doctors of medicine or philosophy with experience in clinical chemistry (e.g., cardiac markers), clinical toxicology, clinical pathology, clinical laboratory medicine, and endocrinology.	1—Nonvoting	Immediately.
Ear, Nose and Throat Devices Panel—Otologists, neurologists, and audiologists	1—Nonvoting	Immediately.
Immunology Devices—Persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine.	1—Nonvoting	Immediately.
Medical Devices Dispute Resolution—Experts with broad, cross-cutting scientific, clinical, analytical, or mediation skills.	1—Nonvoting	Immediately.
Neurological Devices Panel—Neurosurgeons (cerebrovascular and pediatric), neurologists (stroke, pediatric, pain management, and movement disorders), interventional neuroradiologists, psychiatrists, and biostatisticians.	1—Nonvoting	Immediately.
Endocrinologic and Metabolic Drugs Advisory Committee—Knowledgeable in the fields of endocrinology, metabolism, epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Food Advisory Committee—Knowledgeable in the fields of physical sciences, biological and life sciences, food science, risk assessment, nutrition, food technology, molecular biology, and other relevant scientific and technical disciplines.	1—Voting	Immediately.
Gastrointestinal Drugs Advisory Committee—Knowledgeable in the fields of gastroenterology, endocrinology, surgery, clinical pharmacology, physiology, pathology, liver function, motility, esophagitis, and statistics.	1—Voting	Immediately.
Pulmonary-Allergy Drugs Advisory Committee—Knowledgeable in the fields of pulmonary medicine, allergy, clinical immunology, and epidemiology or statistics.	1—Voting	Immediately.
Medical Imaging Advisory Committee—Knowledgeable in the fields of nuclear medicine, radiology, epidemiology, statistics, and related specialties.	1—Voting	Immediately.
Non-Prescription Drugs Advisory Committee—Knowledgeable in the fields of internal medicine, family practice, clinical toxicology, clinical pharmacology, pharmacy, dentistry, and related specialties.	1—Voting	Immediately.
Peripheral and Central Nervous System Drugs Advisory Committee—Knowledgeable in the fields of neurology, neuropharmacology, neuropathology, otolaryngology, epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Pediatrics Advisory Committee—Knowledgeable in pediatric research, pediatric subspecialties, statistics, and/or biomedical ethics. The core of voting members shall also include one representative from a pediatric health organization and one representative from a relevant patient or patient-family organization and may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one nonvoting member who is identified with industry interests.	1—Voting	Immediately.

I. Functions and General Description of the Committee Duties

A. Antimicrobial Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders.

B. Certain Panels of the Medical Devices Advisory Committee

Reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area: (1) Advises on the classification or reclassification of devices into one of three regulatory categories; (2) advises on any possible risks to health associated with the use of devices; (3) advises on formulation of product development protocols; (4) reviews premarket approval applications for medical devices; (5) reviews guidelines and guidance documents; (6) recommends exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (7) advises on the necessity to ban a device; and (8) responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner of Food and Drugs on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Medical Devices Dispute Resolution Panel provides advice to the Commissioner on complex or contested scientific issues between FDA and medical device sponsors, applicants, or manufacturers relating to specific products, marketing applications, regulatory decisions and actions by FDA, and Agency guidance and policies. The Panel makes recommendations on issues that are lacking resolution, are highly complex in nature, or result from challenges to regular advisory panel proceedings or Agency decisions or actions.

C. Endocrinologic and Metabolic Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human

drug products for use in the treatment of endocrine and metabolic disorders.

D. Food Advisory Committee

Make recommendations on emerging food safety, food science, nutrition, and other food-related health issues that FDA considers of primary importance for its food and cosmetics programs. Reviewing and evaluating available data and making recommendations on matters such as those relating to: (1) Broad scientific and technical food or cosmetic related issues; (2) the safety of new foods and food ingredients; (3) labeling of foods and cosmetics; (4) nutrient needs and nutritional adequacy; and (5) safe exposure limits for food contaminants. The Committee may also be asked to provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues and on approaches that might be considered for addressing the issues.

E. Gastrointestinal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal diseases.

F. Pulmonary-Allergy Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

G. Medical Imaging Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

H. Non-Prescription Drugs Advisory Committee

Review and evaluate available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products, or any other FDA-regulated product, for use in the treatment of a broad spectrum of human symptoms and diseases and advise the Commissioner either on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded or on the approval of new drug applications for such drugs. The Committee will serve as a forum for the exchange of views regarding the prescription and nonprescription status, including switches from one status to another, of these various drug products and combinations thereof. The Committee may also conduct peer review of Agency sponsored intramural and extramural scientific biomedical programs in support of FDA's mission and regulatory responsibilities.

I. Peripheral and Central Nervous System Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases.

J. Pediatrics Advisory Committee

The Committee advises and makes recommendations to the Commissioner of Food and Drugs regarding: (1) Pediatric research; (2) identification of research priorities related to pediatric therapeutics and the need for additional treatments of specific pediatric diseases or conditions; (3) the ethics, design, and analysis of clinical trials related to pediatric therapeutics; (4) pediatric labeling disputes; (5) pediatric labeling changes; (6) adverse event reports for drugs granted pediatric exclusivity and any safety issues that may occur; (7) any other pediatric issue or pediatric labeling dispute involving FDA regulated products; (8) research involving children as subjects; and (9) any other matter involving pediatrics for which FDA has regulatory responsibility. The Committee also advises and makes recommendations to the Secretary of Health and Human Services (Secretary) directly or to the Secretary through the Commissioner on research involving children as subjects that is conducted or supported by the Department of Health and Human Services.

II. Criteria for Members

Persons nominated for membership as consumer representatives on committees or panels should meet the following criteria: (1) Demonstrate an affiliation with and/or active participation in consumer or community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

III. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or résumé. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

IV. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Nominations must include a current, complete résumé or curriculum vitae for each nominee, a signed copy of the *Acknowledgement and Consent* form available at the FDA Advisory Nomination Portal (see **ADDRESSES**), and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations must also specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to

permit evaluation of possible sources of conflicts of interest. Members will be invited to serve for terms up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: October 11, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22344 Filed 10–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Proposed Standards for the Children's Hospitals Graduate Medical Education Payment Program's Quality Bonus System

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: This notice seeks public comment on establishing a quality bonus system for the Children's Hospitals Graduate Medical Education (CHGME) Payment Program. The CHGME Support Reauthorization Act of 2013 states that the Secretary may establish a quality bonus system, whereby the Secretary distributes bonus payments to hospitals participating in the program that meet standards specified by the Secretary. The goal of this notice is to seek comment to assist HRSA in the development of the standards, payment structure, and outcome measures for the CHGME Quality Bonus System.

DATES: Submit written comments no later than December 15, 2017.

ADDRESSES: Written comments should be submitted to Malena Crawford, Public Health Analyst, HRSA, by email (*MCrawford@hrsa.gov*) or by fax (301–443–0162).

FOR FURTHER INFORMATION CONTACT: Malena Crawford, Public Health Analyst, HRSA, 5600 Fishers Lane, Rockville, MD, 20852, (301) 443–7334.

SUPPLEMENTARY INFORMATION: The CHGME Program supports graduate medical education (GME) in freestanding children's hospitals. The program supports the training of primary care pediatricians and pediatric medical and surgical subspecialists. The CHGME Support Reauthorization Act of 2013 makes up to 25 percent of the total amount appropriated annually in excess of $245 million, but not to exceed $7,000,000, available to provide payments to newly qualified hospitals, as defined in section 340E(h) of the Public Health Service Act. The statute additionally states that the Secretary may establish a quality bonus system for CHGME hospitals using any remaining funds after payments are made to newly qualified hospitals. In FY 2017, Congress appropriated $300 million to the CHGME Program. Of this, approximately $4 million in payments were made to newly qualified hospitals. If funding levels and mechanisms remain constant, it is estimated that approximately $3 million may be available annually for the CHGME Quality Bonus System. If the total amount available for the CHGME Quality Bonus System in a fiscal year is less than $2 million, HRSA does not plan to implement the CHGME Quality Bonus System in that year to minimize administrative burden on the hospitals. In this case, the funds would be disbursed to all eligible hospitals (including those newly qualified) according to the CHGME formula payment methodology.

HRSA understands the complexities involved in designing a GME quality improvement initiative. The CHGME Quality Bonus System would be the first of its kind for any federal GME payment program and responds to changes occurring in the larger health care arena. For example, the Accreditation Council for GME, one of the prevailing GME accrediting bodies, recently implemented new GME program requirements around patient safety and quality improvement. Many GME programs and stakeholders are working towards establishing GME quality related outcome metrics, but currently no widely accepted metrics exist that have the ability to distinguish between the quality of training provided at different hospitals and training programs. Additionally, clinical outcomes alone may not be appropriate measures for establishing a GME quality improvement initiative. HRSA would like to begin to develop approaches to measure and assess the quality of GME programs using existing data sources initially and then develop new and improved data sources as we learn which are most informative and useful.

Quality Bonus Payment in FY 2019—Proposal for Public Comment

HRSA is proposing a multi-step implementation in recognition of the changing landscape and the need for additional data. For FY 2019, HRSA proposes a quality bonus system that will initially recognize high-level engagement of CHGME hospitals in state and regional health care transformation, as well as engagement of resident trainees in these activities. HRSA is seeking public comment on the timeline, eligibility, standards, documentation, and payment structure as described below. HRSA is also proposing areas for comment for FY 2020 and beyond.

Timeline: HRSA anticipates implementing the proposed CHGME Quality Bonus System standards in FY 2019 payments (project period October 1, 2018, through September 30, 2019).

CHGME Hospital Eligibility: HRSA proposes to include all eligible CHGME hospitals, including those newly qualified, as eligible entities for the CHGME Quality Bonus System.

Quality Bonus System Standards: The proposed standards are: (1) Demonstration of engagement in state- or regional-level initiatives by a children's hospital to transform pediatric health care to improve access, quality, and cost effectiveness of health care; and (2) demonstration of resident trainee engagement in these activities.

HRSA has identified several initiatives involving CHGME hospitals that require a significant level of engagement. These include federally funded efforts such as: Participation in a state Medicaid initiative to improve access, quality, and cost effectiveness of pediatric health care (*e.g.,* a Centers for Medicare & Medicaid Services State Innovation Model Award or other Health Care Innovation Award with a state or regional impact); participation in the HRSA Maternal and Child Health Bureau's Health Care Delivery System Innovations for Children with Medical Complexity Collaborative Improvement and Innovation Network (CoIIN); or, participation in HRSA's Federal Office of Rural Health Policy Rural Health Network Development Grant Program.

In addition to the partnerships above, HRSA is seeking comment on state or regional initiatives to consider when establishing the qualifying standards for the CHGME Quality Bonus System, as well as suggestions for how to distinguish between levels of engagement and performance in a meaningful way.

Documentation: To receive a quality bonus payment based upon engagement in state- or regional-level pediatric health care transformation, CHGME hospitals would be required to submit a letter from the lead organization, which could include the project director for a HRSA-supported program or the state Medicaid Director, confirming participation by the children's hospital in the program and delineating the roles and responsibilities of the children's hospital in the program activities. In addition, CHGME hospitals would be required to submit a brief narrative statement describing how CHGME trainees are integrated into state- or regional-level pediatric health care transformation activities and the expected benefits for trainees and the health systems served by the children's hospital. HRSA is seeking comment on this proposed approach including opportunities to limit burden and streamline the documentation to determine whether applicants meet standards and distinguish among levels of engagement and performance.

Payment Structure: HRSA proposes that CHGME hospitals that meet the standards receive a portion of the available funds for the CHGME Quality Bonus System. HRSA proposes a three tiered payment structure to recognize the different annual payment levels received by CHGME hospitals. Hospitals that meet the Quality Bonus Systems standards will be evenly divided into three tiers based on their combined direct and indirect fiscal year payment amounts, as calculated per the established CHGME program formulas:

Tier 1: Hospitals that qualify for the quality bonus payment that are in the lowest third among hospitals that qualify for the quality bonus payment of calculated CHGME annual payments will receive a base payment.

Tier 2: Hospitals that qualify for the quality bonus payment that are in the middle third will receive two times the base payment.

Tier 3: Hospitals that qualify for the quality bonus payment that are in the highest third will receive three times the base payment.

The base payment rate would be determined from the total amount available and the number of hospitals that qualify for the CHGME Quality Bonus System in a fiscal year. HRSA would also seek to recognize the hospital's level of engagement or performance in the bonus amount. HRSA is also interested in gathering views and suggestions on whether any of the existing information that hospitals already report to the Centers of Medicare and Medicaid Services, HRSA, accrediting bodies, and others could be used to measure the performance of GME programs and related health outcomes for FY 2019 or subsequent years. This could be individual measures or combinations of measures that are reported to different entities.

Quality Bonus Payment in FY 2020 and Beyond—Areas for Public Comment

In future years, HRSA will refine the CHGME Quality Bonus System to reflect the feedback received from stakeholders, as well as advancements in the development of standardized GME quality measures. To that end, HRSA also is requesting comments on several areas of the Quality Bonus System that will be implemented in FY 2020 and beyond. For long-term implementation, HRSA seeks public comments on the following areas:

CHGME Hospital Eligibility: HRSA proposes to include all eligible CHGME hospitals, including those newly qualified, as eligible entities for the CHGME Quality Bonus System.

Quality Bonus System Measures: HRSA is seeking comment on appropriate GME outcome measures that can assess and distinguish performance in meaningful ways. HRSA is considering several GME outcome measures including resident specialty outcomes (*e.g.,* number of graduates in high need pediatric specialties), resident service outcomes (*e.g.,* service to high need rural or underserved communities), and children's hospital quality outcomes. As noted above, these measures could be existing measures that hospitals already report or new ones that would be developed or improved for use in determining quality bonuses.

Data Sources: HRSA is seeking comment on available data sources on which to base the Quality Bonus System. HRSA is requesting comment on data sources that are publicly available, will streamline reporting requirements, and will limit burden on CHGME programs.

Tiering of Quality Bonus Payments: HRSA is requesting comments on payment structures to recognize hospitals according to their level of engagement and/or outcomes while also taking into account the different size of GME programs. The goal is for payment structures to recognize the quality of hospitals' programs considering the different circumstances in which different children's hospitals operate (*e.g.,* patient severity, size of training programs, number of specialties trained, etc.)

Frequency of Review: HRSA plans to review and update the CHGME Quality Bonus System standards regularly to reflect changes in GME and advances in measuring GME outcomes.

Dated: October 5, 2017

George Sigounas,

Administrator.

[FR Doc. 2017–22381 Filed 10–13–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Heritable Disorders in Newborns and Children

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given that a meeting is scheduled for the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC). This meeting will be open to the public but advance registration is required. Please register online at *http://www.achdncmeetings.org/* by 12:00 p.m. Eastern Time on November 6, 2017. Information about the ACHDNC can be obtained by accessing the following Web site: *https://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/index.html.*

DATES: The meeting will be held on Wednesday, November 8, 2017, 9:30 a.m. to 5:00 p.m. Eastern Time and Thursday, November 9, 2017, 9:30 a.m. to 3:00 p.m. Eastern Time (meeting times are tentative).

ADDRESSES: This meeting will be held in-person at 5600 Fishers Lane, 5th Floor Pavilion, Rockville, MD 20857. The meeting will also be accessible via Webcast. Instructions on how to access the meeting via Webcast will be provided upon registration. Please note, the 5600 Fishers Lane building requires security screening on entry. Visitors must provide a driver's license, passport, or other form of government-issued photo identification to be granted entry into the facility. Non-US Citizens planning to attend in person will need

to provide additional information to HRSA by October 24, 2017, 12:00 p.m. Eastern Time. Please see contact information below.

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding the ACHDNC should contact Ann Ferrero, Maternal and Child Health Bureau (MCHB), HRSA, in one of three ways: (1) Send a request to the following address: Ann Ferrero, MCHB, HRSA 5600 Fishers Lane, Room 18N100C, Rockville, MD 20857; (2) call 301–443–3999; or (3) send an email to: *AFerrero@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The ACHDNC provides advice to the Secretary of HHS on the development of newborn screening activities, technologies, policies, guidelines, and programs for effectively reducing morbidity and mortality in newborns and children having, or at risk for, heritable disorders. In addition, ACHDNC's recommendations regarding inclusion of additional conditions and inherited disorders for screening which have been adopted by the Secretary are then included in the Recommended Uniform Screening Panel (RUSP). Conditions listed on the RUSP constitute part of the comprehensive preventive health guidelines supported by HRSA for infants and children under section 2713 of the Public Health Service Act, codified at 42 U.S.C. 300gg–13. Under this provision, non-grandfathered health plans are required to cover screenings included in the HRSA-supported comprehensive guidelines without charging a co-payment, co-insurance, or deductible for plan years (*i.e.,* policy years) beginning on or after the date that is one year from the Secretary's adoption of the condition for screening.

The meeting agenda will include: (1) An update on states' progress toward the newborn screening timeliness goals outlined by the Committee; (2) a presentation on phase 2 of the spinal muscular atrophy evidence review; (3) presentations on newborn screening topics such as the clinical and public health impact of Severe Combined Immunodeficiency (SCID), carrier status in the context of newborn screening, and a review of long term follow up in newborn screening; and (4) updates from the Laboratory Standards and Procedures workgroup, Follow-up and Treatment workgroup, and Education and Training workgroup. The Committee will not be voting on a proposed addition of a condition to the RUSP. Agenda items are subject to change. The final meeting agenda will be available 2 days prior to the meeting on the Committee's Web site: *http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders.*

Members of the public will have the opportunity to provide comments. All comments are part of the official Committee record. To submit written comments or request time for an oral comment at the meeting, please register online by 11:59 p.m. Eastern Time on November 2, 2017, at *http://www.achdncmeetings.org/.* To ensure all individuals who have registered and requested time for oral comments are accommodated, the allocated time for comments may be limited. Individuals associated with groups or who plan to provide comments on similar topics may be asked to combine their comments and present them through a single representative. No audiovisual presentations are permitted. Written comments should identify the individual's name, address, email, telephone number, professional or organization affiliation, background or area of expertise (*i.e.,* parent, family member, researcher, clinician, public health, etc.) and the topic/subject matter.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Ann Ferrero using the address and phone number above at least 10 days prior to the meeting.

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2017–22313 Filed 10–13–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning Grant (R34) and Implementation Cooperative Agreement (U01).

Date: November 6–9, 2017.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Geetanjali Bansal, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G49, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892–9834, (240) 669–5073, *geetanjali.bansal@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 10, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22259 Filed 10–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Translational Studies on Adducts For Cancer Risk Identification and Prevention.

Date: November 8, 2017.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Bethesda, MD 20892–9750, 240–276–6343, *schweinfestcw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 10, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22246 Filed 10–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Medications Development.

Date: November 1, 2017.

Time: 8:00 a.m. 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4242, MSC 9550, Bethesda, MD 20892, 301–827–5833, *ivan.navarro@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 10, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22247 Filed 10–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, November 2, 2017, 9:00 a.m. to November 2, 2017, 7:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 which was published in the **Federal Register** on September 22, 2017, 82 FR 44429.

This meeting notice is amended to change the meeting date from November 2, 2017 to December 7, 2017. The meeting is closed to the public.

Dated: October 10, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22245 Filed 10–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–443: Drug Abuse Dissertation Research.

Date: November 1, 2017.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Nursing and Related Clinical Sciences.

Date: November 6, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xin Yuan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, 301–827–7245, *yuanx4@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Clinical Studies and Epidemiology Study Section.

Date: November 7–8, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, 301–827–7480, *dimitrios.vatakis@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: AIDS and AIDS-related Applications.

Date: November 7, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Epidemiology of Environmental Exposures, Diet, Biomarkers, and Genetics in Chronic Disease.

Date: November 7, 2017.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–319: Biomedical and Behavioral Research Innovations to Ensure Equity (BRITE).

Date: November 7, 2017.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jessica Bellinger, Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: November 9, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Genomics, Genetic Variation, Gene Transcriptional Regulation and Informatics.

Date: November 9, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, 301–827–7088, *methode.bacanamwo@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 10, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22258 Filed 10–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0900]

Navigation Safety Advisory Council

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Navigation Safety Advisory Council will meet to discuss matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. These meetings will be open to the public.

DATES: The Navigation Safety Advisory Council will meet on Wednesday, November 1, 2017, from 8 a.m. to 5:30 p.m., and on Thursday, November 2, 2017, from 8 a.m. to 5:30 p.m. Please note these meetings may close early if the Council has completed its business.

ADDRESSES: The meeting will be held at the Holiday Inn Arlington at Ballston, 4610 Fairfax Drive, Arlington VA 22203. *https://www.holidayinn.com/hotels/us/en/arlington/wasfx/hoteldetail/directions.*

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Detweiler as soon as possible using the contact information in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want Council members to review your comment before the meetings, please submit your comments no later than October 23, 2017. We are particularly interested in comments on the issues in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and the docket number USCG–2017–0900. Written comments may also be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties with comments submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review the Privacy and Security Notice for the Federal Docket Management System at *https://www.regulations.gov/privacyNotice.*

Docket Search: For access to the docket or to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert USCG–2017–0900 in the Search box, press enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: If you have questions about these meetings, please contact Mr. George Detweiler, the Navigation Safety Advisory Council Alternate Designated Federal Officer, Commandant (CG–NAV–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7418, Washington, DC 20593, telephone 202–372–1566 or email *George.H.Detweiler@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the *Federal Advisory Committee Act,* Title 5 United States Code, Appendix.

The Navigation Safety Advisory Council is an advisory committee authorized under Title 33 United States Code, Section 2073 and chartered under the provisions of the Federal Advisory Committee Act, Title 5, United States Code, Appendix. The Navigation Safety Advisory Council provides advice and recommendations to the Secretary, through the Commandant of the U.S. Coast Guard, on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

Agenda

Wednesday, November 1, 2017

The Navigation Safety Advisory Council members will receive presentations on the following topics from agency representatives who performed the studies:

(1) The Vessel Traffic Service Study conducted by the National Transportation Safety Board;

(2) The Atlantic and Gulf Coast Seacoast Waterways and Analysis Management System Study being conducted by the Coast Guard; and

(3) Use of Automatic Identification System-Aids and Navigation in Pre-Storm Preparations and Post Storm Recovery.

Following the above presentations, the Designated Federal Officer will form subcommittees to continue discussions on the following task statements:

(1) Navigation Safety Advisory Council Task 16–01 Review the navigation safety consequences of ships using Ultra Low Sulphur Fuel Oil and recommend measures to mitigate those consequences;

(2) Navigation Safety Advisory Council Task 16–02 Develop criteria for reporting ''near miss'' incidents; and

(3) Navigation Safety Advisory Council Task 17–001 Input to Support Regulatory Reform of Coast Guard Regulations under Executive Orders 13771 and 13783.

The Designated Federal Officer will form subcommittees to discuss and provide recommendations on the following new task statement, as appropriate:

(1) Navigation Safety Advisory Council Task 17–002 Carriage requirement for a bell, dayshapes and a hard copy of the Inland Navigation Rules.

Public comments or questions will be taken during the meeting as the Council discusses each issue and prior to the Council formulating recommendations on each issue. There will also be a public comment period at the end of the meeting.

Thursday, November 2, 2017

(1) Subcommittee discussions continued from Wednesday, November 1 2017;

(2) Subcommittee reports presented to the Council; and

(3) New Business.

a. Summary of Navigation Safety Advisory Council action items;

b. Schedule next meeting date—Spring, 2018; and

c. Council discussions and acceptance of new tasks.

A copy of all meeting documentation will be available at *http://homeport.uscg.mil/navsac* no later than October 25, 2017.

A public comment period will be held after the discussion of new tasks. Speakers are requested to limit their comments to 10 minutes each. Public comments or questions will be taken at the discretion of the Designated Federal Officer during the discussion and recommendations, and new business portion of the meeting. Please contact Mr. Detweiler listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: October 10, 2017.

Michael David Emerson,

Director, Marine Transportation Systems.

[FR Doc. 2017–22291 Filed 10–13–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0067]

Agency Information Collection Activities: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than November 15, 2017) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (82 FR 35981) on August 2, 2017, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1651–0067.

Current Actions: CBP proposes to extend the expiration date of this information collection with a no changes to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Abstract: CBP is responsible for determining whether imported articles that are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 9801.00.10, 9802.00.20, 9802.00.40, 9802.00.50, 9802.00.60 and 9817.00.40 are entitled to duty-free or reduced duty treatment. In order to file under these HTSUS provisions, importers, or their agents, must have the declarations that are provided for in 19 CFR 10.1(a), 10.8(a), 10.9(a) and 10.121 in their possession at the time of entry and submit them to CBP upon request. These declarations enable CBP to ascertain whether the requirements of these HTSUS provisions have been satisfied.

Affected Public: Businesses.

Estimated Number of Respondents: 19,445.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 58,335.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 933.

Dated: October 11, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–22338 Filed 10–13–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0136]

Agency Information Collection Activities: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted no later than November 15, 2017 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed information collection was previously published in the **Federal Register** (82 FR 34965) on July 27, 2017, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1651–0136.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours.

Type of Review: Extension (without change).

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Affected Public: Individuals and businesses.

Type of Collection: Comment cards.

Estimated Number of Respondents: 10,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 10,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 500 hours.

Type of Collection: Customer Surveys.

Estimated Number of Respondents: 50,000.

Estimated Numbers of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 50,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

Dated: October 11, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–22336 Filed 10–13–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0107]

Agency Information Collection Activities: Application for Waiver of Passport and/or Visa

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than November 15, 2017) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (82 FR 34962) on July, 27, 2017 allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Waiver of Passport and/or Visa.

OMB Number: 1651–0107.

Form Number: DHS Form I–193.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected on Form I–193.

Type of Review: Extension (without change).

Abstract: The data collected on DHS Form I–193, Application for Waiver of Passport and/or Visa, is used by CBP to determine an applicant's identity, alienage, and claim to legal status in the United States, and eligibility to enter the United States. DHS Form I–193 is an application submitted by a nonimmigrant alien seeking admission to the United States requesting a waiver of passport and/or visa requirements due to an unforeseen emergency. It is also an application submitted by an immigrant alien returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad requesting a waiver of documentary requirements for good cause. The waiver of the documentary requirements and the information collected on DHS Form I–193 is authorized by Sections 212(a)(7), 212(d)(4), and 212(k) of the Immigration and Nationality Act, as amended, and 8 CFR 103.7(b)(1)(i)(Q), 211.1(b)(3), and 212.1(g). This form is accessible at *https://www.uscis.gov/i-193.*

Affected Public: Individuals.

Estimated Number of Respondents: 25,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,150.

Dated: October 11, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–22337 Filed 10–13–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0179]

Agency Information Collection Activities; Solicitation of Nominations for the Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 15, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to Jennifer Davis, Bureau of Indian Education, 2600 N. Central Avenue, Suite 800, Phoenix, Arizona 85004, fax: (602) 265–8293 or email: *jennifer.davis@bie.edu.* Please reference OMB Control Number 1076–0179 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about

this ICR, contact Jennifer Davis, telephone: (602) 265–1592.

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.

We are 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 BIE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIE 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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 Bureau of Indian Education (BIE) is seeking renewal for an information collection that would allow it to collect information regarding individuals' qualifications to serve on the Federal advisory committee known as the Advisory Board for Exceptional Children. This information collection requires persons interested in being nominated to serve on the Board to provide information regarding their qualifications. This information collection includes one form.

The Individuals with Disabilities Education Improvement Act (IDEA) of 2004, (20 U.S.C. 1400 *et seq.*) requires the BIE to establish an Advisory Board on Exceptional Education. See 20 U.S.C. 1411(h)(6). Advisory Board members shall serve staggered terms of two or three years from the date of their appointment. This Board is currently in operation. This information collection allows BIE to better manage the nomination process for future appointments to the Board.

Title of Collection: Solicitation of Nominations for the Advisory Board for Exceptional Children.

OMB Control Number: 1076–0179.

Form Number: N/A.

Type of Review: Extension without change of currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 30 per year, on average.

Total Estimated Number of Annual Responses: 30 per year, on average.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 30 hours.

Respondent's Obligation: A response is required to obtain 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.

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. 2017–22303 Filed 10–13–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0153]

Agency Information Collection Activities; Certificate of Degree of Indian or Alaska Native Blood

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 15, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., Mail Stop 4513 MIB, Washington, DC 20240; facsimile: (202) 208–5113; email: *laurel.ironcloud@bia.gov.* Please reference OMB Control Number 1076–0179 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Laurel Iron Cloud, telephone (202) 513–7641.

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.

We are 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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 renewal of the approval for the information collection conducted under the numerous laws authorizing BIA to administer program services to Indians, provided that the individual possess a minimum degree of Indian or Alaska Native blood. When applying for

program services authorized by these laws, an applicant must provide acceptable documentation to prove that he or she meets the minimum required degree of Indian or Alaska Native blood. Currently, the BIA certifies an individual's degree of Indian or Alaska Native blood if the individual can provide sufficient information to prove his or her identity and prove his or her descent from an Indian ancestor(s) listed on historic documents approved by the Secretary of the Interior that include blood degree information. To obtain the CDIB, the applicant must fill out an application form and provide supporting documents.

Title of Collection: Request for Certificate of Degree of Indian or Alaska Native Blood.

OMB Control Number: 1076–0153.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 154,980 per year, on average.

Total Estimated Number of Annual Responses: 154,980 per year, on average.

Estimated Completion Time per Response: 1.5 hours.

Total Estimated Number of Annual Burden Hours: 232,470 hours.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $6,199,200.

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. 2017–22302 Filed 10–13–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0135]

Agency Information Collection Activities; Reporting Systems for Public Law 102–477 Demonstration Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 15, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to Mr. Terrence Parks, Chief, Division of Workforce Development, Bureau of Indian Affairs—Indian Services, 1849 C St. NW., MS–3645–MIB, Washington, DC 20240; facsimile: (202) 513–7625; email: *Terrence.Parks@bia.gov.* Please reference OMB Control Number 1076–0135 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mr. Terrence Parks, telephone (202) 513–7625.

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.

We are 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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—Indian Services is seeking revisions for the information collection Reporting System for Public Law 102–477 Demonstration Project. This information allows the Division of Workforce Development (DWD), which reports to the BIA—Indian Services, to document satisfactory compliance with statutory, regulatory, and other requirements of the various integrated programs. Public Law 102–477 authorized tribal governments to integrate federally funded employment, training, and related services and programs into a single, coordinated, comprehensive service delivery plan. Funding agencies include the Department of Labor and the Department of Health and Human Services. BIA is statutorily required to serve as the lead agency and provides a single, universal report format for use by tribal governments to report on integrated activities and expenditures. The DWD shares the information collected from these reports with the Department of Labor and the Department of Health and Human Services.

This renewal will be revised to include information collected under 25 CFR part 26 to administer the job placement and training program, through Tribes, which provides vocational/technical training, related counseling, guidance, and job placement services, and limited financial assistance to Indian individuals who are not less than 18 years old and who reside with the Department of the Interior (DOI) approved service areas. Public Law 102–477 allows tribes to consolidate into a single plan, single budget and single report to one office programs they currently have under contract or grant. The job placement and training program has been included in these 477 plans. Since tribes determine which programs will be included, the plans vary from tribe to tribe. Submission of this information allows DOI, through Tribes, to administer the job placement and training program, which provides vocational/technical training, related counseling, guidance, job placement services, and limited financial assistance to Indian individuals who are not less than 18 years old and who reside within DOI approved service areas. The information collection includes an application for services, quarterly progress reports, and information from employers regarding opportunities.

Title of Collection: Reporting System for Public Law 102–477 Demonstration Project.

OMB Control Number: 1076–0135.

Form Number: BIA–8205.

Type of Review: Revision of currently approved collection.

Respondents/Affected Public: Indian tribes participating in Public Law 102–477 and individuals.

Total Estimated Number of Annual Respondents: Estimated 64 per year for the reporting, and an estimated 4,050 per year for the job placement and training application.

Total Estimated Number of Annual Responses: Estimated 197 per year for the reporting, and an estimated 4,050 per year for the job placement and training application.

Estimated Completion Time per Response: Estimated 2 to 60 hours for the reporting, and 30 minutes for the job placement and training application.

Total Estimated Number of Annual Burden Hours: Estimated 4,730 hours for the reporting, and an estimated 2,025 hours for the job placement and training application.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: Once annually for the reporting, and once annually for the job placement and training application.

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. 2017–22301 Filed 10–13–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0172]

Agency Information Collection Activities; Class III Tribal-State Gaming Compact Process

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 15, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to Ms. Paula Hart, U.S. Department of the Interior, Office of Indian Gaming, 1849 C Street NW., Mail Stop 3657, Washington, DC 20240; email: *Paula.Hart@BIA.gov.* Please reference OMB Control Number 1076–0160 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Paula Hart, telephone: (202) 219–4066.

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.

We are 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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 Assistant Secretary—Indian Affairs is seeking renewal of the approval for the information collection conducted under 25 CFR 293, Class III Tribal-State Gaming Compact Process and the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2710(d)(8)(A), (B) and (C), which authorizes the Secretary to approve, disapprove or ''consider approved'' (*i.e.,* deemed approved) a tribal state gaming compact or compact amendment and publish notice of that approval or considered approval in the **Federal Register**. The information collected includes tribal-state compacts or compact amendments entered into by Indian tribes and State governments. The Secretary of the Interior reviews this information and may approve, disapprove or consider the compact approved.

Title of Collection: Class III Tribal-State Gaming Compact Process.

OMB Control Number: 1076–0172.

Form Number: N/A.

Type of Review: Extension without change of currently approved collection.

Respondents/Affected Public: Indian tribes and State governments.

Total Estimated Number of Annual Respondents: 32 per year, on average.

Total Estimated Number of Annual Responses: 32 per year, on average.

Estimated Completion Time per Response: 360 hours.

Total Estimated Number of Annual Burden Hours: 11,520 hours.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: Once per year.

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. 2017–22304 Filed 10–13–17; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–587 and 731–TA–1385–1386 (Preliminary)]

Titanium Sponge From Japan and Kazakhstan; Determinations

On the basis of the record[1] developed in the subject investigations, the United

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of titanium sponge from Japan and Kazakhstan, provided for in subheading 8108.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of Kazakhstan.

Background

On August 24, 2017, Titanium Metals Corporation, Exton, PA, filed a petition with the Commission and the U.S. Department of Commerce, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of titanium sponge from Japan and Kazakhstan and subsidized imports of titanium sponge from Kazakhstan. Accordingly, effective August 24, 2017, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701–TA–587 and antidumping duty investigation Nos. 731–TA–1385–1386 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 1, 2017 (82 FR 41656). The conference was held in Washington, DC, on September 14, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on October 10, 2017. The views of the Commission are contained in USITC Publication 4736 (October 2017), entitled *Titanium Sponge from Japan and Kazakhstan: Investigation Nos. 701–TA–587 and 731–TA–1385–1386 (Preliminary).*

By order of the Commission.

Issued: October 10, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–22266 Filed 10–13–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–847 and 849 (Third Review)]

Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan and Romania

Determinations

On the basis of the record [1] developed in these subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on carbon and alloy seamless standard, line, and pressure pipe from Japan and Romania would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on September 1, 2016 (81 FR 60383) and determined on December 5, 2016 that it would conduct full reviews (81 FR 91199, December 16, 2017). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on April 5, 2017 (82 FR 16621). The hearing was held in Washington, DC, on August 8, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on October 10, 2017. The views of the Commission are contained in USITC Publication 4731 (October 2017), entitled *Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania: Investigation Nos. 731–TA–847 and 849 (Third Review).*

By order of the Commission.

Issued: October 11, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–22318 Filed 10–13–17; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Broadbent dissenting with respect to the antidumping duty order on subject imports from Romania.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1074]

Certain Industrial Automation Systems and Components Thereof Including Control Systems, Controllers, Visualization Hardware, Motion and Motor Control Systems, Networking Equipment, Safety Devices, and Power Supplies; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 6, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Rockwell Automation, Inc. of Milwaukee, Wisconsin. A supplement to the complaint was filed on September 29, 2017. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies, by reason of infringement of U.S. Trademark Reg. No. 1,172,995 (''the '995 trademark''); U.S. Trademark Reg. No. 696,401 (''the '401 trademark''); U.S. Trademark Reg. No. 693,780 (''the '780 trademark''); U.S. Trademark Reg. No. 1,172,994 (''the '994 trademark''); U.S. Trademark Reg. No. 712,800 (''the '800 trademark''); U.S. Trademark Reg. No. 712,836 (''the '836 trademark''); U.S. Trademark Reg. No. 2,510,226 (''the '226 trademark''); U.S. Trademark Reg. No. 2,671,196 (''the '196 trademark''); U.S. Trademark Reg. No. 2,701,786 (''the '786 trademark''); U.S. Trademark Reg. No. 2,412,742 (''the '742 trademark''); U.S. Copyright Reg. No. TX0008389890 (''the '890 copyright''); U.S. Copyright Reg. No. TX0008389887 (''the '887 copyright''); U.S. Copyright Reg. No. TX0008390098 (''the '098 copyright)''; U.S. Copyright Reg. No. TX0008390094 (''the '094 copyright''); U.S. Copyright

Reg. No. TX0008390077 (''the '077 copyright''); U.S. Copyright Reg. No. TX0008390088 (''the '088 copyright''); U.S. Copyright Reg. No. TX0008390116 (''the '116 copyright''); U.S. Copyright Reg. No. TX0008390084 (''the '084 copyright''); U.S. Copyright Reg. No. TX0008390111 (''the '111 copyright''); and U.S. Copyright Reg. No. TX0008390091 (''the '091 copyright''). The complaint also alleges that an industry in the United States exists as required by the applicable Federal Statute. The Complaint further alleges a violation of Section 337 based on unfair methods of competition and unfair acts in the importation or sale of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 6, 2017, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies, by reason of infringement of the '995 trademark; the '401 trademark; the '780 trademark; the '994 trademark; the '800 trademark; the '836 trademark; the '226 trademark; the '196 trademark; the '786 trademark; and the '742 trademark; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(b) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies, by reason of infringement of the '890 copyright; the '887 copyright; the '098 copyright; the '094 copyright; the '077 copyright; the '088 copyright; the '116 copyright; and the '111 copyright; and

(c) whether there is a violation of subsection (a)(1)(A) in the importation or sale of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies, by reason of unfair methods of competitions and unfair acts, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding Administrative Law Judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Rockwell Automation, Inc., 1201 South 2nd Street, Milwaukee, WI 53204–2410.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Can Electric Limited, No. 2 Danan Rd, Yuexiu District, Guangzhou, Guangdong, 510115, China

Capnil (HK) Company Limited, Unit 603 6/F Koon Wah Mirrow, Factory 3 Ind Bldg 5–9 Ka Hing, Rd Kln Hk, Hong Kong

Fractioni (Hongkong) Ltd., #327 Siping Road, Shanghai 200092, China

Fujian Dahong Trade Co., Ltd, A15–2303 Taihongyu Pushang Road, Cangshan Fuzhou Fujian, Fujian 350008, China

GreySolution Limited d/b/a Fibica, Unit B601, 6/F Block A, Universal Ind. Ctr., 19–25 Shan Mei St Sha Tin, Fo Tan, Hong Kong

Huang Wei Feng d/b/a A–O–M Industry, Room 201 No. 55 2 Qu, Tangshuiwei, Minzhi, Longhua, Boa'An, Shenzhen 511700, China

KBS Electronics Suzhou Co, Ltd., Block 7&43, No. 328 Hengyong Road, Jiading district, Shanghai, China, 201806

PLC–VIP Shop d/b/a VIP Tech Limited, 95 Fuk Wing Street, Cheung Sha Wan, Kowloon, Hong Kong

Radwell International, Inc. d/b/a PLC Center, 1 Millennium Drive, Willingboro, NJ 08046

Shanghai EuoSource Electronic Co., Ltd, Block 43, No. 328, Hengyong Road, Jiading District, Shanghai, China 201806

ShenZhen T-Tide Trading co., Ltd., Room A–60S, Block.lexi., Minle Industrial Park, Mei Ban Road, Longhua District, Shenzhen 518031, China

SoBuy Commercial (HK) Co. Limited, Flat B G/F Yeung Yiu Chung (No. 6), Ind. Bldg. No. 19 Cheung Shun Street, Lai Chi Kok Kowloon, Hong Kong

Suzhou Yi Micro Optical Co., Ltd., d/b/a Suzhou Yiwei Guangxue Youxiangongsi, d/b/a Easy Micro-optics Co. LTD., Office Building 5F, 91 Weixin Rd, Suzhou, SIP, Jiangsu, China, 215021

Wenzhou Sparker Group Co. Ltd., d/b/a Sparker Instruments, Room 503, Oujiang Masion, Wenzhou Road, Wenzhou, 325000, China

Yaspro Electronics (Shanghai) Co., Ltd., Room 1808E, No. 488, Vaohua Road, Pudong New District, Shanghai, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 10, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–22267 Filed 10–13–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 15, 2017.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, *Attention:* Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–017–C.

Petitioner: Paramont Contura, LLC, Three Gateway Center, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Deep Mine 44, MSHA I.D. No. 44–07308, located in Dickenson County, Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to gas wells. The petitioner proposes to plug and mine through vertically drilled gas wells. The petitioner states that:

The following alternative methods will be used when mining through vertically drilled degasification boreholes with horizontal laterals to permit mining through the boreholes.

a. The petition will apply to all wells being mined through located within the mineable reserve at Paramount Coal Company's Deep Mine 44.

b. District Manager approval is required for the following proposed alternative methods:

(1) A safety barrier of 300 feet in diameter (150 between any mined area and a well) will be maintained around all wells (defined herein to include all active, inactive, abandoned, shut-in, and previously plugged oil and gas wells, and including water injection wells) until approval to proceed with mining has been obtained from the District Manager (DM). Wells that were drilled into potential oil or gas producing formations that did not produce commercial quantities of either gas or oil (wildcat wells or dry holes) are also defined as oil or gas wells.

(2) Prior to mining within the safety barrier around any well that is intended to be mined through, the mine operator will provide the DM a sworn affidavit or declaration executed by a company official stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed as described by the terms and conditions of this petition. The affidavit or declaration must be accompanied by all logs described below and any other records described in those subparagraphs which the DM may request. The DM will review the affidavit or declaration, the logs, and other records that have been requested, and may inspect the well. The DM will determine if the operator has complied with the procedures for cleaning, preparing, and plugging each well as described by the terms and conditions of this petition. If the DM determines

that the procedures have been complied with, the DM will provide approval and the mine operator may mine within the safety barrier of the well, subject to the terms of this petition. The petitioner states that the terms and conditions of this petition apply to all types of coal mining.

c. The petitioner proposes to use the following procedures when cleaning out and preparing vertical oil and gas wells prior to plugging or replugging:

(1) If the total depth of the well is less than 4,000 feet, the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam, unless the DM requires cleaning to a greater depth based on the DM's judgment as to what is required due to the geological strata, or due to the pressure of the well (the operator will provide the DM with all information it possesses concerning the geological nature of the strata and the pressure of the well). If the total depth of the well is 4,000 feet, or greater, the operator will completely clean out the well from the surface to at least 400 feet below the base of the lowest mineable coal seam. The operator will remove all material from the entire diameter of the well, wall to wall.

(2) The operator will prepare down-hole logs for each well that will consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon producing strata and the location for a bridge plug. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs. In addition, a journal will be maintained describing the depth and nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; length of casings(s) removed, perforated or ripped or left in place, any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of this journal and provided to MSHA on request.

(3) When cleaning out the well, the operator will make a diligent effort to remove all of the casing in the well. If it is not possible to remove all of the casing, then the operator must take appropriate steps to ensure that the annulus between the casing and between the casings and the well walls are filled with expanding cement (minimum 0.5 percent expansion upon setting) and contain no voids. If the casing cannot be removed, it must be cut or milled at all mineable coal seam levels. Any casing which remains will be perforated or ripped. Perforations or rips are required at least every 50 feet from 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. If the operator, using a casing bond log, can demonstrate to the satisfaction of the DM that all annuli in the well are adequately sealed with cement, then the operator will not be required to perforate or tip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), any casing which remains will be ripped or perforated and filled with expanding cement as indicated above. An acceptable casing bond log for each casing and tubing string is needed if used in lieu of ripping or perforating multiple strings.

(4) If the DM concludes that the cleaned-out well is emitting excessive amounts of gas, a mechanical bridge plug will be place in the borehole in a competent stratum at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the lowest mineable coal seam but above the top of the uppermost hydrocarbon-producing stratum. The DM may require a greater distance for the mechanical bridge plug to be placed below the lowest mineable coal seam based on the geological strata, or due to the pressure within the well (the operator will provide the DM with all information it possesses concerning the geological nature of the strata and the pressure of the well). If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used.

(5) If the uppermost gas-producing stratum is within 300 feet of the base of the lowest mineable coal seam, the operator will properly put in place mechanical bridge plugs or cap seal plugs or a suitable brush plug to isolate the hydrocarbon-producing stratum from the expanding cement plug. Nevertheless, the operator will place a minimum of 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater distance based the geological strata, or due to the pressure within the well.

d. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface after completely cleaning out the well:

(1) The operator will pump expanding cement slurry down the well to form a plug that runs from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam (or lower if required by the DM based on the geological strata, or due to pressure within the well) to the surface. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam (or higher if required by the DM due to the geological strata, or due to the pressure within the well) to the surface.

(2) The operator will embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, the operator will extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), high-resolution GPS coordinates (one-half meter resolution) are required.

e. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes after completely cleaning out the well:

(1) The operator will set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater depth based on the geological strata, or due to the pressure within the well. The expanding cement will be placed in the well under a pressure of at least 200 pounds per square inch. The top of the expanding cement will extend at least 100 feet above the top of the coal seam being mined, unless the DM requires a greater distance based on the geological strata, or due to the pressure within the well.

(2) The operator will securely grout into the bedrock of the upper portion of the degasification well a suitable casing in order to protect it. The remainder of the well may be cased or uncased.

(3) The operator will fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include

periodic tests of methane levels and limits on the minimum methane concentrations that may be extracted.

(5) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, the operator must seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam being mined.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, the operator will extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

f. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out due to damage to the well caused by subsidence, caving or other factors:

(1) The operator will drill a hole adjacent and parallel to the well to a depth of at least 200 feet below the lowest mineable coal seam, unless the DM requires a greater depth based on the geological strata, or due to pressures within the well.

(2) The operator will use a geophysical sensing device to locate any casing that may remain in the well.

(3) When the operator determines, and the DM agrees that there is insufficient casing in the well to allow the method outlined in subparagraph (g)(3) to be used, then the operator will use a horizontal hydraulic fracturing technique to intercept the original well. From at least 200 feet below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined, the operator will fracture in at least six places, at intervals to be agreed upon by the operator and the DM after considering the geological strata and the pressure within the well. The operator will then pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(4) The operator will prepare down-hole logs for each well. The logs will consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata, and the location for the bridge plug. The operator may obtain the logs from the adjacent hole rather than the well if the condition of the well makes it impractical to insert the equipment necessary to obtain the log. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs if the DM determines that such logs would not be suitable for obtaining the above-listed data or are impractical to obtain due to the condition of the drill hole. A journal will be maintained, describing the depth and nature of each material encountered; bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(5) After the operator has plugged the well, the operator will plug the adjacent hole, from the bottom to the surface, with Portland cement or a lightweight cement mixture. The operator will embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, the operator will extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level. A combination of the methods outlined in subparagraph (f)(3) and (f)(4) may be used, in a single well, depending upon the conditions of the hole and the presence of casings. The operator and the DM should discuss the nature of each hole. The DM may require that more than one method be utilized.

g. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine within the safety barrier or to mine through a plugged or replugged well:

(1) A representative of the operator, a representative of the miners, the appropriate State agency, or the MSHA DM may request a conference be conducted prior to mining through any plugged or replugged well. The DM will schedule the conference. The party requesting the conference will notify all other parties within sufficient time for them to have a representative present. The purpose of the conference will be to review evaluate, and accommodate any abnormal or unusual circumstance(s) related to the condition of the well or surrounding strata.

(2) The operator will mine through a well on a shift approved by the DM. The operator will notify the DM and the miner's representative in sufficient time prior to mining-through a well in order to provide an opportunity to have a representative present.

(3) When using continuous mining methods, drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sights will not be more than 50 feet from the well. When using longwall-mining methods, drivage sights will be installed on 10-foot centers at a distance of 50 feet in advance of the well bore. Drivage sights will be installed in the headgate and tailgate.

(4) The operator will ensure that firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face of the area of the well intersection (when either the conventional or continuous mining method is used) is available and operable during all well intersections. The fire hose will be located in the last open crosscut of the entry or room. The operator will maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section. When the longwall mining method is used, a hose to the longwall water supply is sufficient.

(5) The operator will ensure that sufficient supplies of roof support and ventilation materials are available and located at the last open crosscut. In addition, emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(6) On the shift prior to mining through the well, the operator will service all equipment and check it for permissibility. Water sprays, water pressures, and water flow rates used for dust and spark suppression will be examined and any deficiencies will be corrected.

(7) The operator will calibrate the methane monitor(s) on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(8) When mining is in progress, the operator will perform tests for methane with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through it. During the cutting process, no individual will be allowed on the return side until the well intersection has been completed and the area has been examined, and has been declared safe. All workplace examinations will be conducted on the return side of the shearer while the shearer is idle.

(9) When using continuous or conventional mining methods, the

working place will be free of accumulations of coal dust and coal spillages, and rock dust will be applied on the roof, rib, and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and placed on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) When the well is intersected, the operator will deenergize all equipment and thoroughly examine and determine they are safe before mining is resumed. After a well has been intersected and the working place determined safe, mining will continue inby the well at a distance sufficient to permit adequate ventilation around the area of the well.

(11) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. However, in rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels less than 1.0 percent are present in all areas that will be exposed to flames and sparks from the torch. The operator will apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(13) No person will be permitted in the area of the mine-through operation except those actually engaged in the mining operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) The operator will alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well has been mined through.

(15) A certified official will directly supervise the mine-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(16) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved Part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of this petition. The operator will provide all miners involved in the well intersection with training regarding the requirements of this petition prior to mining within 150 feet of the next well to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The operator will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–22270 Filed 10–13–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 govern the application, processing, and disposition of petitions for modification. This **Federal Register** Notice notifies the public that MSHA has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

ADDRESSES: Copies of the final decisions are posted on MSHA's Web site at *https://www.msha.gov/regulations/rulemaking/petitions-modification.* The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202. All visitors are required to check in at the receptionist's desk in Suite 4E401.

FOR FURTHER INFORMATION CONTACT: Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA has granted or partially granted the following petitions for modification:

• *Docket Number:* M–2012–075–C.
FR Notice: 77 FR 30556 (May 23, 2012).
Petitioner: Mountain Coal Company, P.O. Box 591, 5174 Highway 133, Somerset, Colorado 81434.
Mine: West Elk Mine, MSHA I.D. No. 05–03672, located in Gunnison County, Colorado.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2014–011–C.
FR Notice: 79 FR 30174 (May 27, 2014).
Petitioner: Consol Pennsylvania Coal Company, LLC, Consol Energy, Inc., CNX Center, 1000 Consol Energy Drive, Canonsburg, Pennsylvania 15317–6506.
Mine: Enlow Fork Mine, MSHA I.D. No. 36–07416, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.1700 (Oil and Gas wells).

• *Docket Number:* M–2014–012–C.
FR Notice: 79 FR 30176 (May 27, 2014).
Petitioner: Consol Pennsylvania Coal Company, LLC, Consol Energy, Inc., CNX Center, 1000 Consol Energy Drive, Canonsburg, Pennsylvania 15317–6506.
Mine: Bailey Mine, MSHA I.D. No. 36–07230, located in Greene County, Pennsylvania.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2014–013–C.
FR Notice: 79 FR 30178 (May 27, 2014).
Petitioner: Consol Pennsylvania Coal Company, LLC, Consol Energy, Inc., CNX Center, 1000 Consol Energy Drive, Canonsburg, Pennsylvania 15317–6506.
Mine: Harvey Mine (formerly BMX Mine), MSHA I.D. No. 36–10045, located in Greene County, Pennsylvania.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–016–C.
FR Notice: 81 FR 47423 (July 21, 2016).
Petitioner: Marshall County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.
Mine: Marshall County Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–017–C.
FR Notice: 81 FR 47426 (July 21, 2016).
Petitioner: The Marion County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.
Mine: Marion County Mine, MSHA I.D. No. 46–01433, located in Marion County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–018–C.
FR Notice: 81 FR 47428 (July 21, 2016).
Petitioner: The Monongalia County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.
Mine: Monongalia County Mine, MSHA I.D. No. 46–01968, located in Monongalia County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–019–C.
FR Notice: 81 FR 47431 (July 21, 2016).
Petitioner: The Harrison County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.
Mine: Harrison County Mine, MSHA I.D. No. 46–01318, located in Marion County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–020–C.
FR Notice: 81 FR 47434 (July 21, 2016).
Petitioner: The Ohio County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.
Mine: Ohio County Mine, MSHA I.D. No. 46–01436, located in Marshall County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–021–C.
FR Notice: 81 FR 47420 (July 21, 2016).
Petitioner: The Marshall County Coal Company, 57 Goshorn Woods Road, Cameron, West Virginia 26033.
Mine: Marshall County Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.
Regulation Affected: 30 CFR 77.1914(a) (Electrical equipment).

• *Docket Number:* M–2016–024–C.
FR Notice: 81 FR 55490 (August 19, 2016).
Petitioner: Signal Peak Energy, LLC, 100 Portal Drive, Roundup, Montana 59072.
Mine: Bull Mountains Mine #1, MSHA I.D. No. 24–01950, located in Musselshell County, Montana.
Regulation Affected: 30 CFR 75.312(c) (Main mine fan examinations and records).

• *Docket Number:* M–2016–025–C.
FR Notice: 81 FR 55491 (August 19, 2016).
Petitioner: Ohio County Coal Company, 1107 Golden Ridge Road, Dallas, West Virginia 26036.
Mine: Ohio County Mine, MSHA I.D. No. 46–01436, located in Marshall County, West Virginia.
Regulation Affected: 30 CFR 77.1914(a) (Electrical equipment).

• *Docket Number:* M–2016–036–C.
FR Notice: 81 FR 16066 (March 31, 2017).
Petitioner: Pennyrile Energy, LLC, 7386 State Route 593, Calhoun, Kentucky 42327.
Mine: Riveredge Mine, MSHA I.D. No. 15–19424, located in McLean County, Kentucky.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2016–010–M.
FR Notice: 82 FR 16071 (March 31, 2017).
Petitioner: Fred Weber, Inc., 2320 Creve Coeur Mill Road, Maryland Heights, Missouri 63043.
Mine: Joliet MI, LLC Mine, MSHA I.D. No. 11–03153, located in Will County, Illinois.
Regulation Affected: 30 CFR 49.6(a)(1) (Equipment and maintenance requirements).

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–22271 Filed 10–13–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0064]

Forging Machines; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA is soliciting public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Forging Machines Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by December 15, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using these methods, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0064, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2011–0064). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other materials in the docket, go to *http://www.regulations.gov*

or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, *Kenney.Theda@dol.gov* or Todd Owen, *Owen.Todd@dol.gov;* telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to reduce employees' risk of death or serious injury by ensuring that forging machines used by them are in safe operating condition, and that employees are able to clearly and properly identify manually operated valves and switches.

Inspection of Forging Machines, Guards, and Point-of-Operation Protection Devices (paragraphs (a)(2)(i) and (a)(2)(ii)). Paragraph (a)(2)(i) requires employers to establish periodic and regular maintenance safety checks, and to develop and maintain a certification record of each inspection. The certification record must include the date of inspection, the signature of the person who performed the inspection, and the serial number (or other identifier) of the forging machine inspected. Under paragraph (a)(2)(ii), employers are to schedule regular and frequent inspections of guards and point-of-operation protection devices, and prepare a certification record of each inspection that contains the date of the inspection, the signature of the person who performed the inspection, and the serial number (or other identifier) of the equipment inspected. These inspection certification records provide assurance to employers, employees, and OSHA compliance officers that forging machines, guards, and point-of-operation protection devices have been inspected, and will operate properly and safely, to prevent impact injury and death to employees during forging operations. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

Identification of Manually Controlled Valves and Switches (paragraphs (c), (h)(3), (i)(1) and (i)(2)). These paragraphs require proper and clear identification of manually operated valves and switches on presses, upsetters, boltheading equipment, and rivet-making machines, respectively. Marking valves and switches provide information to employees to ensure that they operate the forging machines correctly and safely.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Forging Machines Standard (29 CFR 1910.218). The Agency is requesting an increase in its current burden hours from 187,264 hours to 192,053 hours, a total increase of 4,789 hours. The adjustment is primarily due to minor modifications in calculating burden hours. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Forging Machines (29 CFR 1910.218).

OMB Number: 1218–0228.

Affected Public: Business or other for-profits.

Number of Respondents: 27,700.

Total Responses: 1,440,400.

Frequency of Responses: Biweekly.

Average Time per Response: Various.

Estimated Total Burden Hours: 192,053.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0064). You may supplement submissions by uploading documents electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments and your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth.

Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31159).

Signed at Washington, DC, on October 10, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–22269 Filed 10–13–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0034]

Subpart A (''General Provisions'') and Subpart B (''Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment''); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements, subpart A (''General Provisions'') and subpart B (''Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment'').

DATES: Comments must be submitted (postmarked, sent, or received) by December 15, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0034, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0034) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The following is a description of the requirements in subparts A and B that pertain to the collection and retention of information.

One provision in subpart A contains paperwork requirements (§ 1915.7). Section 1915.7(b)(2) specifies that shipyard employers must maintain a roster of designated competent persons (for inspecting and testing spaces covered by subpart B), or a statement that a marine chemist will perform these inspections and tests. Section 1915.7(d) requires employers to ensure that competent persons, marine chemists, and certified industrial hygienists (CIHs) make a record of each inspection and test they conduct, post the record near the covered space while work is in progress, and retain the record for at least three months. In addition, employers must make the roster or statement, and the inspection and test records available for inspection by designated parties.

Subpart B consists of several standards governing entry into confined and enclosed spaces and other dangerous atmospheres in shipyard employment. These standards require that employers:

- Ensure that competent persons conduct inspections and atmospheric testing prior to workers entering a

confined or enclosed space (§§ 1915.12(a)–(c));

- Warn workers not to enter hazardous spaces and other dangerous atmospheres (§ 1915.12 (a)–(c) and § 1915.16);
- Certify that workers who will be entering confined or enclosed spaces have been trained (§ 1915.12(d)(5));
- Establish and train shipyard rescue teams or arrange for outside rescue teams, and provide them with information on the hazards that they may encounter (§ 1915.12(e));
- Ensure that one person on each rescue team maintains a current first aid training certificate (§ 1915.12(e)(1)(iv));
- Exchange information regarding hazards, safety rules, and emergency procedures concerning confined and enclosed spaces, and atmospheres with other employers whose workers may enter these spaces and atmospheres (§ 1915.12(f));
- Ensure testing of spaces having contained bulk quantities of combustible or flammable liquids or gases, and toxic, corrosive, or irritating substances before cleaning and other cold work is started, and as necessary thereafter while the operations are ongoing (§§ 1915.13(b)(2) and (4));
- Post signs prohibiting ignition sources within or near a space that has contained bulk quantities of flammable or combustible liquids or gases (§ 1915.13(b)(10));
- Ensure that confined and enclosed spaces and other dangerous atmospheres, and boundaries of spaces or pipelines are tested before workers perform hot work in these work areas (§ 1915.14(a)(1));
- Post certificates of testing conducted by a marine chemist or Coast Guard authorized person, indicating it is ''Safe for Hot Work,'' in the immediate vicinity of the hot-work operation while the operation is in progress (§ 1915.14(a)(2)). Where testing of a space or an adjacent space is performed by a competent person, marine chemist or Coast Guard authorized person and determined to be ''Not Safe for Hot Work,'' a warning label must be affixed (§ 1915.14(b)(2)); and

Retain certificates of testing on file for at least three months after completing the operation (§ 1915.14(a)(2)).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the collection of information (paperwork) requirements mandated by Subpart A (''General Provisions'') and Subpart B (''Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment'') of 29 CFR part 1915. The Agency is requesting an adjustment increase of 247,083 burden hours (from 338,981 to 586,064 hours). The adjustment increase is due to an increase in the number of establishments affected by these standards.

The Agency will summarize the comments submitted in response to this notice and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Subpart A (''General Provisions'') and Subpart B (''Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment'') (29 CFR part 1915).

OMB Control Number: 1218–0011.

Affected Public: Business or other for-profits; Not-for-profit organizations; Federal Government; State, Local or Tribal Government.

Number of Respondents: 4,871.

Frequency of Responses: On occasion.

Total Responses: 3,495,964.

Average Time per Response: Various.

Estimated Total Burden Hours: 586,064.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2011–0034) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on October 5, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–22268 Filed 10–13–17; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, October 19, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Share Insurance Fund Quarterly Report.
2. Request for Information, Electronic Loan, Deposit, and Investment Data Collection.
3. NCUA Rules and Regulations, Capital Planning and Supervisory Stress Testing.
4. NCUA Rules and Regulations, Appeals Procedures.
5. NCUA Rules and Regulations, Supervisory Review Committee.

RECESS: 11:30 a.m.

TIME AND DATE: 11:45 a.m., Thursday, October 19, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Supervisory Action. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–22506 Filed 10–12–17; 4:15 pm]

BILLING CODE 7535–01–P

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

Notification of a Public Meeting of the President's Commission on Combating Drug Addiction and the Opioid Crisis (Commission)

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

ACTION: Notice of meeting.

SUMMARY: ONDCP announces the fifth meeting of the President's Commission on Combating Drug Addiction and the Opioid Crisis to advance the Commission's work on drug issues and the opioid crisis per Executive Order 13784. The meeting will consist of personal stories regarding addiction and discussion of and voting on the Commission's Final Report that will be posted on ONDCP's Commission Web site below shortly before the meeting.

DATES: The Commission meeting will be held on Wednesday November 1, 2017 from 1:30 p.m. until approximately 3:30 p.m. (Eastern time).

ADDRESSES: The meeting will be held at the Eisenhower Executive Office Building, Room 350, in the Executive Office of the President in Washington, DC. It will be open to the public through livestreaming on *https://www.whitehouse.gov/live.*

FOR FURTHER INFORMATION CONTACT: General information concerning the Commission and its meetings can be found on ONDCP's Web site at *https://www.whitehouse.gov/ondcp/presidents-commission.* Any member of the public who wishes to obtain information about the Commission or its meetings that is not already on ONDCP's Web site or who wishes to submit written comments for the Commission's consideration may contact Michael Passante, Designated Federal Officer (DFO) via email at *commission@ondcp.eop.gov* or telephone at (202) 395–6709. Please note that ONDCP may post such written comments publicly on our Web site, including names and contact information that are submitted. There will not be oral comments from the public at the meeting. Requests to accommodate disabilities with respect to livestreaming or otherwise should also be sent to that email address, preferably at least 10 days prior to the meeting to allow time for processing.

SUPPLEMENTARY INFORMATION: The Commission was established in accordance with E.O. 13784 of March 29, 2017, the Commission's charter, and the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, to obtain advice and recommendations for the President regarding drug issues. The Executive Order, charter, and information on the Members of the Commission are available on ONDCP's Web site. The Commission will function solely as an advisory body and will make recommendations regarding policies and practices for combating drug addiction with particular focus on the current opioid crisis in the United States. The date of the Commission's final report has been extended until November 1, 2017. Per E.O. 13784, the Commission shall:

a. Identify and describe the existing Federal funding used to combat drug addiction and the opioid crisis;

b. Assess the availability and accessibility of drug addiction treatment services and overdose reversal throughout the country and identify areas that are underserved;

c. Identify and report on best practices for addiction prevention, including healthcare provider education and evaluation of prescription practices, collaboration between State and Federal officials, and the use and effectiveness of State prescription drug monitoring programs;

d. Review the literature evaluating the effectiveness of educational messages for youth and adults with respect to prescription and illicit opioids;

e. Identify and evaluate existing Federal programs to prevent and treat drug addiction for their scope and effectiveness, and make recommendations for improving these programs; and;

f. Make recommendations to the President for improving the Federal response to drug addiction and the opioid crisis.

Dated: October 11, 2017.

Michael Passante,

Deputy General Counsel, Designated Federal Officer.

[FR Doc. 2017–22343 Filed 10–13–17; 8:45 am]

BILLING CODE 3280–F5–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request received and permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

DATES: October 6, 2017 to February 28, 2020.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Division of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030, email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR

671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

NSF issued a permit (ACA 2016–008) to David Rootes, Environmental Manager, Antarctic Logistics and Expeditions, LLC, on October 23, 2015. The issued permit allows the applicant to operate a remote camp at Union Glacier, Antarctica, and provide logistical support services for scientific and other expeditions, film crews, and tourists. These activities include aircraft support, cache positioning, camp and field support, resupply, search and rescue, medevac, medical support and logistic support for some National Operators.

Now the applicant proposes a permit modification to continue permitted activities, including minimization, mitigation, and monitoring of waste, for the 2017–2018 Antarctic season. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

The permit modification was issued on October 6, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2017–22296 Filed 10–13–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification requests received and permits issued.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

DATES: October 6, 2017 to September 1, 2021.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8224; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

1. NSF issued a permit (ACA 2017–019) to Jerry McDonald, Principal in Charge, Leidos Innovations Group, Antarctic Support Contract, on October 30, 2016. The issued permit allows the applicant to enter five Antarctic Specially Protected Areas (ASPAs) in the Antarctic Peninsula region. The Antarctic Support Contractor's staff provides routine logistics support in the transport of science teams and supporting personnel, and in field camp put-in and take-out. Entry into an ASPA would occur only to support a science project for which a permit has been issued. Entry needs and requirements will be reviewed by ASC Environmental Health and Safety Department prior to entry and reported per standard procedures.

A recent modification to this permit, dated March 9, 2017, permitted the applicant to enter ASPA No. 126, Byers Peninsula, Livingston Island.

Now the applicant proposes a permit modification to enter ASPA No. 161, Terra Nova Bay, Ross Sea and ASPA No. 173, Cape Washington and Silverfish Bay, Terra Nova bay, Ross Sea for the purposes described in this permit. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

2. NSF issued a permit (ACA 2017–016) to Jerry McDonald, Principal in Charge, Leidos Innovations Group, Antarctic Support Contract, on October 30, 2016. The issued permit allows the applicant to enter nine Antarctic Specially Protected Areas (ASPAs) in the Ross Sea region for the purposes of gathering professional video footage, still photographs, and to interview scientists. Visits to these ASPAs are limited and only occur as logistics and scientific conditions allow. Entry needs and requirements will be reviewed by ASC Environmental Health and Safety Department prior to entry and reported per standard procedures.

Now the applicant proposes to enter ASPA No. 113 Litchfield Island, Arthur Harbor, Anvers Island, Palmer Archipelago for the purposes described in this permit. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact. NSF will also add an escort condition to this permit to ensure that the Antarctic Support Contract staff are accompanied by an expert in the values to be protected by the ASPA and to achieve consistency with similar permits issued to non-experts.

These permit modifications were issued on October 6, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–22295 Filed 10–13–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Public Availability of the National Science Foundation Fiscal Year (FY) 2016 Service Contract Inventory and Associated Documents

AGENCY: National Science Foundation.

ACTION: Notice of public availability of FY 2016 service contract inventories and associated documents.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, the National Science Foundation is publishing this notice to advise the public of the availability of NSF's FY 2016 service contract inventory data. This inventory provides information on service contract actions over $25,000 that were made in FY 2016. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, and December 19, 2011, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). The FY 2016 government-wide service contract inventory is available at *https://www.acquisition.gov/service-contract-inventory/.* NSF's FY 2016 service contract inventory data is included in the government-wide inventory posted on *https://www.acquisition.gov* and the government-wide inventory can be filtered to display the inventory data for NSF. The National Science Foundation has posted its FY 2015 NSF Inventory Analysis including FY 2016 Analysis

Plan on the National Science Foundation homepage at the following link: *https://www.nsf.gov/publications/pub_summ.jsp?ods_key=nsf17133.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Richard Pihl in the BFA/DACS at 703–292–7395 or *rpihl@nsf.gov.*

Dated: October 11, 2017.

Suzanne Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017–22300 Filed 10–13–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0205]

Instructions for Recording and Reporting Occupational Radiation Dose Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–8056, ''Instructions for Recording and Reporting Occupational Radiation Dose Data.'' This DG is a proposed Revision 4 to Regulatory Guide (RG) 8.7 of the same name. The DG addresses issues that were identified after Revision 3 was issued in December 2016. The DG reinstates the long-standing staff position concerning a licensee's consideration of prior occupational dose when making prospective occupational dose monitoring determinations. The DG retains the guidance from Revision 3 on completing NRC Form 4, ''Cumulative Occupational Dose History,'' and NRC Form 5, ''Occupational Dose Record for a Monitoring Period.''

DATES: Submit comments by December 15, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0205. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2–A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Terry Brock, telephone: 301–415–1793; email: *Terry.Brock@nrc.gov* or Harriet Karagiannis, telephone: 301–415–2493; email: *Harriet.Karagiannis@nrc.gov.* Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0205 when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0205.

• *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. DG–8056 is electronically available in ADAMS under Accession No. ML17144A182.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0205 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The NRC staff is issuing DG–8056 for public comment to address issues identified by the NRC staff and other stakeholders subsequent to the issuance of RG 8.7, Revision 3 in December 2016. Revision 3 was issued as a draft (with a temporary identification of DG–8030) for public comment on August 28, 2015 (80 FR 52345) under ADAMS Accession No. ML15169A218. The public comment period for Revision 3 closed on October 27, 2015. The NRC received one set of comments from an industry association. Those comments and the NRC staff's responses are available under ADAMS Accession No. ML16060A392. The NRC issued Revision 3 in its final form on December 8, 2016 (81 FR 88710). The final version of Revision 3, however, modified a staff position regarding the consideration of prior occupational dose, and whether that should be a factor in licensee occupational monitoring determinations in accordance with 10 CFR 20.1502.

After issuing Revision 3, the Nuclear Energy Institute (NEI) submitted a letter to NRC stating that Revision 3 requires licensees to consider exposures received by employees during prior employment at a different facility when determining whether monitoring is required pursuant to section 10 CFR 20.1502, which was a change in agency position from: (1) The staff position that was in both Revisions 1 and 2 of Regulatory Guide 8.7, (2) the staff position that is in Regulatory Guide 8.34, and (3) over two decades of industry practice developed in accordance with these staff positions.

In response, the NRC staff reassessed the requirements in 10 CFR part 20 and concluded that another revision to RG 8.7 was warranted. This revision contains essentially the staff position as set forth in Revisions 1 and 2 of RG 8.7. However, the staff is not rescinding Revision 3 because it allows a more conservative option for those licensees who want to consider prior occupational dose when making 10 CFR 20.1502 determinations. DG–8056 retains clarifying changes made in Revision 3.

III. Use of NRC Forms 4 and 5

DG–8056 references NRC Form 4, ''Cumulative Occupational Dose History (04–2015),'' or its electronic equivalent, which is available for use by NRC licensees to record an individual's cumulative occupational dose history.

DG–8056 also references NRC Form 5, ''Occupational Dose Record for a Monitoring Period (04–2015),'' or its electronic equivalent, which is available for use by NRC licensees to record the occupational dose for any monitoring period beginning on or after January 1, 2016. As noted in the December 8, 2016 **Federal Register** notice for Revision 3, all NRC licensees should have begun using the updated NRC Form 5, ''Occupational Dose Record for a Monitoring Period (04–2015),'' or its equivalent, for any monitoring period beginning on or after January 1, 2017. Both forms are available online through the NRC Library on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections.*

IV. Backfitting

This DG addresses compliance with the NRC's requirements in 10 CFR part 20 to record and report an individual's cumulative occupational dose history and the occupational dose received by an individual for a specific monitoring period. The NRC regards these requirements as constituting information collection and reporting requirements. The NRC has long taken the position that information collection and reporting requirements are not subject to the NRC's backfitting and issue finality regulations in 10 CFR 50.109, 10 CFR 70.76, 10 CFR 72.62, 10 CFR 76.76, and 10 CFR part 52 (*e.g.,* ''Material Control and Accounting Methods,'' December 23, 2002 (67 FR 78130); and ''Regulatory Improvements to the Nuclear Materials Management and Safeguards System,'' June 9, 2008 (73 FR 32453)). Therefore, the NRC has determined that its backfitting and issue finality regulations would not apply to this DG, if ultimately issued as a RG, because the DG does not include any provisions within the scope of matters covered by the backfitting provisions in 10 CFR parts 50, 70, 72, or 76, or the issue finality provisions of 10 CFR part 52.

Dated at Rockville, Maryland, this 10th day of October 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–22289 Filed 10–13–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0204]

Performance Review Boards for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced appointments to the NRC Performance Review Board (PRB) responsible for making recommendations on performance appraisal ratings and performance awards for NRC Senior Executives and Senior Level System employees and appointments to the NRC PRB Panel responsible for making recommendations to the appointing and awarding authorities for NRC PRB members.

DATES: October 16, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0204 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0204. 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.*
- *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: Miriam L. Cohen, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–0747, email: *Miriam.Cohen@nrc.gov.*

SUPPLEMENTARY INFORMATION: The following individuals appointed as members of the NRC PRB are responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives and Senior Level System employees:

Victor M. McCree, Executive Director for Operations
Margaret M. Doane, General Counsel
Frederick D. Brown, Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital Programs, Office of the Executive Director for Operations
Catherine Haney, Regional Administrator, Region II
Kimberly A. Howell, Director, Office of Investigations
Michael R. Johnson, Deputy Executive Director for Reactor and Preparedness Programs, Office of the Executive Director for Operations
David J. Nelson, Chief Information Officer
Marc L. Dapas, Director, Office of Nuclear Material Safety and Safeguards
Michael F. Weber, Director, Office of Nuclear Regulatory Research
Brian E. Holian, Acting Director, Office of Nuclear Reactor Regulation
Maureen E. Wylie, Chief Financial Officer

The following individuals will serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

Brooke P. Clark, Director, Office of Commission Appellate Adjudication
Daniel H. Dorman, Regional Administrator, Region I
Andrea D. Veil, Executive Director, Advisory Committee on Reactor Safeguards

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

Dated at Rockville, Maryland, this 5th day of October 2017.

For the Nuclear Regulatory Commission.

Miriam L. Cohen,

Secretary, Executive Resources Board.

[FR Doc. 2017–22273 Filed 10–13–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81842; File No. SR–NYSEArca–2017–87

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the JPMorgan Equity Long/Short ETF Under NYSE Arca Rule 8.600–E

October 10, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 26, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 list and trade shares of the following under NYSE Arca Equities 8.600–E (''Managed Fund Shares''): JPMorgan Equity Long/Short ETF. The proposed change is available on the Exchange's Web site at *www.nyse.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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Rule 8.600–E, which governs the listing and trading of Managed Fund Shares [4] on the Exchange: [5] JPMorgan Equity Long/Short ETF (the ''Fund'').[6]

The Fund is a series of J.P. Morgan Exchange-Traded Fund Trust (''Trust''), a Delaware statutory trust. J.P. Morgan Investment Management Inc. (''Adviser'' or ''Administrator'') will be the investment adviser to the Fund and also provide administrative services for and oversee the other service providers for the Fund. The Adviser is a wholly-owned subsidiary of JPMorgan Asset Management Holdings Inc., which is an indirect, wholly-owned subsidiary of JPMorgan Chase & Co. (''JPMorgan Chase''), a bank holding company. JPMorgan Distribution Services, Inc. (''Distributor'') will be the distributor of the Fund's Shares.

Commentary .06 to Rule 8.600–E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes registered as a broker-dealer or

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of other series of the Trust that are actively managed funds under Rule 8.600–E. *See, e.g.,* Securities Exchange Act Release Nos. 79683 (December 23, 2016) (SR–NYSEArca–2016–82) (order approving a proposed rule change to list and trade shares of the JPMorgan Diversified Event Driven ETF under NYSE Arca Equities Rule 8.600); 77904 (May 25, 2016) (SR–NYSEArca–2016–17) (order approving a proposed rule change to list and trade of shares of the JPMorgan Diversified Alternatives ETF under NYSE Arca Equities Rule 8.600).

[6] The Trust is registered under the 1940 Act. On July 18, 2017, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and the 1940 Act relating to the Fund (File Nos. 333–191837 and 811–22903) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 31990 (February 9, 2016) (''Exemptive Order''). Investments made by the Fund will comply with the conditions set forth in the Exemptive Order.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

newly affiliated with one or more broker-dealers, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

JPMorgan Equity Long/Short ETF

According to the Registration Statement, the Fund will seek to provide long-term total return. The Fund will seek to profit by exploiting pricing inefficiencies between equity securities by maintaining long and short positions. It will do so based on a systematic investment process. The Adviser believes it has identified (and will continue to identify) a set of investment return sources that have a low correlation to each other and to traditional markets and have distinct risk and return profiles (each a ''return factor'').

Under normal market conditions,[8] the Fund will employ the ''Equity Long/Short'' strategy to access certain return factors. The strategy will involve simultaneously investing in equities (*i.e.,* investing long) that the Adviser believes are attractive based on relevant return factors and selling equities (selling short) that the Adviser believes are unattractive based on the relevant return factors.

Each return factor represents a potential source of investment return that results from, among other things, assuming a particular risk or taking advantage of a behavioral bias. According to the Registration Statement, the Adviser believes that, in general, the Fund's investment returns are attributable to the individual contributions of the various return factors. By employing this return factor based approach, the Fund seeks to provide positive total returns over time while maintaining a relatively low correlation with traditional markets.

The exposure to individual return factors may vary based on the market opportunity of the individual return factors. For example, the return factors that the Adviser may utilize include, but are not limited to, the following:

- Value—seek to purchase ''cheap'' stocks and sell short ''expensive'' stocks
- Momentum—seek to purchase companies with positive earnings revisions and strong price momentum and sell short stocks with negative earnings revisions and weak price momentum
- Size—seek to purchase small cap stocks and sell short large cap stocks
- Quality—seek to buy high quality stocks and sell short lower ranked stocks

Additional return factors may be identified over time.

The Fund will generally invest its assets globally to gain exposure, either directly or through the use of derivatives, to equity securities (across market capitalizations) in developed markets. The Fund may use both long positions (held directly or through the use of derivative instruments) and short positions (achieved primarily through the use of derivative instruments). The Fund generally will maintain a total net long market exposure under normal market conditions, meaning that the Fund's aggregate exposure will be greater to instruments that the Adviser expects to outperform. However, the Fund may have net long or net short exposure to one or more industry sectors, individual markets and/or currencies. To the extent that the Fund hedges its currency exposure into the U.S. dollar, it may reduce the effects of currency fluctuations.

The Adviser will make use of derivatives, including swaps, futures, options and forward contracts, in implementing its strategy (see ''The Fund's Use of Derivatives'', below). Under normal market conditions, the Adviser currently expects that a significant portion of the Fund's exposure will be attained through the use of derivatives in addition to its exposure through direct investment. Derivatives, which are instruments that have a value based on another instrument, exchange rate or index, will primarily be used as an efficient means of implementing a particular strategy in order to gain exposure to a desired return factor. For example, the Fund may use a total return swap to establish both long and short positions in order to gain the desired exposure rather than physically purchasing and selling short each instrument. Derivatives may also be used to increase gain, to effectively gain targeted exposure from its cash positions, to hedge various investments and/or for risk management. As a result of the Fund's use of derivatives and to serve as collateral, the Fund may hold significant amounts of U.S. Treasury obligations, including Treasury bills, bonds and notes and other obligations issued or guaranteed by the U.S. Treasury, obligations of other sovereign governments or supranational entities, other short-term investments, including money market funds and foreign currencies in which certain derivatives are denominated.

Under normal market conditions, at least 80% of the Fund's assets will be invested in equity securities and in derivative instruments that provide exposure to equity securities. ''Assets'' means net assets, plus the amount of borrowings for investment purposes. The amount that may be invested in any one instrument will vary and generally depend on the return factors employed by the Adviser at that time. As long as the Fund meets its 80% requirement, there are no other stated percentage limitations on the amount that can be invested in any one type of instrument, and the Adviser may, at times, focus on a smaller number of instruments.[9] The Fund is generally unconstrained by any particular capitalization, style or sector and may invest in any developed region or country. The Fund may have both long and short exposure to these instruments. Given the complexity of the investments and strategies of the Fund, the Adviser will make use of quantitative models and information and data supplied by third parties to, among other things, help determine the portfolio's weightings among various investments and construct sets of transactions and investments.

The Fund will purchase a particular instrument when the Adviser believes that such instrument will allow the Fund to gain the desired exposure to a return factor. Conversely, the Fund will consider selling a particular instrument when it no longer provides the desired exposure to a return factor. In addition, investment decisions will take into account a return factor's contribution to the Fund's overall volatility. In allocating assets, the Adviser seeks to approximately balance risk to the individual return factors over the long term, although the exposure to individual return factors will vary based on, among other things, the opportunity the Adviser sees in each individual return factor.

Principal Investments

For purposes of calculating the percentage of principal investments under this proposed rule change, under normal market conditions, at least 80% of the Fund's assets will be invested in U.S. and foreign exchange-traded equity

[8] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[9] The Fund's investments would be subject to any applicable percentage limitations in Commentary .01 to NYSE Arca Rule 8.600–E.

securities, derivatives instruments that provide exposure to such equity securities, and currency forward transactions.

The Fund may invest in the following exchange-listed equity securities: U.S. and foreign exchange-listed common stocks of U.S. and foreign corporations, U.S. and foreign exchange-listed preferred stocks of U.S. and foreign corporations, U.S. and foreign exchange-listed warrants of U.S. and foreign corporations, U.S. and foreign exchange-listed rights of U.S. and foreign corporations, and U.S. and foreign exchange-listed master limited partnerships (''MLPs'').

The Fund may purchase and sell U.S. exchange-traded futures on U.S. and foreign equities, U.S. exchange-traded options on U.S. and foreign equity futures, and U.S. exchange-traded futures on U.S. and foreign stock indexes.

The Fund may invest in over-the-counter (''OTC'') and U.S. exchange-traded call and put options on equity securities and equity securities indexes.

The Fund may invest in OTC total return swaps on U.S. and foreign equities and U.S. and foreign equity indices.

The Fund may invest in forward currency transactions. Such investments consist of non-deliverable forwards (''NDFs''), foreign forward currency contracts,[10] caps and floors.

The Fund may invest in exchange-traded real estate investment trusts (''REITs''). Exchange-listed REITs will be traded on U.S. national securities exchanges and on non-U.S. exchanges.

The Fund may invest in U.S. and foreign exchange-listed and OTC Depositary Receipts.[11]

The Fund may invest in OTC-traded convertible securities (bonds or preferred stock that can convert to common stock).

The Fund may engage in short sales of equity securities.

Other Investments

While the Fund, under normal market conditions, will invest at least eighty percent (80%) of its assets in the securities and financial instruments described above, the Fund may invest its remaining assets in other assets and financial instruments, as described below.

The Fund may invest in cash and cash equivalents which are investments in money market funds (including funds for which the Adviser and/or its affiliates may serve as investment adviser or administrator), bank obligations,[12] and commercial paper.[13]

The Fund may invest in OTC-traded contingent value rights (''CVRs'').

The Fund may invest in U.S. Government obligations, which may include direct obligations of the U.S. Treasury, including Treasury bills, notes and bonds, all of which are backed as to principal and interest payments by the full faith and credit of the United States, and separately traded principal and interest component parts of such obligations that are transferable through the Federal book-entry system known as Separate Trading of Registered Interest and Principal of Securities (STRIPS) and Coupons Under Book Entry Safekeeping (''CUBES'').

The Fund may invest in U.S. and foreign corporate debt.

The Fund may invest in sovereign obligations, which are investments in debt obligations issued or guaranteed by a foreign sovereign government or its agencies, authorities or political subdivisions. The Fund may also invest in obligations of supranational entities including securities designated or supported by governmental entities to promote economic reconstruction or development of international banking institutions and related government agencies.

The Fund may invest in spot currency transactions.

The Fund may invest in repurchase and reverse repurchase agreements.

The Fund may invest in Rule 144A securities and Regulation S securities.

Other Restrictions

The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).[14]

The Fund's Use of Derivatives

The Fund proposes to seek certain exposures through transactions in the specific derivative instruments described above. The derivatives to be used are futures, swaps, forwards and call and put options. Derivatives, which are instruments that have a value based on another instrument, exchange rate or index, may also be used as substitutes for securities in which the Fund can invest. The Fund may use these derivative instruments to increase gain, to effectively gain targeted exposure from its cash positions, to hedge various investments and/or for risk management.

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To limit the potential risk associated with such transactions, the Fund will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (the ''Board'') and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile

[10] A foreign currency forward contract is a negotiated agreement between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate. The rate can be higher or lower than the spot rate between the currencies that are the subject of the contract.

[11] Depositary Receipts include American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs'') and European Depositary Receipts (''EDRs''). ADRs are receipts typically issued by an American bank or trust company that evidence ownership of underlying securities issued by a foreign corporation. EDRs are receipts issued by a European bank or trust company evidencing ownership of securities issued by a foreign corporation. GDRs are receipts issued throughout the world that evidence a similar arrangement. ADRs, EDRs and GDRs may trade in foreign currencies that differ from the currency the underlying security for each ADR, EDR or GDR principally trades in. Generally, ADRs, in registered form, are designed for use in the U.S. securities markets. EDRs, in registered form, are used to access European markets. GDRs, in registered form, are tradable both in the United States and in Europe and are designed for use throughout the world. No more than 10% of the net assets of the Fund will be invested in ADRs that are not exchange-listed.

[12] Bank obligations include the following: Bankers' acceptances, certificates of deposit and time deposits. Bankers' acceptances are bills of exchange or time drafts drawn on and accepted by a commercial bank. Maturities are generally six months or less. Certificates of deposit are negotiable certificates issued by a bank for a specified period of time and earning a specified return. Time deposits are non-negotiable receipts issued by a bank in exchange for the deposit of funds.

[13] Commercial paper consists of secured and unsecured short-term promissory notes issued by corporations and other entities. Maturities generally vary from a few days to nine months.

[14] The Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

than if it had not been leveraged.[15] Because the markets for certain assets, or the assets themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

Creation and Redemption of Shares

The consideration for a purchase of Creation Units will generally be cash, but may consist of an in-kind deposit of a designated portfolio of equity securities and other investments (the ''Deposit Instruments'') and an amount of cash computed as described below (the ''Cash Amount'') under some circumstances. The Cash Amount together with the Deposit Instruments, as applicable, are referred to as the ''Portfolio Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The size of a Creation Unit will be 50,000 Shares and will be subject to change.

In the event the Fund requires Deposit Instruments and a Cash Amount in consideration for purchasing a Creation Unit, the function of the Cash Amount is to compensate for any differences between the net asset value (''NAV'') per Creation Unit and the Deposit Amount (as defined below). The Cash Amount would be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which is an amount equal to the aggregate market value of the Deposit Instruments. If the Cash Amount is a positive number (the NAV per Creation Unit exceeds the Deposit Amount), the Authorized Participant will deliver the Cash Amount. If the Cash Amount is a negative number (the NAV per Creation Unit is less than the Deposit Amount), the Authorized Participant will receive the Cash Amount. The Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time (''E.T.'')), the list of the names and the required number of shares of each Deposit Instrument to be included in the current Portfolio Deposit (based on information at the end of the previous business day), as well as information regarding the Cash Amount for the Fund. Such Portfolio Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

The identity and number of the Deposit Instruments and Cash Amount required for the Portfolio Deposit for the Fund changes as rebalancing adjustments and corporate action events are reflected from time to time by the Adviser with a view to the investment objective of the Fund. In addition, the Trust reserves the right to accept a basket of securities or cash that differs from Deposit Instruments or to permit the substitution of an amount of cash (*i.e.,* a ''cash in lieu'' amount) to be added to the Cash Amount to replace any Deposit Instrument which may, among other reasons, not be available in sufficient quantity for delivery, not be permitted to be re-registered in the name of the Trust as a result of an in-kind creation order pursuant to local law or market convention or for other reasons as described in the Registration Statement, or which may not be eligible for trading by a Participating Party (defined below). In light of the foregoing, in order to seek to replicate the in-kind creation order process, the Trust expects to purchase the Deposit Instruments represented by the cash in lieu amount in the secondary market.

Procedures for Creation of Creation Units

To be eligible to place orders with the Distributor to create Creation Units of the Fund, an entity or person either must be (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC; or (2) a Depositary Trust Company (''DTC'') Participant, which, in either case, must have executed an agreement with the Distributor (as it may be amended from time to time in accordance with its terms) (''Participant Agreement''). A Participating Party and DTC Participant are collectively referred to as an ''Authorized Participant.'' All orders to create Creation Units must be received by the Distributor no later than the closing time of the regular trading session on the Exchange (''Closing Time'') (ordinarily 4:00 p.m. E.T.), in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

Redemption of Creation Units

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor, only on a business day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. The Trust will not redeem Shares in amounts less than Creation Units. All orders to redeem Creation Units must be received by the Distributor no later than the Exchange Closing Time (ordinarily 4:00 p.m. E.T.).

Although the Fund will generally pay redemption proceeds in cash, there may be instances when it will make redemptions in-kind. In these instances, the Administrator, through NSCC, makes available immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.) on each day that the Exchange is open for business, the identity of the Fund's assets and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. With respect to redemptions in-kind, the redemption proceeds for a Creation Unit generally consist of ''Redemption Instruments'' (which are securities received on redemption) as announced by the Administrator on the business day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Redemption Instruments, less the redemption transaction fee and variable fees described below.

Should the Redemption Instruments have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the Trust equal to the differential plus the applicable redemption transaction fee will be required to be arranged for by or on behalf of the redeeming shareholder. The Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Redemption Instruments if, among other reasons, such instruments are not permitted to be re-registered in the name of the customer as a result of an in-kind redemption order pursuant to local law or market convention or for other reasons as described in the Registration Statement, or which may not be eligible for trading by a Participating Party.[16]

[15] To mitigate leveraging risk, the Adviser will segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk.

[16] The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

Derivatives Valuation Methodology for Purposes of Determining Intra-Day Indicative Value

On each business day, before commencement of trading in Fund Shares on NYSE Arca, the Fund will disclose on its Web site the identities and quantities of the portfolio instruments and other assets held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.

In order to provide additional information regarding the intra-day value of Shares of the Fund, one or more major market data vendors will disseminate every 15 seconds, during the Exchange's Core Trading Session, through the facilities of the Consolidated Tape Association (''CTA'') or other widely disseminated means, an updated Portfolio Indicative Value (''PIV'') for the Fund as calculated by a third party market data provider.

A third party market data provider will calculate the PIV for the Fund. The third party market data provider may use market quotes if available or may fair value securities against proxies (such as swap or yield curves).

With respect to specific derivatives:

- NDFs and foreign forward currency contracts may be valued intraday using market quotes, or another proxy as determined to be appropriate by the third party market data provider.
- Futures may be valued intraday using the relevant futures exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- Total return swaps may be valued intraday using the underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Exchange listed options may be valued intraday using the relevant exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- OTC options may be valued intraday through option valuation models (*e.g.,* Black-Scholes) or using exchange traded options as a proxy, or another proxy as determined to be appropriate by the third party market data provider.

Disclosed Portfolio

The Fund's disclosure of derivative positions in the applicable Disclosed Portfolio includes information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose the information regarding the Disclosed Portfolio required under NYSE Arca Rule 8.600–E (c)(2) to the extent applicable. The Fund's Web site information will be publicly available at no charge.

Impact on Arbitrage Mechanism

The Adviser believes there will be minimal impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a ''cash in lieu'' amount when the Fund processes purchases or redemptions of creation units in-kind.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolio for the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio would meet all such requirements except for those set forth in Commentary .01(e) to NYSE Arca Rule 8.600–E[17] and Commentary .01(b)(3) to NYSE Arca Rule 8.600–E.[18]

With respect to Commentary .01(e), the aggregate gross notional value of the Fund's investments in OTC derivatives may exceed 20% of Fund assets, calculated based on the aggregate gross notional value of such OTC derivatives.

The Adviser represents that it intends to engage in strategies that utilize foreign currency forward transactions, total return swaps on equities (which swaps may be traded OTC) and OTC options (as described above) based on its investment strategies. Depending on market conditions, the exposure due to these strategies may exceed 20% of the Fund's assets. The Adviser represents further that the foreign exchange forward market is OTC and total return swaps will be traded OTC, and, as such, it is not possible to implement these strategies efficiently using listed derivatives. In addition, use of OTC options on equity securities and equity securities indexes may be an important means to reduce risk in the Fund's equity investments, or, depending on market conditions, to enhance returns of the such investments. If the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund would have to exclude or underweight these strategies and would be less diversified, concentrating risk in the other strategies it will utilize.

The Adviser represents that the Fund will follow an investment strategy utilized within the JP Morgan Diversified Alternatives ETF, shares of which have previously been approved by the Commission for Exchange listing and trading.[19] As noted above, the Fund may use the derivative instruments described above to increase gain, to effectively gain targeted exposure from its cash positions, to hedge various investments and/or for risk management.

With respect to Commentary .01(b)(3), the Fund's investment in fixed income securities, including corporate debt and OTC-traded convertible securities, will not meet the requirement that a portfolio (excluding exempted securities) that includes fixed income securities shall include a minimum of 13 non-affiliated issuers. The Fund's investment in corporate debt will not exceed 5% of the Fund's assets and the Fund's investment in OTC-traded convertible securities also will not exceed 5% of the Fund's assets. The Adviser believes that it is appropriate to permit a small investment in corporate debt and OTC-traded convertible securities in order to permit the Fund to diversify its investments to enhance investor returns. Because such investments would be de minimis, it would be difficult for the Fund to

[17] Commentary .01(e) to NYSE Arca Rule 8.600–E provides that a portfolio may hold OTC derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

[18] Commentary .01(b)(3) to NYSE Arca 8.600–E provides that an underlying portfolio (excluding exempted securities) that includes fixed income securities shall include a minimum of 13 non-affiliated issuers, provided, however, that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in Commentary .01(a) to Rule 8.600–E.

[19] *See* note 5, *supra.*

diversify such investments in order to comply with the requirement that fixed income securities include at least 13 non-affiliated issuers.

The Exchange notes that, other than Commentary .01(e) and Commentary .01(b)(3) to Rule 8.600–E, the Fund will meet all other requirements of Rule 8.600–E.

Availability of Information

The Fund's Web site (*www.jpmorganfunds.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[20] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Adviser will disclose on the Fund's Web site the Disclosed Portfolio for the Fund as defined in NYSE Arca Rule 8.600–E(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[21]

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.*

Quotation and last sale information for the Shares and for portfolio holdings of the Fund that are U.S. exchange-listed, including certain options (as described above), common stocks, warrants, rights, MLPs, preferred stocks, REITs, and Depositary Receipts will be available via the CTA high speed line. Quotation and last sale information for such U.S. exchange-listed securities, as well as U.S. exchange-traded futures will be available from the exchange on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Quotation and last sale information for foreign exchange-listed equity securities will be available from the exchanges on which they trade and from major market data vendors, as applicable. Price information for preferred stocks will be available from one or more major market data vendors or from broker-dealers.

Quotation information for OTC options, cash equivalents, swaps, obligations of supranational agencies, money market funds, U.S. Government obligations, U.S. Government agency obligations, sovereign obligations, repurchase and reverse repurchase agreements, and U.S. and foreign corporate debt may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The U.S. dollar value of foreign securities, instruments and currencies can be derived by using foreign currency exchange rate quotations obtained from nationally recognized pricing services. Forwards and spot currency price information will be available from major market data vendors. Price information for OTC Depositary Receipts, CVRs, convertible securities, 144A securities and Regulation S securities is available from major market data vendors.

In addition, the PIV, as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[22] The dissemination of the PIV, together with the Disclosed Portfolio, will allow investors to determine the approximate value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[23] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares of the Fund inadvisable.

Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [24] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of the Fund that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[25] The Exchange

[20] The Bid/Ask Price of the Fund's Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[21] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[22] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available PIVs taken from the CTA or other data feeds.

[23] *See* NYSE Arca Rule 7.12–E.

[24] 17 CFR 240 10A–3.

[25] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory

represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, and certain exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[26] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares of the Fund. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares of the Fund will be calculated after 4:00 p.m. E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[27] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-listed equity securities, certain futures, and certain exchange-traded options with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

The PIV, as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), deemed illiquid by the Adviser, consistent with Commission guidance.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE

services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[26] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[27] 15 U.S.C. 78f(b)(5).

Arca Rule 5.3–E. A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of the Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. On a daily basis, the Fund will disclose the information regarding the Disclosed Portfolio required under NYSE Arca Rule 8.600–E (c)(2) to the extent applicable. The Fund's Web site information will be publicly available at no charge.

Investors can also obtain the Trust's SAI, the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Quotation and last sale information for the Shares and for portfolio holdings of the Fund that are U.S. exchange listed, including common stocks, preferred stocks, MLPs, REITs, and U.S. exchange-traded ADRs will be available via the CTA high speed line.

The Exchange believes that it is appropriate and in the public interest to allow the Fund to exceed the 20% limit in Commentary .01(e) to Rule 8.600–E of portfolio assets that may be invested in OTC derivatives. Because the Fund, in furtherance of its investment objective, may invest a substantial percentage of its investments in foreign currency forward transactions, total return swaps on equities (which will be traded OTC) and OTC options (as described above), the 20% limit in Commentary .01(e) to Rule 8.600 could result in the Fund being unable to fully pursue its investment objective while attempting to sufficiently mitigate investment risks. The inability of the Fund to adequately hedge its holdings would effectively limit the Fund's ability to invest in certain instruments, or could expose the Fund to additional investment risk. In addition, use of OTC options on equity securities and equity securities indexes may be an important means to reduce risk in the Fund's equity investments. As noted above, the Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To limit the potential risk associated with such transactions, the Fund will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. To mitigate leveraging risk, the Adviser will segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk. Because the markets for certain assets, or the assets themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure. In addition, OTC derivatives may be tailored more specifically to the assets held by the Fund than available listed derivatives. If the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund would have to exclude or underweight these strategies and would be less diversified, concentrating risk in the other strategies it will utilize. The Adviser also represents that the Fund will follow an investment strategy utilized within the JP Morgan Diversified Alternatives ETF, shares of which have previously been approved by the Commission for Exchange listing and trading pursuant to Section 19(b)(2) of the Act.[28] The Exchange further believes that the Fund would be placed at a competitive disadvantage to the JP Morgan Diversified Alternatives ETF other, [sic] if the Fund's portfolio could not exceed the 20% limit in Commentary .01(e) to Rule 8.600 of portfolio assets that may be invested in OTC derivatives, as described above.

With respect to Commentary .01(b)(3) to Rule 8.600–E, the Exchange believes that it is appropriate and in the public interest to allow the Fund to hold fixed income securities that include fewer than 13 non-affiliated issuers because the Fund's investment in corporate debt will not exceed 5% of the Fund's assets and the Fund's investment in OTC-traded convertible securities also will not exceed 5% of the Fund's assets. Such investments would be de minimis and, therefore, it could be difficult for the Fund to diversify such investments in order to comply with the requirement that fixed income securities include at least 13 non-affiliated issuers. Because the Fund's investment in such fixed income securities would constitute only a small portion of the Fund's portfolio, the Exchange believes the Fund would not be susceptible to manipulation.

The Exchange notes that, other than Commentary .01(e) and Commentary .01(b)(3) to Rule 8.600–E, the Fund will meet all other requirements of Rule 8.600–E.

The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Fund's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that that holds fixed income securities, equity securities and derivatives and that will enhance competition among market participants, to the benefit of

[28] *See* note 5, *supra.*

investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares of the Fund and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio for the Fund, and quotation and last sale information for the Shares of the Fund.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that holds fixed income securities, equity securities and derivatives and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–87 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–NYSEArca–2017–87. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–87 and should be submitted on or before November 6, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22263 Filed 10–13–17; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81841; File No. SR–MSRB–2017–07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to MSRB Rule A–11, on Assessments for Municipal Advisor Professionals, To Amend the Annual Municipal Advisor Professional Fee

October 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2017 the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB filed with the Commission a proposed rule change to amend MSRB Rule A–11, on assessments for municipal advisor professionals, to increase the annual municipal advisor professional fee from $300 to $500 and make other technical changes (the ''proposed rule change''). The MSRB has designated the proposed rule change for immediate effectiveness. The MSRB will send the first invoice at the new fee level to firms in April 2018 for payment by April 30, 2018.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2017-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase the existing annual municipal advisor professional fee assessment to help defray the costs and expenses of operating and administering the MSRB, particularly the MSRB's regulatory and related activities in connection with municipal advisors. In the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''),[3] Congress charged the Commission and the MSRB with the regulation of municipal advisors and specifically granted the MSRB authority to charge municipal advisors reasonable fees to defray the costs of the operation of the MSRB.[4] In its exercise of authority granted by Congress, the MSRB has since developed a comprehensive regulatory framework for municipal advisors.[5] To help defray the costs of this and related activities, in 2014, the MSRB adopted Rule A–11, on assessments for municipal advisor professionals.

Pursuant to Rule A–11, each municipal advisor firm that is registered with the Commission is required to pay to the Board a recurring annual fee equal to $300 for each Form MA–I filed with the Commission by such municipal advisor as of January 31 of each year. Rule A–11 also provides for late fees on assessments that are not paid in full, and includes a transitional provision that, at the time of Rule A–11's adoption, was necessary to take into account the timing of the phased-in compliance period for the SEC's permanent municipal advisor registration process.

The proposed rule change would amend Rule A–11(a) to provide that each municipal advisor that is registered with the Commission shall pay to the Board a recurring annual fee, equal to $500 for each person associated with the municipal advisor who is qualified as a municipal advisor representative in accordance with Rule G–3 and for whom the municipal advisor has on file with the Commission a Form MA–I as of January 31 of each year (''covered persons'').[6] Amended Rule A–11(a) would increase the amount of the current assessment from $300 to $500 and delete a now-outdated reference to the fiscal year for which the annual municipal advisor professional fee first became due. In addition, a minor amendment to section (a) would help streamline the rule by deleting the unnecessary clause ''and shall be payable'' from the final sentence in that section. Lastly, amendments to Rule A–11(a) would provide that the assessment payable would be determined based on the number of Form MA-Is on file with the Commission (as it is currently determined) and based on the number of associated persons qualified as a municipal advisor representative in accordance with Rule G–3. A person is qualified as a municipal advisor representative in accordance with Rule G–3(d) when such person has taken and passed the Municipal Advisor Representative Qualification Examination (the ''Series 50 exam'').[7]

An amendment to Rule A–11(b) would provide that a municipal advisor that fails to timely pay in full ''the total'' annual municipal advisor professional fee due under section (a) shall pay a monthly late fee equal to $25 for such failure, while another amendment would delete the reference to the monthly fee being payable ''for each $300 assessment not paid in full.'' Together, these amendments to section (b) are intended to make clear that a separate $25 monthly late fee would not be due for each covered person for which the $300 fee was not timely paid. Rather, a municipal advisor firm would be required to pay only one $25 monthly late fee (regardless of the number of its covered persons for which the per professional fee was not timely paid) if it fails timely to pay in full the total fee due under section (a).[8] Finally, the proposed rule change would delete Rule A–11(c) because that provision pertains to a transitional municipal advisor professional fee that no longer has application. A related minor technical amendment to Rule A–11(b) would delete a reference to Rule A–11(c).

The MSRB believes that the proposed fee increase reflected in the proposed amendments to Rule A–11(a) is reasonable as well as necessary and appropriate to help defray the costs of operating and administering the MSRB. It is also a step towards achieving the MSRB's strategic goal of promoting long-term financial stability by assessing fair and equitable fees, and diversifying funding sources. The MSRB believes the proposed rule change will help the organization provide for assessments that are increasingly more fairly and equitably apportioned among all registrants. The MSRB notes that, consistent with the Board's long-standing prohibition on charging or otherwise passing through to issuers the fees required under Rule A–13,[9] municipal advisors similarly would be prohibited from charging or otherwise passing through the fees required under Rule A–11 to issuers.

[3] Public Law No. 111–203, 124 Stat. 1376 (2010).

[4] *See* 15 U.S.C. 78*o*–4(b)(2)(J).

[5] In furtherance of this framework, the MSRB developed a professional qualification exam, adopted new rules for municipal advisors and extended existing rules to municipal advisors that previously applied only to brokers, dealers and municipal securities dealers (collectively, ''dealers.'') These include, but are not limited to: Rule G–44 regarding the supervisory and compliance obligations of municipal advisors, *see* Release No. 34–73415 (October 23, 2014), 79 FR 64423 (October 29, 2014) (File No. SR–MSRB–2014–06) (SEC order approving Rule G–44); Rule G–42 regarding the duties of non-solicitor municipal advisors, *see* Release No. 34–76753 (December 23, 2015), 80 FR 81614 (December 30, 2015) (File No. SR–MSRB–2015–03) (SEC order approving Rule G–42); amendments to Rule G–20, on gifts, gratuities and non-cash compensation, to extend provisions of the rule to municipal advisors, *see* Release No. 34–76381 (November 6, 2015), 80 FR 70271 (November 13, 2015) (File No. SR–MSRB–2015–09) (SEC order approving amendments to Rule G–20); amendments to Rule G–37, on political contributions and prohibitions on municipal securities business, to extend its provisions to municipal advisors, *see* Release No. 34–76763 (December 23, 2015), 80 FR 81710 (December 30, 2015) (File No. SR–MSRB–2015–14) (Notice of filing of proposed amendments to Rule G–37); and amendments to Rule G–3 to establish registration and professional qualification requirements for municipal advisors, *see* Release No. 34–74384 (February 26, 2015), 80 FR 11706 (March 4, 2015) (File No. SR–MSRB–2014–08) (SEC order approving registration and professional qualification requirements for municipal advisor representatives and municipal advisor principals).

[6] While the MSRB has designated the proposed rule change for immediate effectiveness, by its terms, the assessment at the $500 per covered person rate would be based on covered persons as of January 31 of each year. As noted above, the MSRB will send the first invoice at the new fee level (measured as of January 31, 2018) to firms in April 2018 for payment by April 30, 2018.

[7] As of September 12, 2017, only an associated person of a municipal advisor firm who has passed the Series 50 exam may engage in municipal advisory activities on behalf of the municipal advisor firm. Additionally, municipal advisor principals must likewise qualify as a municipal advisor representative by passing the Series 50 exam. *See* MSRB Notice 2017–09, MSRB Reminds Municipal Advisors that the Series 50 Exam Deadline is September 12, 2017 (May 8, 2017). Because all municipal advisor principals must also qualify as a municipal advisor representative, the $500 assessment would equally apply to municipal advisor principals.

[8] This late fee would be in addition to a late fee on the total overdue balance based on the Prime Rate.

[9] *See* Release No. 34–81264 (July 31, 2017), 82 FR 36472, n. 18 (August 4, 2017) (File No. SR–MSRB–2017–05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Assess an Underwriting Fee on Dealers That Are Underwriters of Primary Offerings of Plans).

The Board's Holistic Review of MSRB Fees

The MSRB assesses dealers and municipal advisors (collectively, ''regulated entities'') various fees designed to defray the costs of its operations and administration, including rulemaking, market transparency, and educational and market outreach initiatives that fulfill its Congressional mandate to, among other things, protect investors, state and local governments and other municipal entities, obligated persons and the public interest and promote a fair and efficient municipal securities market.[10] Section 15B(b)(2)(J) of the Act [11] provides, in pertinent part, that each regulated entity shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs of operating and administering the Board, and that the MSRB shall have rules specifying the amount of such fees. The current fees so specified by MSRB rules are:

1. Municipal Advisor Professional Fee (Rule A–11)

$300 annually per Form MA–I on file with the SEC by the municipal advisor;

2. Late Fee (Rules A–11 and A–12)

$25 monthly late fee and a late fee on the overdue balance (computed according to the prime rate) until paid on balances not paid within 30 days of the invoice date by the dealer or municipal advisor;

3. Initial Registration Fee (Rule A–12)

$1,000 one-time registration fee to be paid by each dealer to register with the MSRB before engaging in municipal securities activities and by each municipal advisor to register with the MSRB before engaging in municipal advisory activities;

4. Annual Registration Fee (Rule A–12)

$1,000 annual fee to be paid by each dealer and municipal advisor registered with the MSRB;

5. Underwriting Fee (Rule A–13)

$.0275 per $1,000 of the par value paid by a dealer, on all municipal securities purchased from an issuer by or through such dealer, whether acting as principal or agent as part of a primary offering, except in limited circumstances; and in the case of an underwriter (as defined in Rule G–45) of a primary offering of certain municipal fund securities, $.005 per $1,000 of the total aggregate assets for the reporting period; [12]

6. Transaction Fee (Rule A–13)

.001% ($.01 per $1,000) of the total par value to be paid by a dealer, except in limited circumstances, for inter-dealer sales and customer sales reported to the MSRB pursuant to Rule G–14(b), on transaction reporting requirements;

7. Technology Fee (Rule A–13)

$1.00 paid by a dealer per transaction for each inter-dealer sale and for each sale to customers reported to the MSRB pursuant to Rule G–14(b); and

8. Professional Qualification Examination Fee (Rule A–16)

$150 test development fee assessed per candidate for each MSRB professional qualification examination.[13]

Initiated in 2015, the Board's holistic review of fees that the Board assesses on regulated entities continues. The Board evaluates those fees with the goal of better aligning revenue sources with operating expenses and all capital needs. The Board strives to diversify funding sources among regulated entities and other entities that fund MSRB activities in a manner that ensures long-term sustainability, while continuing to strike an equitable balance among regulated entities and a fair allocation of the expenses of the regulatory activities, systems development and operational activities undertaken by the MSRB. In determining the fair allocation of the cost of MSRB regulation to regulated entities, the Board considers, among other things: Registration to engage in municipal securities or municipal advisory activities; the level of dealer market activity; and the number of associated persons engaged in municipal advisory activities on behalf of a municipal advisor. Recognizing that in any given year there could be more or less activity by a particular class of regulated entities, the Board, as it has historically, seeks to maintain a fee structure that results in a balanced and reasonable contribution over time from all regulated entities to defray costs and expenses of operating and administering the MSRB.

As part of the Board's ongoing review and examination of fees, the Board reviewed the amount of the $300 per professional fee charged under Rule A–11. This fee was originally established in 2014 as a reasonable initial starting amount to help defray the costs and expenses of operating and administering the MSRB, particularly the MSRB's regulatory and related activities in connection with municipal advisors.[14]

These regulatory activities include the development and implementation of a comprehensive regulatory framework for municipal advisors, including: The extension to municipal advisors of rules that previously only applied to dealers on the subject of fair dealing and specified forms of conflicts of interest; [15] the adoption of new rules for municipal advisors that establish the core standards of conduct for non-solicitor municipal advisors and that establish supervisory and compliance obligations for municipal advisor firms; [16] the creation of new municipal advisor recordkeeping requirements and municipal advisory client education and protection provisions; [17] and the development and implementation of professional standards for municipal advisors to help ensure that all

[10] *See* Section 15B(b)(2) of the Act (15 U.S.C. 78*o*–4(b)(2)) (in relevant part, requiring the Board to propose and adopt rules for municipal advisors with respect to municipal financial products, the issuance of municipal securities and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors).

[11] 15 U.S.C. 78*o*–4(b)(2)(J).

[12] Beginning in May 2018, the Board will invoice underwriters of a primary offering of certain municipal fund securities for the assessments due. *See* Release No. 34–81264 (July 31, 2017), 82 FR 36472 (August 4, 2017) (File No. SR–MSRB–2017–05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Assess an Underwriting Fee on Dealers That Are Underwriters of Primary Offerings of Plans).

[13] In addition, the MSRB charges data subscription and service fees for subscribers, including regulated entities, seeking direct electronic delivery of municipal trade data and disclosure documents associated with municipal bond issues. However, this information is available without direct electronic delivery on the EMMA Web site without charge.

[14] *See* Release No. 34–72019 (April 25, 2014), 79 FR 24798, 24798 (May 1, 2014) (File No. SR–MSRB–2014–03) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of New Rule A–11, on Assessments for Municipal Advisor Professionals); *see also* MSRB Notice 2014–09, MSRB to Implement New MSRB Rule A–11 Establishing Fees for Municipal Advisor Professionals (April 17, 2014).

[15] *See* Rule G–17, Conduct of Municipal Securities and Municipal Advisory Activities; Rule G–20, Gifts Gratuities, Non-Cash Compensation and Expenses of Issuance; and Rule G–37, Political Contributions and Prohibitions on Municipal Securities Business and Municipal Advisory Business available at *http://msrb.org/Rules-and-Interpretations/MSRB-Rules.aspx.*

[16] *See* Rule G–42, Duties of Non-Solicitor Municipal Advisors; Rule G–44, Supervisory and Compliance Obligations of Municipal Advisors available at *http://msrb.org/Rules-and-Interpretations/MSRB-Rules.aspx.*

[17] *See* Rule G–8, Books and Records to be Made by Brokers, Dealers, and Municipal Securities Dealers and Municipal Advisors; and Rule G–10, Investor and Municipal Advisory Client Education and Protection available at *http://msrb.org/Rules-and-Interpretations/MSRB-Rules.aspx.* Effective October 13, 2017, current Rule G–10, Delivery of Investor Brochure, will be replaced in its entirety by new Rule G–10.

municipal advisors are competent and qualified.[18] As part of the implementation of this latter category of rules, the MSRB also established the Series 50 exam, a baseline test of a municipal advisor's competency and knowledge of applicable rules.

To assist municipal advisors in understanding and complying with this new regulatory framework, the MSRB has undertaken considerable education, outreach and compliance activities. These include, but are not limited to: The creation of educational documents, resources and compliance-oriented notices and communications; [19] the development of educational webinars and the organization of, and participation in, outreach events; [20] and the launch of an expanded on-demand education program, MuniEdPro®, which was designed, in part, to serve the education needs of regulated entities.

Looking forward to Fiscal Year 2018, the MSRB expects to continue its many activities relating to municipal advisors, including its significant education, outreach and compliance initiatives. The MSRB will also be developing a new municipal advisor principal-level professional qualification examination—the Series 54—for anticipated availability as a pilot in 2019.[21]

In an August 2015 fee filing associated with the Board's holistic review of fees,[22] the MSRB explained that, at that time, it was not modifying the $300 municipal advisor per professional fee to provide municipal advisors with additional time for the municipal advisor regulations and business models to more fully develop. However, the MSRB explained that the targeted revenue to be generated from the municipal advisor professional fee of approximately $2 million at that time, or approximately 5% of total MSRB revenues, was not yet being met and the per professional fee would need to be increased in the future. The proposed rule change is the next step towards moving closer to that revenue target.[23]

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(J) of the Act [24] which states that the MSRB's rules shall:

> provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges, which may include charges for failure to submit to the Board, or to any information system operated by the Board, within the prescribed timeframes, any items of information or documents required to be submitted under any rule issued by the Board.

The MSRB believes that its rules, as amended by the proposed rule change, provide for reasonable dues, fees, and other charges among regulated entities. The MSRB believes that the proposed rule change is necessary and appropriate to fund the operation and administration of the Board and satisfies the requirements of Section 15B(b)(2)(J).[25] The MSRB believes the proposed rule change is necessary because it will help defray the costs of the Board's significant rulemaking, market transparency, educational and market outreach initiatives, market leadership, professional qualifications examination development and other activities relating to municipal advisors. As discussed above, the MSRB has engaged in significant rulemaking to put into place a regulatory framework for municipal advisors and has engaged in considerable activities to assist municipal advisors in understanding their obligations and comply with the applicable rules. In addition, because the MSRB does not have any examination or enforcement authority, the MSRB has enhanced its coordination with the regulatory authorities charged with the authority to examine for compliance with and enforce MSRB rules. The MSRB frequently provides rule interpretations, training related to the market and MSRB rules, and access to municipal market information in support of the municipal advisor examination and enforcement activities of these regulatory authorities. The MSRB expects to continue its many activities relating to municipal advisors, with a focus on education, outreach and compliance. In addition, as noted above, the MSRB will be working to develop the Series 54 professional qualification exam. The proposed rule change will assist in defraying some of the costs associated with these activities and will help ensure the MSRB is funding these regulatory activities in a financially responsible way.

The MSRB believes the proposed rule change is appropriate because it moves towards a more equitable balance of fees among regulated entities and hence a fairer allocation of the expenses of the regulatory activities, systems development, and operational activities undertaken by the MSRB. However, even with the fee increase in the proposed rule change, the proposed fees would only defray a small portion of the MSRB's overall costs of operating and administering the MSRB—generating approximately 4% of Fiscal Year 2018 revenue.[26]

MSRB operations are funded primarily by assessments and fees on regulated entities. In fact, 80% of the Fiscal Year 2018 budgeted revenue is based on market activity (that is, municipal securities trading and underwriting volume). Due to the accumulated historical variances between actual and budgeted revenue, the MSRB has excess reserves. This is largely due to the MSRB's appropriately conservative approach to budgeting revenues that are primarily market-based and inherently volatile. While the MSRB's current reserve levels exceed targets, the MSRB budget for Fiscal Year 2018 has a deficit, as do the pro forma

[18] *See* Rule G–2, Standards of Professional Qualification; and Rule G–3, Professional Qualification Requirements available at *http://msrb.org/Rules-and-Interpretations/MSRB-Rules.aspx*.

[19] For example, the MSRB supports regulatory compliance by municipal advisors by providing resources about MSRB requirements, as well as more general educational material. Municipal advisors may access these resources and others, including the Municipal Advisor Review, the MSRB's quarterly newsletter for municipal advisors at *http://www.msrb.org/Regulated-Entities/Resources.aspx*. In addition, the MSRB has published several regulatory notices for municipal advisors to help keep market participants informed of regulatory changes and to provide guidance on the application of existing rules. *See e.g.,* MSRB Notice 2017–08, Application of MSRB Rules to Solicitor Municipal Advisors (May 4, 2017); MSRB Notice 2017–13, MSRB Provides Guidance on Duties of Non-Solicitor Municipal Advisors in Conduit Financing Scenarios (July 13, 2017).

[20] For example, the MSRB provides free education and training webinars on municipal market topics, regulatory and compliance issues, and the use of MSRB market transparency systems. Municipal advisors may register for new webinars and access on-demand webinars, including some webinars that provide CPE credit at *http://www.msrb.org/Regulated-Entities/Webinars.aspx*.

[21] Once the Series 54 exam is permanently available, municipal advisor principals will be required to take the Series 54 exam in addition to the Series 50 exam. *See* FAQs on Municipal Advisor Professional Qualification and Examination Requirements, at n. 1 available at *http://www.msrb.org/msrb1/pdfs/FAQ-MSRB-Series-50-Exam.pdf*.

[22] *See* Release No. 34–75751 (August 24, 2015), 80 FR 52352, 52355 (August 28, 2015) (File No. SR–MSRB–2015–08) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Amendments to MSRB Rule A–12, on Registration, and MSRB Rule A–13, on Underwriting and Transaction Assessments for Brokers, Dealers and Municipal Securities Dealers).

[23] The MSRB expects that the municipal advisor professional fee, at the dollar amount set forth in the proposed rule change, would generate approximately 4% of the MSRB's Fiscal Year 2018 revenue. The MSRB will release and make publicly available its budget for Fiscal Year 2018 in October 2017. *See* MSRB Monthly Update (September 2017) available at *https://content.govdelivery.com/accounts/VAORGMSRB/bulletins/1b497b6*.

[24] 15 U.S.C. 78*o*–4(b)(2)(J).

[25] *Id.*

[26] *See* n. 23 and accompanying text.

budgets for Fiscal Years 2019 through 2020. The MSRB anticipates that in the future, based on assumptions reviewed and agreed upon by the MSRB, excess reserves will be eroded by Fiscal Year 2020 (even with the increased municipal advisor professional fee and new underwriting fee on underwriters of 529 college savings plans). Further, the MSRB's budget for Fiscal Year 2018 anticipates that the MSRB will strategically spend some of its reserves. Finally, the MSRB believes, as a matter of principle, that it is inherently unfair to allow certain regulated entities to pay a disproportionate share of the cost of operating the MSRB. The MSRB therefore regularly evaluates fees and adjusts them, as needed, to ensure that all regulated entities that benefit from functioning in a fair, efficient and transparent market pay their fair share.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act [27] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In addition, Section 15B(b)(2)(L)(iv) of the Act [28] provides that MSRB rules ''not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.''

The Board's policy on the use of economic analysis in rulemaking [29] limits its application regarding those rules for which the Board seeks immediate effectiveness. However, an internal analysis is still conducted to gauge the economic impact, with an emphasis on the burden on competition involving regulated entities. Guided by these aspects of the policy, the Board has reviewed the proposed rule change. The Board believes the proposed rule change is necessary and appropriate to ensure that MSRB registrants that are municipal advisors equitably contribute to defraying the costs and expenses of operating and administering the MSRB. The MSRB has considered the economic impact of the proposed rule change. The MSRB does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act since it will apply equally to all municipal advisors based on the number of persons qualified as municipal advisor representatives associated with the municipal advisor and the number of Forms MA–I filed by each firm.

The MSRB believes the current fee structure is fair and equitable among municipal advisors of differing size. The existing per firm annual fee ($1,000) helps cover the fixed costs of regulating any firm, regardless of size; while the existing annual professional fee assessment results in smaller municipal advisors paying less than larger municipal advisors. The proposed fee increase will further expand the current spread paid between large versus small firms. The MSRB notes that other self-regulatory organizations and independent oversight and rulemaking boards, such as the Financial Industry Regulatory Authority (''FINRA''), the Public Company Accounting Oversight Board (''PCAOB''), National Futures Association (''NFA'') and the Financial Accounting Standards Board (''FASB''), all have some annual fee assessment structure that is based on the size of firms under regulation.[30]

The MSRB believes that the fee increase will not impose an unnecessary or inappropriate regulatory burden on small municipal advisors. The total amount of the assessment payable by each municipal advisor will be dependent on the number qualified associated persons for whom Forms MA–I are filed by the municipal advisor [31] and, therefore, will result in lower relative assessments for smaller firms. Being based on the number of persons engaging in municipal advisory activities on behalf of a firm, the total fee will bear a reasonable relationship to the level of regulated municipal advisory activities that are undertaken by each firm.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board did not solicit comment on the proposed change. Therefore, there are no comments on the proposed rule change received from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [32] and paragraph (f) of Rule 19b–4 thereunder.[33] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2017–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2017–07. 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

[27] 15 U.S.C. 78*o*–4(b)(2)(C).

[28] 15 U.S.C. 78*o*–4(b)(2)(L)(iv).

[29] The scope of the Board's policy on the use of economic analysis in rulemaking provides that: [t]his Policy addresses rulemaking activities of the MSRB that culminate, or are expected to culminate, in a filing of a proposed rule change with the SEC under Section 19(b) of the Exchange Act, other than a proposed rule change that the MSRB reasonably believes would qualify for immediate effectiveness under Section 19(b)(3)(A) of the Exchange Act if filed as such or as otherwise provided under the exception process of this Policy.

Policy on the Use of Economic Analysis in MSRB Rulemaking, available at *http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx.* For those rule changes for which the MSRB seeks immediate effectiveness, the MSRB usually focuses its examination exclusively on the burden on competition of regulated entities.

[30] For example, FINRA's annual registration fee and new member application fee assessments for broker-dealers are based on the number of branch offices and the number of registered persons, the PCAOB's annual fee assessment is based on the number of issuer audit clients and the number of personnel within each public accounting firm, NFA's annual member dues for swap dealers and Forex dealers are based on the tier size of member firms, and FASB's accounting support fees are allocated based on the average market capitalization of each issuer.

[31] The MSRB understands that the Form MA–I on file should be withdrawn for any person who fails to qualify as a municipal advisor representative in accordance with Rule G–3. *See* Registration of Municipal Advisors Frequently Asked Questions at Question 16.1, available at *https://www.sec.gov/info/municipal/mun-advisors-faqs.shtml.*

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f).

only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2017–07 and should be submitted on or before November 6, 2017.

For the Commission, pursuant to delegated authority.[34]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22262 Filed 10–13–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81844; File No. SR–PEARL–2017–34]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Fee Schedule

October 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2017, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section 1(a) of the Fee Schedule to increase the ''Taker'' fee in all Tiers assessable to all orders submitted by a Member for the account of a Priority Customer.[3] The Exchange also proposes to make a number of non-substantive changes to its routing fee table set forth Section 1(b) of the Fee Schedule to reflect recent corporate name changes to some of the options exchanges listed in the table.

Taker Fee Changes

The Exchange currently assesses tiered transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[4] on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts)[5] expressed as a percentage of TCV.[6] In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[7] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX PEARL System,[8] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are

[34] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* Exchange Rule 100, including Interpretations and Policies .01.

[4] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[6] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time [sic] in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[7] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program [9] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''Non-Penny classes''), where Members are assessed higher transaction fees and receive higher rebates.

Transaction rebates and fees applicable to orders submitted by a Member for the account of a Priority Customer [10] are currently assessed according to the following table:

Origin	Tier	Volume criteria (%)	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker	Taker*	Maker	Taker*
Priority Customer	1	0.00–0.05	($0.25)	$0.38	($0.85)	$0.87
	2	Above 0.05–0.35	(0.40)	0.38	(1.05)	0.86
	3	Above 0.35–0.50	(0.50)	0.38	(1.05)	0.85
	4	Above 0.50–0.75	(0.53)	0.38	(1.05)	0.84
	5	Above 0.75	(0.54)	0.38	(1.05)	0.84

* For all Penny classes other than SPY. For SPY, the Priority Customer Taker Fee shall be $0.35 per contract.

The Exchange now proposes, with respect to orders submitted by a Member for the account of a Priority Customer, to: (i) Increase the Taker fee for all Penny classes (other than SPY, QQQ, IWM, and VXX) in all Tiers to $0.42 per contract; (ii) increase the Taker fee for SPY in all Tiers to $0.38 per contract; and (iii) increase the Taker fee for QQQ, IWM, and VXX in all Tiers to $0.40 per contract. The Exchange notes that QQQ, IWM, and VXX are not currently carved out from the Taker fee that applies to all Penny classes (other than SPY) in the Tiers. With this proposed change, QQQ, IWM, and VXX will become carved out alongside SPY from the Taker fee that applies to all Penny classes in the Tiers, and the Taker fee for transactions in those classes will be set forth in a sentence beneath the Priority Customer table in the Add/Remove Tiered Rebates/Fees (by way of an asterisk to the Taker fee) to state that the Taker fee in the table applies ''For all Penny Classes other than SPY, QQQ, IWM, and VXX. For SPY, the Priority Customer Taker Fee shall be $0.38 per contract. For QQQ, IWM, and VXX, the Priority Customer Taker Fee shall be $0.40 per contract.''

Accordingly, as amended, transaction rebates and fees applicable to orders submitted by a Member for the account of a Priority Customer will be assessed according to the following table:

Origin	Tier	Volume criteria (%)	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker	Taker*	Maker	Taker*
Priority Customer	1	0.00–0.05	($0.25)	$0.42	($0.85)	$0.87
	2	Above 0.05–0.35	(0.40)	0.42	(1.05)	0.86
	3	Above 0.35–0.50	(0.50)	0.42	(1.05)	0.85
	4	Above 0.50–0.75	(0.53)	0.42	(1.05)	0.84
	5	Above 0.75	(0.54)	0.42	(1.05)	0.84

* For all Penny Classes other than SPY, QQQ, IWM, and VXX. For SPY, the Priority Customer Taker Fee shall be $0.38 per contract. For QQQ, IWM, and VXX, the Priority Customer Taker Fee shall be $0.40 per contract.

The purpose of increasing the Taker fees for Priority Customer orders is for business and competitive reasons. As a new exchange, in order to attract order flow, the Exchange recently set its Taker fees for Priority Customer orders so that they were significantly lower than other options exchanges that operate comparable maker/taker pricing models.[11] The Exchange now believes that it is appropriate to slightly increase those Taker fees so that they are not as steeply lower versus such other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and grow market share. The Exchange notes that, even as amended, its Taker fees for Priority Customers are still lower than most other options exchanges operating competing models. For example, with respect to taker fees for Priority Customer orders in Penny classes, BATS BZX Options [12] and Nasdaq Options Market [13] each assess a fee of $0.50 per contract; NYSE Arca Options [14] assesses a fee of $0.49 per contract; and Nasdaq ISE [15] assesses a fee of $0.44 per contract (other than SPY, QQQ, IWM, and VXX classes). With respect to taker fees for Priority Customer orders in SPY, NOM [16] assesses a fee of $0.48 per contract.

The purpose of separately carving out QQQ, IWM, and VXX from the Taker fee that applies to all Penny classes in the Tiers is to tailor transaction fees specifically for these select products.

[9] *See* Securities Exchange Act Release Nos. 79778 (January 12, 2017), 82 FR 6662 (January 19, 2017) (SR–PEARL–2016–01); 80758 (May 24, 2017), 82 FR 25022 (May 31, 2017) (SR–PEARL–2017–24).

[10] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* Exchange Rule 100, including Interpretations and Policies .01.

[11] *See* Securities Exchange Act Release Nos. 80915 (June 13, 2017), 82 FR 27912 (June 19, 2017) (SR–PEARL–2017–29); 80914 (June 13, 2017), 82 FR 27910 (June 19, 2017) (SR–PEARL–2017–30).

[12] *See* BATS BZX Fee Schedule at: *https://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[13] *See* NOM Fee Schedule at: *https://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing.*

[14] *See* NYSE Arca Options Fee Schedule at: *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[15] *See* Nasdaq ISE Fee Schedule at: *https://www.ise.com/fees.*

[16] *See supra* footnote 13.

The concept of carving out separate pricing for select products is not novel, and is currently employed by a number of other options exchanges.[17]

Non-Substantive Changes

As a result of recent exchange consolidation and corporate re-branding, some options exchanges have changed their names. The names of all options exchanges are set forth in the Exchange's routing fee table set forth Section (1)(b) of the Fee Schedule, which sets forth the fees for customer orders that are routed to those options exchanges for execution. Accordingly, the Exchange proposes to update its routing fee table set forth in Section (1)(b) of the Fee Schedule to reflect those recent exchange name changes. No other changes are proposed to the routing fee table. Accordingly, as amended, the routing fee table shall be as follows:

(b) Fees and Rebates for Customer Orders Routed to Another Options Exchange

MIAX PEARL will assess a Routing Fee to market participants on all orders routed to and executed on an away market as set forth in the table below.

Description	Fees
Routed, Priority Customer, Penny Pilot, to: NYSE American, BOX, CBOE, Bats EDGX Options, Nasdaq MRX, MIAX OPTIONS, Nasdaq PHLX (except SPY), Nasdaq BX Options	$0.15
Routed, Priority Customer, Penny Pilot, to: NYSE Arca Options, Bats BZX Options, C2, Nasdaq GEMX, Nasdaq ISE, NOM, Nasdaq PHLX (SPY only)	0.65
Routed, Priority Customer, Non-Penny Pilot, to: NYSE American, BOX, CBOE, Bats EDGX Options, Nasdaq ISE, Nasdaq MRX, MIAX OPTIONS, Nasdaq PHLX, Nasdaq BX Options	0.15
Routed, Priority Customer, Non-Penny Pilot, to: NYSE Arca Options, Bats BZX Options, C2, Nasdaq GEMX, NOM	0.97
Routed, Public Customer that is not a Priority Customer, Penny Pilot, to: NYSE American, NYSE Arca Options, BATS, BOX, CBOE, C2, Bats EDGX Options, Nasdaq GEMX, Nasdaq ISE, Nasdaq MRX, MIAX OPTIONS, NOM, Nasdaq PHLX, Nasdaq BX Options	0.65
Routed, Public Customer that is not a Priority Customer, Non-Penny Pilot, to: NYSE American	0.65
Routed, Public Customer that is not a Priority Customer, Non-Penny Pilot, to: NYSE Arca Options, Bats BZX Options, C2, Nasdaq GEMX, Nasdaq MRX, Nasdaq BX Options	1.20
Routed (Public Customer that is not a Priority Customer), Non-Penny Pilot, to: BOX, CBOE, Bats EDGX Options, Nasdaq ISE, MIAX OPTIONS, NOM, Nasdaq PHLX	0.97

The proposed rule changes are scheduled to become operative October 1, 2017.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [18] in general, and furthers the objectives of Section 6(b)(4) of the Act,[19] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[20] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed Taker fee increases applicable to orders submitted by a Member for the account of a Priority Customer are reasonable, equitable and not unfairly discriminatory because all Priority Customer option orders are subject to the same Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange initially set its Taker fees at the various levels based upon business determinations and an analysis of current Taker fees and volume levels at other exchanges. For competitive and business reasons, the Exchange recently set its Taker fees for Priority Customer orders so that they were significantly lower than other options exchanges that operate comparable maker/taker pricing models.[21] The Exchange now believes that it is appropriate to slightly increase those Taker fees so that they are not as steeply lower versus such other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and grow market share. The Exchange notes that, even as amended, its Taker fees for Priority Customers are still lower than most other options exchanges operating competing models.[22] The Exchange believes for these reasons that offering slightly increased Taker fees for Priority Customer transactions in all Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

The Exchange believes that its proposal to offer lower Taker fees assessable to transactions solely in SPY, QQQ, IWM, and VXX options is consistent with other options markets that also assess different transaction fees for select option classes (including SPY, QQQ, IWM, and VXX) as compared to other option classes. The Exchange believes that establishing different pricing for select products for Priority Customers is reasonable, equitable, and not unfairly discriminatory because these select products are generally more liquid than other option classes. Additionally, other competing options exchanges differentiate pricing in a similar manner.[23]

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Priority Customer orders than to non-Priority Customer orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including non-Priority Customers, MIAX PEARL Market Makers, Firms, and Broker-Dealers, who will generally submit a higher number of orders (many

[17] *See,* for example, Nasdaq ISE Fee Schedule, which has separate pricing for SPY, as well as QQQ, IWM, and VXX, at: *https://www.ise.com/fees; see also* CBOE Fee Schedule at: *http://www.cboe.com/framed/pdfframed?content=/publish/feeschedule/CBOEFeeSchedule.pdf&section=SEC_RESOURCES&title=CBOE%20Fee%20Schedule; see also* NOM Fee Schedule at: *https://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing.*

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78f(b)(1) and (b)(5).

[21] *See supra* note 11.

[22] *See supra* footnotes 11–15.

[23] *See supra* note 17.

of which do not result in executions) than Priority Customers.

Furthermore, the proposed slight increases to the Taker fees for Priority Customer transactions in all Tiers promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the such slight increases, the Exchange's proposed Taker fees for Priority Customer orders still remain highly competitive with other options exchanges offering comparable pricing models, as they should enable the Exchange to continue to attract order flow and grow market share.[24] The Exchange believes that the amount of such fees, as proposed to be increased, will continue to encourage Members to send more Priority Customer orders to the Exchange even if it is an order which takes liquidity since they will be assessed a lower Taker fee in each Tier than most competing exchanges. To the extent that Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates than most competing options exchanges. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange believes the proposed changes to update its routing fee table set forth in Section 1(b) of the Fee Schedule to reflect recent exchange name changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change makes non-substantive technical corrections and updates the Exchange's Fee Schedule. None of the name changes alter the application of any fees or rebates on the Fee Schedule. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. In particular, the Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed Taker fee increases are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to attract and compete for order flow with other exchanges which assess higher Priority Customer taker fees. The proposed changes to update its routing fee table set forth Section 1(b) of the Fee Schedule to reflect recent exchange name changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to make non-substantive technical corrections and update the Exchange's Fee Schedule.

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. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that will continue to encourage market participants to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] and Rule 19b–4(f)(2)[26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–PEARL–2017–34 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–PEARL–2017–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2017–34 and should be submitted on or before November 6, 2017.

[24] *See supra* note 22.

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22264 Filed 10–13–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Changes to SBA Secondary Market Program

AGENCY: U.S. Small Business Administration (''SBA'').

ACTION: Notice.

SUMMARY: The purpose of this Notice is to provide the public with notification of a procedural change in SBA's Secondary Market Pooling program. This change involves the pass through of principal payments to Registered Holders of Pool Certificates resulting from Pool loan prepayments.

DATES: The change referenced in this Notice affects all outstanding Pools issued between October 1, 2004, and on or about September 1, 2017. The change will be incorporated into payments made to Registered Holders of Pool Certificates before the end of the calendar year.

FOR FURTHER INFORMATION CONTACT: John M. Wade, Chief, Secondary Market Division, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, or *john.wade@sba.gov.*

SUPPLEMENTARY INFORMATION: The Secondary Market Improvements Act of 1984 authorized SBA to guaranty the timely payment of principal and interest on Pool Certificates. A Pool Certificate represents a fractional undivided interest in a ''Pool,'' which is an aggregation of SBA guaranteed portions of loans made by SBA Lenders under section 7(a) of the Small Business Act, 15 U.S.C. 636(a). In order to support the timely payment guaranty requirement, SBA established the Master Reserve Fund (''MRF''), which serves as a mechanism to cover the cost of SBA's timely payment guaranty on Pool Certificates.

Pool payments to Registered Holders of Pool Certificates are made monthly and consist of scheduled payments of pool principal and interest. The payments may also include a return of pool principal from full or partial prepayments of pool loans prior to the Pool maturity date. Principal from these prepayments are passed through to Registered Holders of Pool Certificates, but the amounts may vary based on amortization excess associated with the prepaid loan.

Amortization excess represents that portion of the outstanding principal balance of a Pool allocated to a particular pool loan compared to the actual loan principal balance outstanding at the time the loan is prepaid. Amortization excess may include differences attributed to principal prepayments on a pool loan that is less than or equal to 20% of the outstanding principal balance. Borrower payments of loan principal made up to the date of prepayment are based on the amortization schedule of the borrower's Note, but paid to Registered Holders of Pool Certificates based on the amortization schedule of the Pool. This variance comes from differences in interest rates and maturity dates of the pool loan compared with the Pool Certificate.

On September 21, 2004, SBA issued Notice of a Change in the SBA Secondary Market Program (and referenced herein as the ''2004 Notice''). 69 FR 56472. This 2004 Notice described program changes made to all Pools formed on or after October 1, 2004 including the disposition of amortization excess. Prior to October 1, 2004, SBA spread the amortization excess from prepaid loans over the remaining life of the Pool. In the 2004 Notice, SBA revised the program to pass through amortization excess once a pool loan is prepaid. In certain circumstances, however, amortization excess resulted in a reduction in the amount of a principal passed through to Registered Holders of Pool Certificates, with the retained principal remaining in the MRF to be paid out through scheduled principal payments until the Pool matures, or as all pool loans are fully paid.

In order to improve the efficiency of the program, SBA is implementing a procedural change that will adjust the timing of certain principal distributions from the MRF. For Pools formed between October 1, 2004 and on or about September 1, 2017 with pool loans remaining, SBA will reallocate the outstanding Pool balances pro rata across the remaining pool loan principal within a Pool. When a pool loan subsequently prepays in full, payments to Registered Holders of Pool Certificates may include retained principal in addition to the scheduled payments of pool principal, interest and related prepayments. This change will be incorporated, as needed, into the SBA Secondary Market Program Guide, and all other appropriate SBA Secondary Market materials.

It is important to note that there is no change to SBA's obligation to honor its guaranty of the amount owed to Registered Holders of Pool Certificates and that such guaranty continues to be backed by the full faith and credit of the United States.

Authority: 15 U.S.C. 634(g)(2).

William M. Manger,

Associate Administrator, Office of Capital Access.

[FR Doc. 2017–22466 Filed 10–13–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15342 and #15343; US VIRGIN ISLANDS Disaster Number VI–00012]

Presidential Declaration of a Major Disaster for Public Assistance Only for the U.S. Virgin Islands

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the US Virgin Islands (FEMA–4340–DR), dated 10/05/2017.

Incident: Hurricane Maria.

Incident Period: 09/16/2017 and continuing.

DATES: Issued on 10/05/2017.

Physical Loan Application Deadline Date: 12/04/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 07/05/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/05/2017, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Saint Croix, Saint John, Saint Thomas.

[27] 17 CFR 200.30–3(a)(12).

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 153428 and for economic injury is 153430.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2017–22332 Filed 10–13–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15324 and #15325; Florida Disaster Number FL–00131]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Florida

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 Florida (FEMA–4337–DR), dated 09/21/2017.

Incident: Hurricane Irma.

Incident Period: 09/04/2017 and continuing.

DATES: Issued on 10/05/2017.

Physical Loan Application Deadline Date: 11/20/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 06/21/2018.

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 FLORIDA, dated 09/21/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Alachua, Bradford, Brevard, Desoto, Dixie, Gilchrist, Hardee, Highlands, Indian River, Jefferson, Lafayette, Lake, Leon, Levy, Marion, Martin, Okeechobee, Orange, Osceola, Saint Lucie, Seminole, Sumter, Taylor, Union, Volusia, Wakulla.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2017–22331 Filed 10–13–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10161]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition Determinations: ''Veiled Meanings: Fashioning Jewish Dress From the Collection of The Israel Museum, Jerusalem'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Veiled Meanings: Fashioning Jewish Dress from the Collection of The Israel Museum, Jerusalem,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Jewish Museum, New York, New York, from on or about November 3, 2017, until on or about March 18, 2018, at The Contemporary Jewish Museum, San Francisco, California, from on or about August 30, 2018, until on or about January 6, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, 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. 2017–22322 Filed 10–13–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10164]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Online Dispute Resolution

The Office of the Assistant Legal Adviser for Private International Law, Department of State, hereby gives notice that the ACPIL will hold a public meeting to discuss a pending proposal on online dispute resolution in the Asia Pacific Economic Cooperation forum (APEC). This is not a meeting of the full Advisory Committee.

In February 2017, the APEC Economic Committee endorsed a work plan on the development of an APEC-wide cooperative framework for ODR for Micro, Small, and Medium Sized Enterprises (MSMEs) in business-to-business (b2b) cross border transactions. The proposal is currently co-sponsored by fourteen member economies.

MSMEs have gained unprecedented access to international trade via the global supply chain and cross-border e-commerce, but to effectively reach global markets these businesses need a legal environment which enables the quick resolution of disputes and creates confidence in cross-border e-commerce. The use of ODR could be an effective means to solve this problem. ODR is a way of resolving disputes using traditional methods such as negotiation, mediation, and arbitration, but with the help of technology and without the need for a physical presence at a meeting or hearing.

At its most recent meeting in August 2017, the APEC Economic Committee endorsed a revised work plan on ODR that includes inter alia ''build[ing] a pilot in conjunction with platform host/ODR provider via outreach to regional

arbitration/mediation centers to determine possible partners for hosting ODR platform.'' Additionally, the scope of the project was expanded to include ''Use of Modern Technology for Dispute Resolution and Electronic Agreement Management'' with the explanation that ''it is also worthwhile to explore the use of other modern technology such as block chain, automated or smart contracts for contract management or enforcement and prevention of disputes.'' The APEC Economic Committee has approved a two-day workshop for the first Economic Committee meeting in February 2018 to discuss the work plan and the pilot proposal.

Time and Place: The public meeting will take place on November 1, from 10 a.m. to 1:00 p.m. EDT in Room 356, South Building, State Department Annex 4A, Washington, DC 20037. Participants should plan to arrive at the Navy Hill gate on the west side of 23rd Street NW., near the intersection of 23rd Street NW. and D Street NW. between 9:30 and 9:45 a.m. for visitor screening. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than October 18, 2016. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

Data from the public is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities.

The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://foia.state.gov/_docs/SORN/State-36.pdf* for additional information.

Michael J. Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2017–22324 Filed 10–13–17; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 10162]

U.S. Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission (Notice of Renewal)

The Department of State has renewed the Charter of the U.S. Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission (NPAFC) for another two years.

The NPAFC was established by the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, done at February 11, 1992, and entered into force on February 16, 1993. The members of the Commission are Canada, Japan, the Republic of Korea, the Russian Federation, and the United States. The U.S. Advisory Panel will continue to work with the U.S. Section of the Commission to promote the conservation of anadromous fish stocks, particularly salmon, throughout their migratory range in the North Pacific Ocean, as well as ecologically related species.

The U.S. Section of the Commission is composed of three Commissioners who are appointed by the President. Each Commissioner is appointed for a term not to exceed 4 years, but is eligible for reappointment. The Secretary of State, in consultation with the Secretary of Commerce, may designate alternate commissioners. The Advisory Panel to the U.S. Section is composed of 14 members, 11 of whom are appointed by the Secretary in consultation with the Secretary of Commerce. Advisory Panel members serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

The Advisory Panel will continue to follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will continue to be open to the public unless a determination is made in accordance with Section 10 of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) that a meeting or a portion of the meeting should be closed to the public.

FOR FURTHER INFORMATION CONTACT: For further information on the renewal of the Advisory Panel, please contact Elana Mendelson, Office of Marine Conservation in the Department of State, (202) 647–1073 or *Katz-MinkEH@state.gov.*

David A. Balton,

Deputy Assistant Secretary for Oceans and Fisheries, Department of State.

[FR Doc. 2017–22323 Filed 10–13–17; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 303 (Sub-No. 49X)]

Wisconsin Central Ltd.—Discontinuance of Service Exemption—in Oneida and Marinette Counties, Wis.

Wisconsin Central Ltd. (WCL) [1] has filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments and Discontinuances of Service* to discontinue service over a portion of WCL's line of railroad extending approximately 49.0 miles from milepost 220.0 on WCL's Bradley Subdivision in Rhinelander, Waupaca County, Wis., to milepost 269.0 on WCL's Pembine Subdivision at Goodman, Marinette County, Wis. (the Line). The Line traverses United States Postal Service Zip Codes 54125, 54103, 54511 and 54501.

WCL has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic to be rerouted over other lines; (3) no formal complaint filed by a user of a rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

[1] WCL is a wholly owned subsidiary of Canadian National Railway Company.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on November 15, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by October 26, 2017.[3] Petitions for reconsideration must be filed by November 3, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with Board should be sent to WCL's representative, Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: October 10, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2017–22257 Filed 10–13–17; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority.

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Resource Stewardship Council (RRSC) will hold a meeting on Tuesday, November 14 and Wednesday, November 15, 2017, to consider various matters.

The RRSC was established to advise TVA on its natural resource stewardship activities. Notice of this meeting is given under the Federal Advisory Committee Act (FACA).

DATES: The public meeting will be held on Tuesday, November 14, 2017, from 8:30 a.m. to 11:45 a.m., CST, and Wednesday, November 15, 2017, from 8:30 a.m. to 12:00 p.m., CST.

ADDRESSES: The meeting will be held at 1155 Lodge Drive, Guntersville, Alabama 35976, and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Barbie Perdue, 865–632–6113, *baperdue@tva.gov.*

SUPPLEMENTARY INFORMATION: The meeting agenda includes the following:

1. Introductions
2. Updates on Natural Resources and River Management Issues
3. Presentations regarding the TVA's Public Land Protection Program
4. Public Comments
5. Council Discussion and Advice

The RRSC will hear opinions and views of citizens by providing a public comment session starting at 9:30 a.m. CST, lasting up to one hour, on Wednesday, November 15, 2017, TVA will provide time limits for public comment once registered. Persons wishing to speak are requested to register at the door between 8:00 a.m. and 9:00 a.m., CST, on Wednesday, November 15, 2017, and will be called on during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT–9 D, Knoxville, Tennessee 37902.

Dated: October 10, 2017.

Joseph J. Hoagland,

Vice President, Enterprise Relations and Innovation, Tennessee Valley Authority.

[FR Doc. 2017–22309 Filed 10–13–17; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–71]

Petition for Exemption; Summary of Petition Received; The Boeing Company

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before November 6, 2017.

ADDRESSES: Send comments identified by docket number FAA–2013–0221 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christopher Bailey at (202) 267–4158, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

This notice is published pursuant to 14 CFR 11.85.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2013–0221.

Petitioner: The Boeing Company.

Section(s) of 14 CFR Affected: 61.75(d)(2) and 61.117.

Description of Relief Sought: By letter dated August 3, 2017, The Boeing Company petitioned the Federal Aviation Administration for an extension of and amendment to Exemption No. 10871, as amended. That exemption allows certain foreign pilots exercising private pilot privileges to fly as second-in-command (SIC) on Boeing aircraft while conducting evaluation and demonstration flights within the United States for potential buyers of those aircraft, or on behalf of their respective civil aviation authority (CAA). In its petition, Boeing asked for an amendment that would incorporate additional language to allow Boeing to conduct flights for demonstration and evaluation, on behalf of new or potential customers, or at the request of a foreign civil aviation authority, using new developmental test aircraft models.

[FR Doc. 2017–22376 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Transportation Project in Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA, United States Army Corps of Engineers (USACE), National Park Service (NPS), and other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA, USACE, and NPS that are final. The action relates to the proposed construction of a new highway between Huntley Road and Illinois Route 62 and a new bridge crossing over the Fox River in Kane County. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of the final agency action subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency action of the proposed highway project will be barred unless the claim is filed on or before March 15, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Catherine A. Batey, Division Administrator, 3250 Executive Park Drive, Springfield, Illinois 62703; telephone: (217) 492–4600; email address: *Catherine.Batey@dot.gov.* The FHWA Illinois Division Office's normal business hours are 7:30 a.m. to 4:15 p.m. (Central Standard Time). For USACE: Keith Wozniak, Chief, Regulatory Branch, 231 South LaSalle Street, Suite 1500, Chicago, Illinois 60604; telephone: (312) 846–5530; email address: *Keith.L.Wozniak@usace.army.mil.* The USACE Chicago District's normal business hours are 8:00 a.m. to 4:30 p.m. (Central Standard Time). For the Illinois Department of Transportation: Mr. Jose Rios, Engineer of Program Development, 201 West Center Court, Schaumburg, Illinois 60196; telephone: (847) 705–4000. The Illinois Department of Transportation Region One's normal business hours are 8:00 a.m. to 4:30 p.m. (Central Standard Time). For the Kane County Division of Transportation, Mr. Steve Coffinbarger, Assistant Director, 41W011 Burlington Road, St. Charles, IL 60175; telephone: (630) 584–5265. The Kane County Division of Transportation's normal business hours are 8:00 a.m. to 4:30 p.m. (Central Standard Time).

SUPPLEMENTARY INFORMATION: On January 13, 2017, the FHWA published a ''Notice of Final Federal Agency Actions on Proposed Transportation Project in Illinois'' in the **Federal Register** at 82 FR 4450 (January 13, 2017) for the following highway project: The proposed construction of a new highway between Huntley Road and Illinois Route 62 and a new bridge crossing over the Fox River in Kane County. Notice is hereby given that, subsequent to the earlier FHWA notice, the USACE has taken final agency actions within the meaning of 23 U.S.C. 139(l)(1) by issuing permits and approvals for the highway project. The actions by USACE, related final actions by other Federal agencies, and the laws under which such actions were taken, are described in the USACE decisions and its project records, referenced as LRC–2013–839. That information is available by contacting the USACE at the address provided above.

Notice is hereby given that subsequent to the earlier FHWA notice, FHWA completed a written re-evaluation pursuant to 23 CFR 771.129(c) and determined that the environmental document remains valid for the requested FHWA action.

Information about the project and project records also are available from the FHWA, the Illinois Department of Transportation, or the Kane County Division of Transportation at the addresses provided above. The FHWA EA and FONSI, and subsequent written re-evaluation, can be viewed and downloaded from the project Web site at *http://www.co.kane.il.us/dot/foxBridges/longmeadowPkwy.aspx.* The USACE decision is available by contacting the USACE at the address provided above.

This notice applies to all USACE and other Federal agency final actions taken after the January 13, 2017 issuance date of the FHWA **Federal Register** notice described above. The laws under which actions were taken include, but are not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351] Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377].

3. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536].

4. *Land:* Land and Water Conservation Fund [54 U.S.C. 200301–200310]

5. *Executive Orders:* E.O. 11990 Protection of Wetlands.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Authority: 23 U.S.C. 139(l)(1).

Issued on: October 5, 2017.

Catherine A. Batey,

Division Administrator, Springfield, Illinois.

[FR Doc. 2017–22176 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 86]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (RSAC) System Safety Task Force and Passenger Safety Working Group meeting.

SUMMARY: FRA announces a meeting of the RSAC, a Federal Advisory Committee that develops recommendations on railroad safety regulations and other railroad safety issues through a consensus process. The RSAC System Safety Task Force and Passenger Safety Working Group will meet October 30, 2017, to discuss petitions for reconsideration, and comments received in response to the petitions for reconsideration on the System Safety Program (SSP) final rule issued August 12, 2016, requiring commuter and intercity passenger railroads to develop and implement an SSP to improve the safety of their operations.

DATES: The RSAC meeting is scheduled to commence at 9:00 a.m. on Monday, October 30, 2017, and will adjourn by 4:30 p.m.

ADDRESSES: The RSAC meeting will be held at the National Association of Home Builders, National Housing Center, located at 1201 15th Street NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign- and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, RSAC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6286; or Robert C. Lauby, Associate Administrator for Railroad Safety and Chief Safety Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6474.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. FRA is publishing this notice in the **Federal Register** as soon as practicable, which will not be at least 15 days prior to the RSAC meeting. FRA has determined that exceptional circumstances justify holding the RSAC meeting on October 30, 2017, as explained below. *See* 41 CFR 102–3.150. FRA believes that the public will have adequate notice of the meeting because this notice will be posted on FRA's public Web site and will be filed for public inspection by the Office of the Federal Register at least 15 days before the RSAC meeting.

FRA published the SSP final rule on August 12, 2016. 81 FR 53850. On February 10, 2017, FRA stayed the SSP final rule's requirements consistent with the new Administration's guidance issued January 20, 2017, to provide the Administration an adequate opportunity to review new and pending regulations (82 FR 10443). FRA thereafter extended the stay to provide additional time for review. *See* 82 FR 14476, March 21, 2017; 82 FR 23150, May 22, 2017. The review includes petitions for reconsideration of the SSP final rule. FRA most recently stayed the final rule until December 4, 2017, to allow time for public outreach with interested parties to inform FRA's decisions on the issues raised in the petitions, and to complete review of the rule and the petitions (82 FR 26359). The October 30, 2017, RSAC meeting is necessary for FRA to receive input from industry and the public, and to discuss potential paths forward to respond to the petitions for reconsideration prior to FRA taking final action. FRA has previously made stakeholders aware that the RSAC meeting will be held on October 30, 2017 and interested persons have made plans accordingly. FRA believes that delaying the meeting any further would endanger its ability to receive vital public comment informing actions on the petitions under review and, therefore believes that providing less than 15 days notice for this meeting best serves the public interest and, with the mitigations applied here, is consistent with the exception for exceptional circumstances discussed above.

The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 59 voting representatives from 38 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on prior RSAC activities and pending tasks at *http://rsac.fra.dot.gov/.* Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

Issued in Washington, DC, on October 11, 2017.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–22368 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0170]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel M/V PACIFIC PROVIDER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 15, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0170. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel M/V PACIFIC PROVIDER is:

—INTENDED COMMERCIAL USE OF VESSEL: ''Our intended use of the vessel is to carry only passengers on adventure cruises. No cargo will be carried on board the vessel.''

—GEOGRAPHIC REGION: ''Washington, Oregon, California and Alaska (excluding waters in Southeastern Alaska)''

The complete application is given in DOT docket MARAD–2017–0170 at

http://www.regulations.gov. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: October 11, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–22312 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0171]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BELLAROMA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 15, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0171. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BELLAROMA is:

—INTENDED COMMERCIAL USE OF VESSEL: River and lake charter cruises, coastal cruises.

—GEOGRAPHIC REGION: ''Tennessee, Kentucky, Alabama, Mississippi and Florida''

The complete application is given in DOT docket MARAD–2017–0171 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: October 11, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–22310 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0172]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CHIN CHIN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 15, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0172. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation,

Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CHIN CHIN is:

—INTENDED COMMERCIAL USE OF VESSEL: ''Private Vessel Charters, Passengers Only''

—GEOGRAPHIC REGION: ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, East Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound]).''

The complete application is given in DOT docket MARAD–2017–0172 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: October 11, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–22311 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0094]

Pipeline Safety: Coastal Ecological Unusually Sensitive Areas Public Meeting

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a one-day public meeting to discuss applicable definitions and available geospatial information system (GIS) data sources for marine coastal waters, coastal beaches and the Great Lakes, pertaining to Coastal Ecological Unusually Sensitive Areas (USA).

DATES: The Coastal Ecological USA public meeting will occur on November 17, 2017, from 8:30 a.m. to 5:00 p.m. ET. Members of the public who wish to attend in person are asked to register no later than November 7, 2017, to facilitate entry and guarantee seating. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify PHMSA no later than November 7, 2017. For additional information, please see the **ADDRESSES** section of this notice.

ADDRESSES: The meeting will be held at a location yet to be determined in the Washington, DC Metropolitan area. The meeting location, agenda and any additional information will be published once they are finalized on the following public meeting registration page at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=129*.

Public Participation

This meeting will be open to the public. Members of the public who wish to attend in person are asked to register at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=129* to facilitate entry and guarantee seating. Members of the public who attend in person will also be provided an opportunity to make a statement during the meeting.

Services for Individuals With Disabilities

The public meeting will be physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Leigha Gooding at *leigha.gooding@dot.gov*.

The meeting will not be webcast; however, a conference call number and presentation slides will be available to remote participants, and any documents presented will be available on the meeting Web site and posted on the E-Gov Web site at *http://www.regulations.gov* in docket number PHMSA–2017–0094 within 30 days following the meeting.

Written comments: Written comments on the meeting may be submitted to the docket in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.

Instructions: Identify the docket number PHMSA–2017–0094 at the beginning of your comments. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an

association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or view the Privacy Notice at *www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents, go to *www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2017–0094.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail.

Privacy Act Statement

DOT may solicit comments from the public regarding certain general notices. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Leigha Gooding by phone at 202–366–0667 or by email at *leigha.gooding@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 19 of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (Pub. L. 114–183) requires PHMSA to expand the definition of an Ecological resource USA (as defined in 49 CFR 195.6(b)) to include the Great Lakes, coastal beaches and marine coastal waters. All USAs are treated as high consequence areas (HCAs), which are subject to stricter safety and maintenance standards (such as 49 CFR 195.452). To address this mandate, PHMSA must define and map these areas. The focus of this one-day public meeting is to bring pipeline safety stakeholders together to discuss applicable definitions and available GIS data sources for Great Lakes, coastal beaches and marine coastal waters. Stakeholder feedback may inform future policy efforts impacting the definition of a Coastal Ecological USA.

II. Meeting Details and Agenda

The Coastal Ecological USA public meeting will include discussions from government and industry stakeholders on proposed definition, available GIS data sources, and how Coastal Ecological USA protect the public and environment through integrity management planning. The meeting will also include facilitated discussions with meeting participants and experts to understand additional perspectives on proposed definitions and recommended GIS data sources.

Issued in Washington, DC, on October 10, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–22319 Filed 10–13–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Community Development Advisory Board Meeting

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Community Development Advisory Board (the Advisory Board), which provides advice to the Director of the Community Development Financial Institutions Fund (CDFI Fund). The meeting will be open to the public via live webcast. The link to the live webcast can be found in the meeting announcement found at the top of *www.cdfifund.gov/cdab.*

DATES: The meeting will be held from 9:00 a.m. to 3:30 p.m. Eastern Standard Time on Thursday, November 16, 2017.

ADDRESSES: The Advisory Board meeting will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Submission of Written Statements: Participation in the discussions at the meeting will be limited to Advisory Board members, Department of the Treasury staff, and certain invited guests. Anyone who would like to have the Advisory Board consider a written statement must submit it by 5:00 p.m. Eastern Standard Time on Tuesday, November 7, 2017. Send paper statements to Bill Luecht, Senior Advisor, Office of Legislative and External Affairs, CDFI Fund, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Send electronic statements to *AdvisoryBoard@cdfi.treas.gov.*

In general, the CDFI Fund will make all statements available in their original format, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers, for public inspection and photocopying at the CDFI Fund. The CDFI Fund is open on official business days between the hours of 9:00 a.m. and 5:00 p.m. You can make an appointment to inspect statements by emailing *AdvisoryBoard@cdfi.treas.gov.* All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Bill Luecht, Senior Advisor, Office of Legislative and External Affairs, CDFI Fund, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 653–0322 (this is not a toll free number) or *AdvisoryBoard@cdfi.treas.gov.* Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's Web site at *http://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION: Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325), which created the CDFI Fund, established the Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the CDFI Fund (who has been delegated the authority to administer the CDFI Fund) on the policies regarding the activities of the CDFI Fund. The Advisory Board does not advise the CDFI Fund on approving or declining any particular application for monetary or non-monetary awards. The Advisory Board shall meet at least annually.

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the regulations thereunder, Bill Luecht, Designated Federal Officer of the Advisory Board, has ordered publication of this notice that the Advisory Board will convene an open meeting, which will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW., Washington, DC 20220, from 9:00 a.m. to 3:30 p.m. Eastern Standard Time on Thursday, November 16, 2017. The room will accommodate up to 50 members of the public on a first-come, first-served basis.

Because the meeting will be held in a secure federal building, members of the public who wish to attend the meeting must register in advance. The link to the online registration system can be found in the meeting announcement found at the top of *www.cdfifund.gov/cdab.* The registration deadline is 11:59 p.m. Eastern Standard Time on Thursday, November 9, 2017. For entry into the building on the date of the meeting, each attendee must present his or her government issued ID, such as a driver's license or passport, which includes a photo.

The Advisory Board meeting will include a report from the CDFI Fund Director on the activities of the CDFI Fund since the last Advisory Board meeting and on Fiscal Year 2018 priorities, and reports on recent third-party research conducted for the CDFI Fund.

Authority: 12 U.S.C. 4703.

Mary Ann Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2017–22278 Filed 10–13–17; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Departmental Offices

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th Street and Pennsylvania Avenue NW., Washington, DC, on October 31, 2017 at 9:30 a.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of The Securities Industry and Financial Markets Association.

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues and conduct a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, 10(d) and Public Law 103–202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, § 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions and financing estimates. This briefing wilt give the press an opportunity to ask questions about financing projections. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Director for Office of Debt Management (202) 622–1876.

Dated: October 5, 2017.

Fred Pietrangeli,

Director (for Office of Debt Management).

[FR Doc. 2017–21955 Filed 10–13–17; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Employees Whose Association With For-Profit Educational Institutions Poses No Detriment to Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent; withdrawal of notice.

SUMMARY: The Department of Veterans Affairs (VA) published a Notice of intent and request for comments in the **Federal Register** on September 14, 2017. This document withdraws the Notice of intent and request for comments that published in the **Federal Register** on September 14, 2017.

DATES: Effective October 16, 2017, the Notice of intent and request for comments published at 82 FR 43288, September 14, 2017 is withdrawn.

FOR FURTHER INFORMATION CONTACT: Christopher Britt, Office of General Counsel (02–EST), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, *Christopher.britt@va.gov,* 202–461–7637 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The VA published a Notice of intent and request for comments in the **Federal Register** on September 14, 2017, 82 FR 43288, that proposed issuance of a blanket waiver of the conflict of interest provisions of 38 U.S.C. 3683(a). This statute requires immediate dismissal from VA service of any officer or employee who has, while an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible person or veteran was using VA educational benefits. The document stated that the Secretary intended to waive the application of 38 U.S.C. 3683(a) for all VA employees who receive any wages, salary, dividends, profits, gratuities, or services from, or own any interest in, a for-profit educational institution in which an eligible person or veteran is pursuing a program of education using VA education benefits, as long as employees abided by the existing criminal conflict of interest laws and the Standards of Conduct for Employees of the Executive Branch, as the Secretary had determined that no detriment would result to the United States, veterans, or eligible persons from such activities.

Comments to the document were to be provided to the VA on or before October 16, 2017. The VA received a significant number of comments and has determined not to pursue implementation of the waiver as

originally proposed. This document withdraws the Notice of intent and request for comments that published in the **Federal Register** on September 14, 2017, 82 FR 43288.

Dated: October 11, 2017.

Michael Shores,

Director, Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–22352 Filed 10–13–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Monday,
No. 198 October 16, 2017

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Residual Risk and Technology Review; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2015–0730; FRL–9969–08–OAR]

RIN 2060–AS93

National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Manufacturing of Nutritional Yeast source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are finalizing other amendments, including revisions to the form of the volatile organic compounds (VOC) standards for fermenters, removal of the option to monitor brew ethanol, inclusion of ongoing relative accuracy test audit (RATA), and revisions to other monitoring, reporting, and recordkeeping requirements.

DATES: This final rule is effective on October 16, 2017. The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** as of October 16, 2017.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2015–0730. All documents in the docket are listed on the *https://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Allison Costa, Sector Policies and Programs Division (Mail Code E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1322; fax number: (919) 541–0516; and email address: *costa.allison@epa.gov.* For specific information regarding the risk modeling methodology, contact Chris Sarsony, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4843; and email address: *sarsony.chris@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact John Cox, 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: (919) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

BAE Batch-average concentration of brew ethanol in fermenter liquid
BAVOC Batch-average concentration of volatile organic compounds in fermenter exhaust
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS Continuous emission monitoring system
CFR Code of Federal Regulations
CPMS Continuous parameter monitoring system
CRA Congressional Review Act
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FID Flame ionization detector
GC Gas chromatograph
HAP Hazardous air pollutant(s)
HQ Hazard quotient
ICR Information Collection Request
MACT Maximum achievable control technology
NEI National Emissions Inventory
NESHAP National emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
ppmv Parts per million by volume
PRA Paperwork Reduction Act
RATA Relative accuracy test audit
REL Recommended exposure limit
RFA Regulatory Flexibility Act
RfC Reference concentration
RIN Regulatory Information Number
RTO Regenerative thermal oxidizer
RTR Risk and technology review
SSM Startup, shutdown, and malfunction
THC Total hydrocarbons
TOSHI Target organ-specific hazard index
UMRA Unfunded Mandates Reform Act
URE Unit risk estimate
VOC Volatile organic compound

Background information. On December 28, 2016, the EPA issued a proposed rulemaking presenting the results of the RTR of the Manufacturing of Nutritional Yeast NESHAP, as well as proposing additional revisions to the NESHAP. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document titled, ''Nutritional Yeast Manufacturing Risk and Technology Review: Summary of Public Comments and Responses,'' which is in the docket for this action (Docket ID No. EPA–HQ–OAR–2015–0730). A ''track changes'' version of the regulatory language that incorporates the changes in this action is also available in the docket.

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

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and Source Category	NAICS [1] Code
Manufacturing of Nutritional Yeast	311999

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the final Manufacturing of Nutritional Yeast NESHAP (40 CFR part 63, subpart CCCC). If you have any questions regarding the applicability of any aspect of this NESHAP, which we refer to as ''subpart CCCC'' in this preamble, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this final action 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/manufacturing-nutritional-yeast-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

Additional information is available on the RTR Web site at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories, and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia by December 15, 2017. 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 the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if 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 South 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

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or

treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see the proposal published on December 28, 2016 (81 FR 95810).

B. What is the Manufacturing of Nutritional Yeast source category and how does the NESHAP regulate HAP emissions from this source category?

The EPA promulgated the Manufacturing of Nutritional Yeast NESHAP on May 21, 2001 (66 FR 27876). The standards are codified at 40 CFR part 63, subpart CCCC. The manufacturing of nutritional yeast industry consists of facilities that manufacture yeast for the purpose of becoming an ingredient in dough for bread or any other yeast-raised baked product, or for becoming a nutritional food additive intended for consumption by humans. Facilities that manufacture nutritional yeast intended for consumption by animals, such as an additive for livestock feed, are not included in the description of sources covered by this subpart in 40 CFR 63.2131. In addition, subpart CCCC clarifies that fermenters are not subject to emission limitations during the production of specialty yeast (*e.g.,* yeast for use in wine, champagne, whiskey, or beer) in 40 CFR 63.2132. The source category was originally defined as Baker's Yeast Manufacturing in 1992, but was renamed Manufacturing of Nutritional Yeast in 1998 to clarify the scope of the source category. See the preamble for the proposed rule for additional background (81 FR 95814, December 28, 2016). The source category covered by subpart CCCC currently includes four facilities.

The affected sources at nutritional yeast manufacturing facilities are the collection of equipment used to manufacture Saccharomyces cerevisiae yeast, including fermenters. The subpart CCCC emission limitations apply to the final three stages of the fermentation process, which are often referred to as stock (third-to-last stage), first generation (second-to-last stage), and trade (last stage) fermentation.

Currently, the fermenters are subject to batch-average VOC (BAVOC) emission limitations that differ for each fermentation stage, and which must be met for 98 percent of all batches in each fermentation stage on a rolling 12-month basis. The measurement of VOC is used as a surrogate for the HAP of interest, acetaldehyde. The BAVOC limits are 300 parts per million by volume (ppmv) for stock fermenters (third-to-last stage), 200 ppmv for first generation fermenters (second-to-last stage), and 100 ppmv for trade fermenters (last stage).

In the original subpart CCCC requirements, facilities can continuously monitor either the VOC concentration in the fermenter exhaust or the brew ethanol concentration in the fermenter liquid to determine compliance with the emission limitations. If a facility monitors brew ethanol concentration, it must conduct an annual performance test to determine the correlation between the brew ethanol concentration in the fermenter liquid and the VOC concentration in the fermenter exhaust gas.

C. What changes did we propose for the Manufacturing of Nutritional Yeast source category in our December 28, 2016, proposal?

On December 28, 2016, the EPA published a proposed rule in the **Federal Register** for subpart CCCC, that address the results of the RTR analyses and proposed other amendments. In the action, we proposed finding that the risks from the Manufacturing of Nutritional Yeast source category are acceptable; that additional emissions controls for the source category are not necessary to provide an ample margin of safety; and that there have been no developments in practices, processes, and control technologies that warrant changes to the fermenter emission limitations. Additionally, we proposed several changes to the existing rule (apart from the RTR process) that were intended to promote consistency with relevant statutory requirements and goals. These changes included revising the form of the VOC standards for fermenters; removing the option to monitor brew ethanol; including requirements to conduct annual RATA; removing gas chromatograph (GC) continuous emission monitoring system (CEMS) as an option to monitor VOC concentration; collecting CEMS data at all times during the batch monitoring period; using Procedure 1 of Appendix F to part 60 for VOC CEMS; requiring electronic reporting; and revising startup, shutdown, and malfunction (SSM) provisions.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Manufacturing of Nutritional Yeast source category. This action also finalizes other changes to subpart CCCC, including: Revising the form of the VOC standards for fermenters; removing the

[1] The U.S. Court of Appeals for the District of Columbia Circuit has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

option to monitor brew ethanol; including requirements to conduct ongoing RATA; using Procedure 1 of Appendix F to part 60 for VOC CEMS; removing GC CEMS as an option to monitor VOC concentration; collecting CEMS data at all times during the batch monitoring period; requiring electronic reporting; and revising SSM provisions.

A. What are the final rule amendments based on the risk review for the Manufacturing of Nutritional Yeast source category?

The EPA proposed no changes to subpart CCCC based on the risk review conducted pursuant to CAA section 112(f). Specifically, as we proposed, we are finalizing our determination that risks from the nutritional yeast manufacturing facilities are acceptable, and that the standards provide an ample margin of safety to protect public health. The EPA received no new data or other information during the public comment period that changed that determination. Therefore, we are not requiring additional controls under CAA section 112(f)(2).

B. What are the final rule amendments based on the technology review for the Manufacturing of Nutritional Yeast source category?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. The EPA proposed no changes to subpart CCCC based on the technology review conducted pursuant to CAA section 112(d)(6). The EPA received no new data or other information during the public comment period that affected the technology review determination. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemptions contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standard apply continuously.

Consistent with *Sierra Club* v. *EPA,* the EPA has established standards in this rule that apply at all times. We have eliminated the malfunction exemption in this rule, in addition to making other changes to ensure that the rule's emission limitations apply continuously (the latter changes are addressed in sections III.D and IV.C of this preamble). While, for simplicity, we refer throughout this section to the SSM exemption and the associated SSM plan requirements, only the malfunction exemption and its removal are relevant to this action because periods of startup and shutdown were never exempt from emissions standards in this subpart. We have revised Table 6 to subpart CCCC (the General Provisions applicability table) in several respects as is explained in more detail below. For example, we have eliminated the incorporation of the General Provisions' requirement that the source develops an SSM plan. We have also eliminated and revised certain recordkeeping and reporting that is related to the SSM exemption as described in detail in the proposed rule and summarized again here.

In establishing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not established alternate standards for those periods. Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. In this NESHAP, owners or operators of nutritional yeast manufacturing facilities employ process controls to limit emissions. These process controls are employed from the time a fermenter starts production of a batch of yeast and continue until the fermenter is emptied of yeast. Additionally, emissions are averaged over the entire duration of each batch in order to determine compliance with emission limitations, so there was no need to set separate limits for periods of startup and shutdown in this rule.

Malfunctions, in contrast, are neither predictable nor routine. Instead they are by definition sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. 40 CFR 63.2 (definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the D.C. Circuit. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Instead, under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the D.C. Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of '' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards. As the D.C. Circuit recognized in *U.S. Sugar Corp,* accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 (''the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.'') As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' '') See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of

regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In subpart CCCC, it is unlikely that a malfunction would result in a violation of the standards for fermenters. The rule provides an option for owners or operators to determine the average VOC concentration for all batches within each fermentation stage using data from 12-month periods. This option limits the effect of malfunctions on the ability of a facility to meet the emission limitations because the averaging effectively minimizes ''spikes'' in emissions. Additionally, many of the common malfunctions reported during EPA site visits by owners or operators of nutritional yeast manufacturing facilities were malfunctions of the emissions monitoring equipment. While the equipment is unable to record accurate data during periods of malfunction, it does not impact actual emissions because process controls could still be used to limit emissions. In the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable and not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (D.C. Cir. 2016).

1. 40 CFR 63.2150 General Duty

We are revising the General Provisions table (Table 6 to subpart CCCC) entry for 40 CFR 63.6(e)(1)(i) to specify that 40 CFR 63.6(e)(1)(i) does not apply to subpart CCCC. Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM; with the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, we are adding instead general duty regulatory text at 40 CFR 63.2150(d) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption.

We are also revising the General Provisions table (Table 6 to subpart CCCC) entry for 40 CFR 63.6(e)(1)(ii) to specify that 40 CFR 63.6(e)(1)(ii) does not apply to subpart CCCC. Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.2150.

2. SSM Plan

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.6(e)(3) does not apply to subpart CCCC. Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is removing the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and, thus, the SSM plan requirements are no longer necessary.

3. Compliance With Standards

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.6(f)(1) does not apply to subpart CCCC. The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standard apply continuously. Consistent with Sierra Club, the EPA is revising standards in this rule to apply at all times.

4. 40 CFR 63.2161 Performance Testing

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.7(e)(1) does not apply to subpart CCCC. Section 63.7(e)(1) describes performance testing requirements. The EPA is instead adding a performance testing requirement at 40 CFR 63.2161(b). The performance testing requirements we are adding differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal

operating conditions. The EPA is adding language in 63.2161(b) that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is adding to subpart CCCC builds on that requirement and makes explicit the requirement to record the information.

5. Monitoring

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.8 (c)(1)(i) and (iii) do not apply to subpart CCCC. The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.8(d)(3) does not apply to subpart CCCC. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is adding to the rule at 40 CFR 63.2182(c)(3) and 63.2183(e) text that contains the same requirements as 40 CFR 63.8(d)(3), except that we are requiring the program of corrective action for a malfunctioning monitoring system to be included in the quality control program for a CEMS (as described in 40 CFR 63.8(d)(2)) instead of in the SSM plan.

6. 40 CFR 63.2182 Recordkeeping

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.10(b)(2)(ii) does not apply to subpart CCCC. Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is adding such requirements to 40 CFR 63.2182(a)(2) and (c)(5). The regulatory text we are adding differs from the text in the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is now applying the recordkeeping requirement to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also adding to 40 CFR 63.2182(a)(2) and (c)(5) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.10(b)(2)(iv) does not apply to subpart CCCC. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now specified at 40 CFR 63.2182(a)(2) and (c)(5).

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.10(b)(2)(v) does not apply to subpart CCCC. When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.10(c)(15) does not apply to subpart CCCC. The provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12) concerning additional recordkeeping requirements for sources with continuous monitoring systems. The EPA is eliminating this requirement because SSM plans will no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

7. 40 CFR 63.2181 Reporting

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.10(d)(5) does not apply to subpart CCCC. Section 63.10(d)(5) describes the reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirement, the EPA is adding reporting requirements to 40 CFR 63.2181(c)(5) and (7). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as stand-alone reports. We are promulgating language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual compliance report already required under this rule in 40 CFR 63.2181. We are requiring that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limitation, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is promulgating this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans will no longer be required. The final amendments, therefore, eliminate the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary

because the events will be reported in otherwise required reports with similar format and submittal requirements.

We are revising the General Provisions table (Table 6 to subpart CCCC) to specify that 40 CFR 63.10(d)(5)(ii) does not apply to subpart CCCC. Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard, but did not follow the SSM plan. We will no longer require owners or operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because such plans will no longer be required.

D. What other changes have been made to the NESHAP?

This rule finalizes revisions to several other Manufacturing of Nutritional Yeast NESHAP requirements. We describe the revisions in the following paragraphs.

We are finalizing the proposed amendments to revise the form of the fermenter VOC limits that require facilities to demonstrate compliance using either the Average Option or Batch Option. In response to comments, we are allowing facilities up to 1 year to demonstrate compliance with the revised form of the emission limitations. The EPA originally proposed that facilities would have to demonstrate compliance immediately upon promulgation of the final rule.

We are also finalizing the proposed amendments to several testing, monitoring, recordkeeping, and reporting provisions. First, we are finalizing amendments to require all facilities to monitor VOC emissions using VOC CEMS and to remove the option to monitor brew ethanol in the fermenter liquid and determine an annual correlation to VOC concentration in the fermenter exhaust in order to demonstrate compliance with fermenter VOC emission limitations. In reponse to comments, we are allowing the affected facility up to 3 years to comply with these requirements. The EPA originally proposed that the affected facility would have 1 year to comply with these requirements. We are also finalizing the related revisions to the rule text that corrected references to ''brew ethanol monitors'' that had erroneously referred to CEMS.

Second, we are finalizing the proposed amendments to remove the option to use GC CEMS to monitor VOC emissions. The use of GC CEMS requires facilities to identify specific VOC species to monitor and no facilities are currently using this method.

Third, we are finalizing the proposed amendments to require the collection of all valid CEMS data during batch monitoring periods and the reporting of missing data as deviations. In response to comments, we have added clarifying language in the rule specifying a minimum CEMS cycle time of 15 minutes and allowing a minimum of two data points (representing 15-minute periods) to constitute a valid hour of data collection during periods of calibration, quality assurance, or maintenance activities; and modified the recordkeeping requirements accordingly (as stated in the General Provisions).

Fourth, we are finalizing the proposed amendments to require facilities to conduct regular RATA using Procedure 1 of Appendix F to part 60 to evaluate the ongoing performance of CEMS. In response to comments, we are requiring RATA to be conducted once every 3 years, instead of annually as proposed. We are also adding language to the rule to clarify that cylinder gas audits or relative accuracy audits must be conducted in the quarters that RATA are not conducted, consistent with the requirements of Procedure 1 of Appendix F to part 60.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners or operators of nutritional yeast manufacturing facilities submit electronic copies of certain required performance test or evaluation reports through the EPA's Central Data Exchange (CDX) Web site using the Electronic Reporting Tool (ERT). This requirement to submit performance test data or performance evaluation information electronically to the EPA applies only to those performance tests or evaluations conducted using test methods or evaluations that are supported by the ERT.

Lastly, we are finalizing the proposed minor language changes throughout subpart CCCC that clarify the existing requirements and restate the requirements in active voice. These amendments do not change any existing requirements, but are intended to improve the readability of subpart CCCC.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on October 16, 2017.

The compliance date for the removal of GC CEMS, collection of all valid CEMS data from the entire batch monitoring period, requirement to conduct RATA, use of Procedure 1 of Appendix F to part 60 for VOC CEMS, revised SSM requirements, and the electronic reporting requirements for nutritional yeast manufacturing facilities is October 16, 2017.

Existing facilities must comply with the revised form of the fermenter VOC emission limitations by October 16, 2018. Until October 16, 2018, facilities must continue to demonstrate compliance, either using the existing form of the fermenter VOC emission limitations or the revised form of the fermenter VOC limits, in their semiannual compliance reports. As discussed in section IV.G of this preamble, this timeframe was revised from immediate compliance in the proposed rule, based on public comments, in order to allow facilities time to train staff and update the necessary recordkeeping and reporting procedures.

Facilities that currently demonstrate compliance by monitoring brew ethanol concentration in the fermenter liquid must install CEMS by October 16, 2020. Until October 16, 2020, emissions data must be collected for each batch, either using the existing compliance method (monitoring brew ethanol concentration) or with CEMS, for use in the semiannual compliance reports with the applicable emission limitations. As discussed in section IV.G of this preamble, this was revised from the proposed 1-year compliance period, based on public comments, to allow facilities adequate time to procure equipment; train staff; and update operations and maintenance, recordkeeping, and reporting procedures.

Sources that are constructed or reconstructed after promulgation of the rule revisions must comply with the emission limitations and compliance requirements upon the effective date of the rule, October 16, 2017, or upon startup of the affected source, whichever is later.

F. What are the requirements for submission of performance test data to the EPA?

The EPA is requiring owners or operators of manufacturing of nutritional yeast facilities to submit electronic copies of certain required performance test reports and performance evaluation reports (*e.g.,* RATAs that are supported by the EPA's ERT) at the time of the evaluation, through the EPA's CDX using the Compliance and Emissions Data Reporting Interface (CEDRI). The electronic submittal will increase the usefulness of the data contained in those reports, is in keeping with current

trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public.

The EPA Web site that stores the submitted electronic data, WebFIRE, provides a user-friendly interface accessible to all stakeholders. By making the records, data, and reports addressed in this rulemaking readily available, the EPA, the regulated community, and the public will benefit when the EPA conducts its CAA-required technology and risk-based reviews. As a result of having reports readily accessible, our ability to carry out comprehensive reviews will be increased and achieved within a shorter period of time.

We anticipate fewer or less substantial Information Collection Requests (ICRs) in conjunction with prospective CAA-required technology and risk-based reviews may be needed as a result of electronic reporting, which results in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly. Although the regulated community may benefit from a reduced burden of ICRs, the general public benefits from the Agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

Air agencies, as well as the EPA, can benefit from more streamlined and automated review of the electronically submitted data. Standardizing report formats allows air agencies to review reports and data more quickly. Having reports and associated data in electronic format will facilitate review through the use of software ''search'' options, as well as the downloading and analyzing of data in spreadsheet format. Additionally, air agencies and the EPA can access reports wherever and whenever they want or need, as long as they have access to the Internet. The ability to access and review reports electronically assists air agencies in determining compliance with applicable regulations more quickly and accurately, potentially allowing a faster response to violations which could minimize harmful air emissions. This benefits both air agencies and the general public.

For a more thorough discussion of electronic reporting required by this rule, see the discussion in the preamble of the proposal (81 FR 95829, December 28, 2016). In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, air agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations, and enhancing the public's access to this important information.

IV. What is the rationale for our final decisions and amendments for the Manufacturing of Nutritional Yeast source category?

For each issue, this section provides a description of what we proposed and what we are finalizing, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket for this rulemaking (EPA–HQ–OAR–2015–0730).

A. Residual Risk Review for the Manufacturing of Nutritional Yeast Source Category

1. What did we propose pursuant to CAA section 112(f) for the Manufacturing of Nutritional Yeast source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the December 28, 2016, proposed rule for subpart CCCC (81 FR 95825). The results of the risk assessment for the proposal are presented briefly below in Table 2 of this preamble, and in more detail in the proposal residual risk document, ''Residual Risk Assessment for the Manufacturing of Nutritional Yeast Source Category in Support of the December 2016 Risk and Technology Review Proposed Rule,'' which is available in the docket for this rulemaking.

TABLE 2—NUTRITIONAL YEAST MANUFACTURING INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic non-cancer TOSHI [3]		Maximum screening acute non-cancer HQ [4]	
	Based on actual emissions level [2]	Based on allowable emissions level	Based on actual emissions level [2]	Based on allowable emissions level	Based on actual emissions level [2]	Based on allowable emissions level	Based on actual emissions level [2]	Based on allowable emissions level	Based on actual emissions level [2]	Based on allowable emissions level
4	2	2	750	750	0.0009	0.0009	0.08	0.08	HQ_{REL} = 0.2	HQ_{REL} = 0.2.

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ with the highest TOSHI for the Manufacturing of Nutritional Yeast source category is the respiratory system.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the recommended exposure limit (REL). When HQ values exceed 1, we also show HQ values using the next lowest available acute dose-response value. See section III.A.3 of the proposal preamble (81 FR 95816, December 28, 2016) for explanation of acute dose-response values.

Based on both actual and allowable emissions for the Manufacturing of Nutritional Yeast source category, the maximum lifetime individual cancer risk was estimated to be up to 2-in-1 million, the maximum chronic non-cancer TOSHI value was estimated to be up to 0.08, and the maximum off-facility site acute HQ value was estimated to be up to 0.2. The total estimated national cancer incidence from these facilities was 0.0009 excess cancer cases per year or 1 case in every 1,100 years.

There are no persistent and bioaccumulative HAP emitted by facilities in this source category. Therefore, we did not consider any human health multi-pathway risks as a result of emissions from this source category.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination, and proposed that the residual risks from the Manufacturing of Nutritional Yeast source category are acceptable (section IV.B. of proposal preamble, 81 FR 95825, December 28, 2016).

We then considered whether subpart CCCC provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Two control options were evaluated for further reducing acetaldehyde emissions from fermenters at nutritional yeast facilities: thermal oxidizers and wet (packed bed) scrubbers. Due to the additional environmental impacts (increased energy use and emissions of approximately 89 tpy of nitrogen oxides that would be imposed by the control options and the low level of current human health risk), along with the substantial costs associated with these control options, we proposed that additional emissions controls for this source category are not necessary to provide an ample margin of safety (section IV.B.2 of proposal preamble, 81 FR 95825, December 28, 2016).

In addition, none of the seven pollutants identified by the EPA as ''environmental HAP'' (cadmium, dioxins/furans, polycyclic organic matter, mercury, lead compounds, hydrogen chloride, and hydrogen fluoride), which are known to cause adverse environmental effects, are emitted; therefore, we did not conduct a separate environmental risk analysis for this source category (see section III.A.6 of the proposal preamble (81 FR 95819, December 28, 2016)).

2. How did the risk review change for the Manufacturing of Nutritional Yeast source category?

During the public comment period, the EPA received information that the acetaldehyde emissions rate was tested at the AB Mauri facility in 2017 and was approximately 50 percent lower than the rate used to estimate the total annual emissions included in the residual risk analysis. The residual risk analysis performed for the proposed rule was based on data reported in the 2011 National Emissions Inventory (NEI) from all facilities. The new emissions rate cannot be used to change previously reported data from a facility because there is no clear evidence or test history to establish when the emission rate decreased. Complete 2017 emissions data is not yet available for AB Mauri, so the EPA could not repeat the risk analysis using newer data for this facility. Importantly, the risk review had already found that the risks are acceptable and the standards provide an ample margin of safety using the higher 2011 NEI emissions data for this facility, so it is possible that the residual risk from the Manufacturing of Nutritional Yeast source category has decreased even farther. Since the EPA concluded it was reasonable to not update the risk review following proposal, we have finalized the risk assessment report and re-submitted it to the docket as ''Residual Risk Assessment for the Manufacturing of Nutritional Yeast Source Category in Support of the October, 2017 Risk and Technology Review Final Rule.''

3. What key comments did we receive on the risk review and what are our responses?

We received comments in support of and against the proposed residual risk review and our determination that no revisions were warranted under CAA section 112(f)(2). Generally, the comments that were not supportive of the determination from the risk review suggested changes to the underlying risk assessment methodology. After review of these comments, we determined that no changes were necessary. The comments and our specific responses can be found in the document, ''Nutritional Yeast Manufacturing Risk and Technology Review: Summary of Public Comments and Responses,'' which is available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the risk review?

For the reasons explained in the proposed rule, we determined that the risks from the Manufacturing of Nutritional Yeast source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. Therefore, we are not revising subpart CCCC to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review and are readopting the existing standards under CAA section 112(f)(2).

B. Technology Review for the Manufacturing of Nutritional Yeast Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Manufacturing of Nutritional Yeast source category?

Pursuant to CAA section 112(d)(6), the EPA conducted a technology review and summarized the results of the review in the proposed rule for subpart CCCC (81 FR 95825, December 28, 2016). The results of the technology review are briefly discussed below, and in more detail in the memorandum, ''Technology Review for the Manufacturing of Nutritional Yeast Source Category,'' which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2015–0730–0016).

The technology review focused on identifying and evaluating developments in practices, processes, and control technologies for the Manufacturing of Nutritional Yeast source category. We identified two control technologies for further evaluation that were technically feasible for further reducing acetaldehyde emissions from nutritional yeast fermenters: thermal oxidizers, and wet (packed bed) scrubbers. After identifying the control technologies that were technically feasible, we then evaluated the costs and emissions reductions associated with installing regenerative thermal oxidizers (RTOs) and packed bed scrubbers at each of the four existing nutritional yeast facilities. Considering the high cost per ton of acetaldehyde reduced and potential adverse environmental impacts

associated with the installation of RTOs or packed bed scrubbers, we did not consider these technologies to be cost effective for further reducing acetaldehyde emissions from fermenters at nutritional yeast manufacturing facilities. In light of the results of the technology review, we proposed to conclude that changes to the fermenter emission limitations were not warranted pursuant to CAA section 112(d)(6) (81 FR 95825, December 28, 2016).

2. How did the technology review change for the Manufacturing of Nutritional Yeast source category?

The technology review for the Manufacturing of Nutritional Yeast source category has not changed since proposal. As proposed, the EPA is not making changes to the standards pursuant to CAA section 112(d)(6).

3. What key comments did we receive on the technology review and what are our responses?

We received comments in support of the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). We also received one comment that asserted that cost effectiveness should not be a consideration when examining standards under CAA section 112(d)(6). We evaluated the comments and determined that no changes regarding our determination were needed. These comments and our specific responses to those comments can be found in the comment summary and response document titled, ''Nutritional Yeast Manufacturing Risk and Technology Review: Summary of Public Comments and Responses,'' which is available in the docket for this action.

4. What is the rationale for our final approach for the technology review?

For the reasons explained in the preamble to the proposed rule, we determined there were no new developments in practices or processes, nor were cost-effective control technologies available to further reduce acetaldehyde emissions from fermenters at nutritional yeast manufacturing facilities (81 FR 95825, December 28, 2016). Since proposal, neither the technology review nor our determination as a result of the technology review has changed, and we are not revising subpart CCCC pursuant to CAA section 112(d)(6).

C. Revised Form of the Fermenter VOC Standard

1. What did we propose?

At proposal, the EPA explained that the current form of the standards for VOC limits on fermenters was in direct conflict with the statutory requirement that emission standards limit emissions on a continuous basis, *i.e.,* that some emission limitation applies at all times, and, therefore, proposed to establish a revised form of the standards (''Batch Option'') as well as an alternate standard for compliance (''Average Option'') in Table 1 to subpart CCCC (81 FR 95826, December 28, 2016). Under the proposed Batch Option, each individual batch manufactured must meet the existing VOC emission limits (300 ppmv for stock fermentation, 200 ppmv for first generation fermentation, and 100 ppmv for trade fermentation). Under the proposed Average Option, all batch average VOC concentration data for each fermentation stage in a 12-month period must be averaged together and not exceed certain VOC emission limits, which are 5 percent lower than the VOC emission limits established for individual batches in 2001 for subpart CCCC (285 ppmv for stock fermentation, 190 ppmv for first generation fermentation, and 95 ppmv for trade fermentation). We referred to this reduction as a ''discount factor,'' consistent with our use of the term in other MACT standards that allow averaging of emissions data for compliance.

Additionally, the proposed revisions to the general compliance requirements in 40 CFR 63.2150(a) and (c) that remove the exemption for compliance with emission limits during periods of malfunction will also impact the determination of compliance with emission limits. The practical effect of this change is that emissions from batches of yeast produced during periods of malfunction, other than monitoring system malfunctions, must now be included in calculations for compliance purposes.

2. How did the requirements change since proposal?

The EPA has not changed either the form or the level of emission reductions that would be required under either the Batch or Average Option. We have, however, revised our characterization of which option represents the updated form of the original MACT standard and which can be used as the alternative compliance method, as described in section IV.C.3 of this preamble.

3. What key comments did we receive and what are our responses?

Comment: Two commenters stated that the EPA improperly assumed a need to change the fermenter VOC standards based on the *Sierra Club* v. *EPA* SSM policy ruling that standards must apply at all times. One commenter asserted that the EPA is confusing the concept of continuous compliance as opposed to relief from compliance. Both commenters remarked that the existing fermenter VOC standards apply at all times and the facility must be in continuous compliance with the standard, meaning that VOC concentration must be continuously monitored to ensure that 98 percent of all batches do not exceed the VOC standards. A commenter also stated that yeast manufacturers do continuously comply with the existing fermenter VOC standards, as calculated under the statistical averaging approach set out in the standard. The commenter continued that the *Sierra Club* v. *EPA* SSM ruling did not say that calculations embedded into MACT standards must be invalidated under the logic the Court used to invalidate the EPA's general SSM policy.

The commenter stated that other Court decisions addressing the EPA's SSM policy similarly have no bearing on the Nutritional Yeast rule. For example, the commenter remarked that in *NRDC* v. *EPA,* the Court invalidated the affirmative defense provision of the Cement Kiln NESHAP that excused Portland cement manufacturers if they experienced a process malfunction. The commenter stated the Nutritional Yeast rule does not provide any affirmative defense for non-compliance.

Response: We disagree that the changes to the form of the standard are unwarranted and that the *Sierra Club* v. *EPA* decision is inapplicable in this context because we disagree with the commenters' characterization of the existing form of the standard as an emission limitation that applies at all times. A standard that allows up to 2 percent of batches to be produced without any applicable limitation on emissions does not provide continuous emission reductions within the meanings of CAA sections 112 and 302(k).

The existing form of the standard is inconsistent with the D.C. Circuit's holding that CAA sections 112 and 302(k), when read together, require that emission standards apply on a continuous basis, and we are remedying that inconsistency here. See *Sierra Club* v. *EPA,* 551 F.3d at 1027. While the Court was specifically addressing SSM

requirements in that case, its analysis was based on CAA section 302(k)'s requirement that emission standards, including those required under CAA section 112(d)(2) and (3), ''assure continuous emission reduction.'' *Id.* The Court discussed the legislative history of CAA section 302(k), noting that ''the committee has made clear that constant or continuous means of reducing emissions must be used to meet these requirements. By the same token, intermittent or supplemental controls or other temporary, periodic, or limited systems of control would not be permitted as a final means of compliance.'' *Id.* (quoting H.R. Rep. 95–294, at 92 (1977)). The Court's disposition of the SSM issue was based on its determination that CAA section 302(k) does not allow the EPA ''to relax emission standards on a temporal basis.'' *Id.* at 1028 (citing *NRDC* v. *EPA,* 489 F.3d at 1364, 1374 (D.C. Cir. 2007)). That same analysis—that some emission standard must provide emission reductions at all times—is directly applicable to the emission standard at issue here. The existing MACT standard for yeast manufacturing allows up to 2 percent of batches to be produced without any kind of emission reduction requirement, which is in direct conflict with CAA section 302(k) and *Sierra Club* v. *EPA.*

We disagree with the commenter's overly narrow interpretation of *Sierra Club* v. *EPA* as applying only to SSM exemptions, as it ignores the underlying determination that such exemptions are illegal because they are inconsistent with the requirement that emission reductions must be continuous. The existing form of the standard for yeast manufacturing creates a limited or intermittent system of control. The fact that this exemption was originally built into the standard does not excuse its fundamental inconsistency with the statutory requirements. We also disagree that we are confusing continuous compliance with relief from compliance; again, the issue is broader than just whether sources must comply continuously with a standard—it is also, according to the D.C. Circuit's analysis, whether that standard provides continuous emission reductions.

The EPA acknowledges and understands that, in the current standard, nutritional yeast facilities continuously monitor VOC concentration during each batch. This is done both to monitor emissions for compliance purposes and also because facilities use the data for process control. However, continuous monitoring is not equivalent to having a continuous emission standard when the continuous monitoring is not accompanied by an emission reduction requirement. Critically, facilities may currently exceed the VOC standards for up to 2 percent of batches and these batches are allowed to emit an unlimited amount of HAP and VOC emissions. The revised forms of the standards, be it the Batch or Average Option, require that all monitored batch data are included to determine compliance, which ensures that the standards do not provide allowances for some batches of yeast to emit an unlimited amount of HAP and VOC emissions.

The EPA also notes that nutritional yeast facilities make hundreds to thousands of batches of yeast within a 12-month period; therefore, the 2-percent exemption allows a significant number of batches to exceed the limits. For example, if there are 1,000 batches during a 12-month period, up to 20 batches may operate without emission limits. Again, there is no cap on their emissions and no penalty for these exceedances, regardless of how much they exceed the emission limit or the cause of the excursion. This ''time out'' from application of the emission standard is inconsistent with the requirement that such standards provide for continuous emission reductions.

Relatedly, we further clarify that, separate from updating the form of the standard so that an emission limitation applies to all batches (*i.e.,* continuously), we are also removing cross-references to sections of the General Provisions that allow for exemptions from compliance during periods of malfunction. These are two separate issues in the context of this rulemaking, both of which were precipitated by the *Sierra Club* v. *EPA* decision, as explained above. While removal of the malfunction exemption means that owners or operators of nutritional yeast manufacturing facilities must include data from every batch when determining whether they have complied with the standard, this does not preclude the EPA from appropriately addressing noncompliance when it results from emissions that occur during periods of malfunction as defined in 40 CFR 63.2, which is discussed in section III.C of this preamble.

We did not include affirmative defense language in the nutritional yeast proposal and did not consider it for the rule revisions. Thus, we agree that the *NRDC* v. *EPA* decision is not relevant to the revisions to the form of the standards.

Comment: Two commenters stated that allowing up to 2 percent of batches to exceed the fermenter VOC emission limits is inherent in the standards to account for the natural variability of the yeast manufacturing process. One commenter remarked that changing the fermenter VOC standards would be to reject the EPA's prior determination that the standards needed to reflect the actual functioning of the yeast fermentation process.

Response: The EPA disagrees that an exemption from emission limitations is the only option to address variability within a standard. There are other options for addressing variability besides raising the level of the standard. One such option is to express the emission limitation as the average of emissions from all batches. Our proposed Average Option, where a facility may average BAVOC emissions from all batches within a given fermentation stage together within a 12-month period, provides flexibility for individual batches to emit both below and above the prescribed numerical limits. Therefore, we disagree that changing the form of the standard rejects the EPA's prior determination that the standards needed to reflect the actual functioning of the yeast fermentation process.

Comment: Two commenters stated that the Average Option could be adopted if no discount factor were applied because the Average Option accounts for variability within the yeast manufacturing process. One of the commenters does not support the 5-percent discount factor that is part of the Average Option and suggested the EPA would be required to re-open the MACT standard and revisit the administrative record that it established in 2001 in order to justify such a change.

Response: To address the requirement that the emission standards must provide for continuous emission reductions, the EPA proposed to change the current emissions standards in subpart CCCC that allow 2 percent of the batches to be exempted from the otherwise applicable emission limitation. The EPA proposed that the ''Batch Option'' would be the updated form of the MACT standard and would set emission limits for different fermentation stages by simply eliminating the exemption from the otherwise applicable emission limitation for up to 2 percent of batches. However, we now recognize that requiring 100 percent of batches to meet the original emission limitations, as opposed to 98 percent, is not what we determined to be MACT in the 2001 rulemaking. That rulemaking acknowledged that there is a degree of

natural variance in the yeast fermentation process, such that the maximum degree of emissions reduction achievable is the level represented by 98 percent of batches meeting the applicable emission limits (66 FR 27880, May 21, 2001). Therefore, while we are retaining the Batch Option as an alternative compliance option, it does not represent MACT.

The EPA also proposed the Average Option for determining compliance with the applicable emission limitations. Because we formulated this option to reflect the level of emission reductions represented by the original MACT standard, including the allowance for variability built into that standard, we are now determining that it is the Average Option that actually represents MACT. As the commenters acknowledge, assessing compliance based on a 12-month rolling average of batch emissions serves the same purpose of addressing batch variability as the 2-percent exemption. We applied a discount factor specifically because averaging multiple batches inherently provides more flexibility to emit above such limits. We have also used discount factors in conjunction with annual average emission limitations in the Boiler MACT, where a 10-percent discount was applied for emissions averaging. Allowing annual average BAVOC emissions to meet the original VOC concentration limits established as MACT in 2001 (*i.e.,* applying a 0-percent discount factor) would actually relax the standard, both due to the inherent flexibility of an averaging method and by potentially allowing more than 2 percent of batches to exceed the emission limitations set for each fermentation stage. To ensure that the annual averaging method will maintain the level of emission reductions represented by MACT, the EPA is finalizing a 5-percent discount factor in the VOC emission limit for each fermentation stage, as described in detail in the memorandum titled, ''Average Option Analysis for the Manufacturing of Nutritional Yeast Source Category,'' available in the docket for this rulemaking. The EPA believes that it is necessary to include both components of the Average Option, as the 12-month rolling average provides for a degree of flexibility to account for the natural variance in the manufacturing process, while the 5-percent discount factor maintains the level of emission reductions consistent with the MACT determination, which is the level of emission reductions that protect public health and prevent adverse effects on the environment.

As discussed previously in this section, the changes to the form of the standard were precipitated by the D.C. Circuit's 2008 ruling in *Sierra Club* v. *EPA* that some emission standard must apply at all times. 551 F.3d 1019, 1027–28 (D.C. Cir. 2008). We did not re-open the MACT calculation in this rulemaking; the revised form must continue to reflect the emission reductions achieved by the best performers as determined in the 2001 rule. The Average Option as finalized meets these requirements.

Comment: One commenter stated the EPA did not offer sufficient technical support to justify that the proposed fermenter VOC emission limits are merely a change in the ''form of the standards'' and not a change in the standards themselves. The commenter contended that the revised fermenter VOC standards are not equivalent to the existing standards and there is no legal or technical basis for any changes to the existing fermenter VOC standards. In addition, the commenter maintained the proposed revisions fundamentally alter the standards, and their stringency, by changing the formula used to assess whether facilities are in compliance.

Response: The EPA disagrees that there is no legal basis for changing the form of the standard and that our revision to the form of the standard fundamentally alters the standard itself. As discussed previously in this section, we have not recalculated the MACT floor or revisited the MACT determination; however, we have revised the current form of the standard consistent with the D.C. Circuit's *Sierra Club* v. *EPA* decision. It is not possible, strictly speaking, to demonstrate that the revised form of the standard is ''equivalent to'' the existing form of the standard because changing the form necessarily makes a direct comparison between the current standard and the revised standard infeasible. However, when revising the form, we have taken a reasonable approach to make the MACT standard apply continuously and to ensure that the revised form remains consistent with the level of emission reductions we originally determined to represent the MACT standard. That is, we have attempted to ensure, to the extent possible, that changing the form of the standard does not fundamentally alter the MACT standard that was finalized in 2001.

The Average Option was developed to maintain flexibility for the sources subject to the rule and is expected to maintain the level of emission reductions represented by the existing MACT standard. To support an alternate form of emission limitations that would allow for emissions averaging and would also represent the existing MACT standard, we considered information from the development of the original MACT standard and analyzed more recent emissions data from the facilities currently subject to this rule. Multiple years of individual BAVOC emissions data were available for two facilities. Summary BAVOC data were available for three facilities. A detailed description of the analysis of the Average Option is available in the memorandum, ''Average Option Analysis for the Manufacturing of Nutritional Yeast Source Category,'' which is available in the docket for this rulemaking.

With the revision of the form of the MACT standard, we retained certain characteristics of the 2001 standard (*e.g.,* rolling 12-month calculation periods) to reduce the changes to ongoing operations and reporting and recordkeeping procedures for affected sources. We determined that an annual averaging method was the most appropriate form to maintain the flexibility established in the 2001 MACT standard to account for the variability in emissions and retain elements of the reporting and recordkeeping provisions. We concluded, based on available data, that we could use a normal (bell-curve) distribution to simulate emissions from the yeast manufacturing process for the purposes of establishing annual average emission limits.

The 2001 MACT standard did not set the annual mean for the distribution of BAVOC concentrations at 300 ppmv, 200 ppmv, and 100 ppmv for each of the last three fermentation stages, respectively. Rather, it established an upper threshold that no more than 2 percent of individual batches could exceed. As described in greater in the memorandum, the emission limitations established under the annual averaging compliance method will necessarily be lower than the upper threshold established for the 98 percent of batches with individual batch emission limitations under the 2001 MACT standard because the limitations established under the annual averaging method represent the mean of a normal distribution instead of an upper threshold.

The simulated distribution depends on two parameters—mean and standard deviation. Because the mean and discount factor are directly related, we utilized the standard deviation as the key parameter for determining the discount factor that would maintain both flexibility for process variability and the level of emission reduction

established in the 2001 MACT standard. To do this we used the available BAVOC data from two facilities to calculate the standard deviation for 12-month rolling averages (65 total for each fermentation stage). The lowest observed standard deviations for each fermentation stage were 7 ppmv for the third-to-last stage, 5 ppmv for the second-to-last stage, and 3 ppmv for the last stage of yeast manufacturing. Utilizing the least-variable 12-month period to determine the average emission limitation results in the lowest discount factor and gives facilities the ability to operate at the highest annual average emission limit. Applying these standard deviations results in discount factors of 5 percent for the third-to-last and second-to-last stage, and 6 percent for the last stage. Instead of selecting different discount factors for each stage, we determined that a 5-percent discount factor was appropriate to apply to the 2001 VOC concentration limitations to express the existing MACT standard in a new form.

In summary, the Average Option uses an annual averaging methodology to achieve the flexibility originally accomplished by allowing 2 percent of batches to exceed the established emission limits (300 ppmv, 200 ppmv, 100 ppmv). The revised form of the standard sets annual average emission limitations that are 5 percent lower than the 2001 upper threshold emission limitations for individual batches to maintain the level of emission reductions represented by the original form of the MACT standard.

Comment: Two commenters asserted the EPA determined that only 98 percent of batches could reasonably be expected to meet the emission limits and, thus, this was the MACT floor (66 FR 27880, May 21, 2001). One of the commenters also contended that if the 2001 fermenter VOC standards had been computed based on all batches, rather than 98 percent of the batches, the standards would necessarily have been set higher to accommodate process variability or some type of emissions averaging.

Response: We agree that in setting the MACT floor in 2001, the EPA concluded that MACT is the control of 98 percent of the batches to either at or below the VOC concentration limits. However, we disagree that changing the form of the standard rejects our acknowledgment of the actual functioning of the yeast fermentation process or, as discussed previously in this section, the EPA's prior MACT floor determination. The updated form of the standard, as expressed in the ''Average Option,'' maintains the level of emission reductions represented by MACT. This is a change from the proposal, which presented the ''Batch Option'' as the updated form of MACT. For further discussion of the determination of the Average Option as MACT, see the prior response in this section.

The EPA disagrees that if the 2-percent exemption were not included in the original MACT limits, the standards would necessarily have been set higher. The numerical emission limits included in the MACT standard were not set based on the actual emissions levels achieved by 98 percent of the batches produced; rather they relied on the existing concentration-based limits included in two state rules, the state of Wisconsin and the state of Maryland, that were based on reasonably available control technology (RACT) and that were in place at the time (66 FR 27879, May 21, 2001). However, some states applied discretion concerning the number of exceedances of those emission limits that could occur before finding a facility in violation of the standards. For example, the state of Maryland's continuous emissions monitoring policy allowed for one VOC concentration limit exceedance per facility per quarter. Consistent with this policy, the EPA calculated the average number of exceedances as a percent of the total number of batches manufactured at the five facilities subject to RACT or RACT-derived limitations during 1998 and calculated the overall average exceedances (based on dividing the average number of exceedances for the facilities by the average number of runs (where a run is a fermentation of any stage) for the facilities) to be 1.3 percent, noting that one of the facilities reported an unusually high number of exceedances due to ''shakedown'' (testing) of a new fermenter. Notably, one of the five yeast manufacturing facilities analyzed exceeded no concentration limits (66 FR 27880, May 21, 2001). Given that one of the facilities did not exceed the limits, that Maryland only allowed four batches to exceed the limits each year, and that the average number of exceedances calculated using data from a facility with an ''unusually high number of exceedances'' was only 1.3 percent; as well as the statements from a commenter during promulgation of the MACT floor that ''most batches display BAVOC below the . . . limits'' (66 FR 27880, May 21, 2001), we disagree that the limits would ''necessarily have been set higher'' as the commenter contends.

Comment: One commenter stated the Batch Option would never be preferred from a compliance standpoint to the Average Option, and, thus, considered the inclusion of the Batch Option as an alternative to be illusory.

Response: We acknowledge the comment. However, the EPA does not support or prefer one option over another (*i.e.,* the Batch Option versus the Average Option). As explained above, while the EPA considered the Batch Option to be the revised form of the MACT standard at proposal, in light of comments received, we have determined that the Average Option is the revised form of the MACT standard. In recognition of information gathered from the development of the original rule and during the site visits conducted for the RTR that some facilities may be able to meet the current emission limits for all batches manufactured during a year, we have retained the Batch Option as an alternative compliance option that offers a more streamlined approach to determining and reporting compliance.

4. What is the rationale for our final approach?

For the reasons explained in the preamble to the proposed rule (81 FR 95826, December 28, 2016) and in our comment responses in section IV.C.3 of this preamble, we are finalizing revisions to the form of the fermenter VOC standards in Tables 1 and 7 to subpart CCCC. As noted above, since proposal, the EPA's determination of which option, the Batch Option or the Average Option, is the revised form of the original MACT standard has changed, and we now find that the Average Option represents MACT. However, we are finalizing both of the revised forms of the standard with no changes to the standards themselves, and are also finalizing the requirement that all sources must comply with one of the two revised forms with the changes related to frequency described in section IV.C.2 of this preamble. Additionally, we are finalizing revisions to 40 CFR 63.2150 to remove the emission limitation exemption during periods of malfunction, with the result that emissions from batches produced during periods of malfunction, other than monitoring system malfunctions, must now be included in calculations for compliance purposes.

D. Removal of the Option To Monitor Brew Ethanol

1. What did we propose?

The EPA proposed to remove one of two options for demonstrating ongoing compliance in the 2001 rule, which allowed facilities to monitor brew ethanol concentration in the fermenter liquid. Specifically, we proposed to revise the requirements of 40 CFR

63.2166 and 63.2171, and Tables 3 and 4 to subpart CCCC to remove the option to monitor brew ethanol as a means of demonstrating compliance. The method for monitoring brew ethanol requires facilities to develop an annual correlation of brew ethanol concentration to VOC concentration in the fermenter exhaust and use the correlation to determine compliance with the emission limitations. This method does not account for batch-specific characteristics affecting emissions and we subsequently determined it to be an unreliable indicator of a facility's compliance with the standard. A detailed discussion is available in the preamble to the proposed rule (81 FR 95827, December 28, 2016) and the supporting analysis is presented in the memorandum, ''Brew Ethanol Correlation Review for the Manufacturing of Nutritional Yeast Source Category Memo Correction,'' which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2015–0730–0181). We proposed to require facilities that monitor brew ethanol to adopt the remaining compliance demonstration option, which involves the installation and use of CEMS to monitor VOC emissions directly in the fermenter exhaust.

2. How did the requirements change since proposal?

The EPA is making no changes to the removal of the option to demonstrate compliance by monitoring brew ethanol in the fermenter liquid and is finalizing this amendment as proposed. However, as explained in section IV.G of this preamble, in response to public comments, the EPA has allowed 2 additional years for facilities to comply with this amendment in addition to the 1 year that was proposed.

3. What key comments did we receive and what are our responses?

Comment: One commenter challenged the EPA's technical analysis supporting the proposed removal of the option to monitor brew ethanol as a method to demonstrate compliance with emission limitations, and claimed that the analysis was fundamentally flawed and misleading. The commenter disagreed with the EPA's finding that brew ethanol monitoring resulted in a high level of inconsistency in the amount of VOC emissions estimated for a particular brew ethanol concentration and requested that brew ethanol monitoring be retained as a valid parametric CEMS. The commenter also suggested that the EPA erred by using ''hypothetical'' VOC concentrations instead of the actual batch-average concentration values of brew ethanol in the fermenter liquid (BAE) from one of the performance tests to demonstrate the potential for emission limitation exceedances.

The commenter provided a report that analyzed brew ethanol correlation performance tests from 2007 through 2016 (see EPA–HQ–OAR–2015–0730–0191–A2). The report presented the conclusion that the combined 10 years (2007–2016) of performance test data demonstrated that when using the actual BAE and maximum BAE results for each fermentation stage over the 10-year period and applying the results to each year's linear regression analysis, there was not a single year where the facility would have exceeded the prescribed VOC emission limitations for the tested batches. Furthermore, the commenter stated that even when using the highest BAE observed during one of the performance tests over the last 10 years and applying the most unfavorable linear regression analysis from those 10 years, there was no potential for the facility to have exceeded the corresponding VOC emission limitations.

Response: The commenter has provided no evidence to dispute the EPA's central conclusion that the calculated brew ethanol linear regression equations demonstrate an unacceptable level of variability. The EPA's decision to disallow the brew ethanol monitoring option rests on this conclusion. The analysis of ''higher end'' brew ethanol concentrations, which the EPA believes remains reasonable (as discussed below), was utilized to illustrate the effect of relying on the highly variable brew ethanol linear regressions on compliance, and is not the primary support for the EPA's decision to discontinue the brew ethanol monitoring option.

The core point of the EPA's analysis is that the level of VOCs emitted for a given percentage of brew ethanol measured in a fermenter is different for every batch that was tested in a given fermentation stage between 2012 and 2016. The additional data submitted by the commenter for the years 2007 through 2011 further support this finding. Depending on which of the 10 performance test batches is evaluated, the BAVOC value that would be calculated for a BAE value of 0.14 from a batch manufactured in the third-to-last stage ranged from as low as 76 ppmv to as high as 207 ppmv. Similar results were reported for the second-to-last and last fermentation stages. Our analysis of the variability is provided in the memorandum titled, ''Brew Ethanol Correlation Review for the Manufacturing of Nutritional Yeast Source Category—Final Rule,'' which has been updated with the additional data submitted by the commenter and is available in the docket for this rulemaking.

For many batches produced over the course of a year, the variability between annual correlation equations will not affect the facility's compliance status because the batches are well under the established emission limitations for each of the correlation equations. However, for those batches with higher brew ethanol concentrations, the variability may have a significant impact on the resulting BAVOC value calculated for those batches and the overall compliance status of the yeast manufacturing facility, depending on the overall percentage of batches with higher BAE values.

For the purposes of estimating emissions, the current method does not provide reliable information about the thousands of batches that are not tested, other than showing whether emissions are rising or falling. In order for the existing correlation method to be useful for compliance purposes, it is necessary that the relationship between BAE and BAVOC be relatively constant between batches for a given fermentation stage, regardless of the point-in-time in which they were tested. The manufacturing of yeast is a biological process and some degree of variation is expected. However, emissions are also determined by a few key process parameters, including the amount of available oxygen and the composition and amount of the sugar and nutrient mixture fed to the yeast in each batch. The review of the data in the memorandum titled, ''Brew Ethanol Correlation Review for the Manufacturing of Nutritional Yeast Source Category—Final Rule,'' which is available in the docket for this rulemaking, shows that the relationship between brew ethanol concentration and VOC emissions is affected by some combination of these or other process parameters since the correlation is not constant for each tested batch and each fermentation stage. The inconsistent correlations suggest that the brew-to-exhaust correlation method does not yield reliable emissions information for batches of yeast other than those specific batches used for the annual performance tests.

The EPA disagrees that the use of sample VOC concentrations other than the BAE values measured during a performance test with the corresponding correlation equation to assess the brew ethanol correlation method is misleading. Rather, this is the process

laid out in the rule for the facility to determine compliance with the emission limitations. Each year, the facility is required to test only three individual batches (one from each fermentation stage) out of the thousands of batches that are manufactured during the year. The facility then estimates BAVOC values for the thousands of other batches using the correlations obtained during the performance tests that year. The EPA analyzed 5 years of actual BAVOC values recorded by the facility and used the corresponding year's correlation equations to calculate a BAE value for every batch manufactured during those 5 years. The ''higher end'' values used in the memorandum, ''Brew Ethanol Correlation Review for the Manufacturing of Nutritional Yeast Source Category—Final Rule'' were all within the ranges of actual BAE values measured during the corresponding years by the facility. The commenter also stated that none of the 30 individual batches that were used for an annual performance test between 2007 and 2016 exceeded the prescribed VOC emission limitations. The EPA agrees; in fact, the linear regression must be calculated from a batch that does not exceed the emission limitations, as required by 40 CFR 63.2161(d)(3). If the commenter does not agree that the correlation equation should be applied to any BAE values other than those directly tested, the commenter would seem to be suggesting that a performance test must be conducted on each individual batch manufactured by a facility, which would be cost-prohibitive and is not feasible for a facility. To clarify, the EPA never stated that the facility exceeded the NESHAP emission limitations for any of the batches monitored during a performance test between 2011 and 2016. Rather, we demonstrated that the relationship between the concentration of VOC in the fermenter exhaust and the percent of brew ethanol in the fermenter liquid is not consistent between batches. Therefore, the use of the relationship between VOC concentration and percent of brew ethanol from one batch to calculate emissions from all other batches in the same fermentation stage over an arbitrary period of time is unreliable. While this could mean that the facility under-reports emissions from some batches, it also means that the facility could over-report emissions from some batches. This potential for over-reporting is best illustrated with the use of ''higher end'' BAE values. If a particular correlation was established one year for a batch that had an unusually high relationship between VOC concentration and brew ethanol percentage, the continued use of that correlation for the period of that year could conceivably cause the facility to calculate BAVOC values over the emission limitations for enough batches that the facility would appear to be out of compliance; such a circumstance would cause the facility to incur significant compliance costs, regardless of what the actual emissions were since actual emissions are not tested.

As a point of clarification, the commenter refers to brew ethanol monitoring as a ''parametric CEMS.'' The commenter is combining two elements together that have different regulatory meanings. A continuous monitoring system can be a continuous parameter monitoring system (CPMS) or a CEMS, but a CPMS is not a CEMS. CPMS and CEMS are defined separately at 40 CFR 63.2, such that a CPMS is ''used to sample, condition (if applicable), analyze, and provide a record of process or control system parameters'' and a CEMS is ''used to sample, condition (if applicable), analyze, and provide a record of emissions''. The EPA revised the rule language to use ''brew ethanol monitor'' instead of ''CEMS'' because a brew ethanol monitor does not record VOC emissions and, thus, is not a CEMS. A brew ethanol monitor is used to measure the brew ethanol concentration in the fermenter liquid, which is then used to estimate VOC emissions via the brew ethanol correlation. The change in terminology did not result in any changes to the existing requirements. Rather it ensured the existing language was technically correct.

Comment: One commenter indicated that multiple facilities use brew ethanol monitoring to calculate VOC emissions and, thus, brew ethanol monitoring should not be eliminated as an acceptable option. The commenter described that one facility uses brew ethanol monitoring as well as CEMS to develop VOC emissions data, with the brew ethanol monitoring serving as a quality assurance step.

Response: Only one facility currently uses brew ethanol monitoring to demonstrate compliance; the other facilities all utilize CEMS VOC data to demonstrate compliance with the standard. Use of brew ethanol monitoring for quality assurance does not prove its capability to provide accurate and reliable data for a compliance demonstration. The final rule does not prohibit the use of other methods of quality assurance for process control in addition to the systems necessary to meet the requirements of the rule.

Comment: Two commenters argued that requiring facilities to install flame ionization detection (FID) CEMS to replace brew ethanol monitoring would not provide emissions data that is more reliable or less variable and that the EPA has not shown that CEMS would result in meaningful improvement to compliance or regulatory outcomes. One commenter cited a letter (see EPA–HQ–OAR–2015–0730–0191–A54) that commented on the accuracy of FID CEMS; the letter stated that the presence of oxygen, moisture, and hydrocarbons in fermenter emissions have the potential to interfere with FID CEMS technology and cause variability in any data collected using FID CEMS.

Response: The EPA disagrees that the use of brew ethanol monitoring is comparable to the use of FID CEMS to monitor emissions from the manufacturing of nutritional yeast. As explained previously in this section and the memorandum, ''Brew Ethanol Correlation Review for the Manufacturing of Nutritional Yeast Source Category—Final Rule,'' which is available in the docket for this rulemaking, the brew ethanol method does not account for batch-specific variables affecting emissions. An FID CEMS, on the other hand, does indicate batch-specific emissions, which increases confidence that reported emissions are reliable. Additionally, such data can help a facility avoid the potential for erroneously determining that it is out of compliance compared to the scenario of using a batch with an unusually high ratio of VOC emissions to brew ethanol content for the annual performance test and the subsequent correlation calculation.

While it is true that the accuracy of an FID CEMS can be affected by factors such as moisture, the commenter does not acknowledge the common procedures in place to minimize these effects (such as the use of heated sample lines) or the difference between monitoring system malfunctions and day-to-day reliability of these systems. Similarly, the letter discusses technical issues with response factors. Response factors are needed to establish the relationships of different gases to the one used as the calibration standard for a measurement instrument. Since the standard is expressed in terms of VOC as propane and the FID CEMS are calibrated with propane (as required by 40 CFR 63.2163 (d)), response factors are not used and the commenter's argument is irrelevant.

4. What is the rationale for our final approach?

For the reasons explained in the preamble to the proposed rule (81 FR 95827, December 28, 2016), in the comment responses in section IV.D.3 of this preamble, and in the memorandum, ''Brew Ethanol Correlation Review for the Manufacturing of Nutritional Yeast Source Category—Final Rule,'' which is available in the docket for this rulemaking, we are finalizing the removal of the option to demonstrate compliance by monitoring brew ethanol in the fermenter liquid as proposed, with the changes related to frequency described in section IV.D.2 of this preamble.

We finalized requirements at 40 CFR 63.2150(b) and 63.2166, and Tables 3, 4, and 8 to subpart CCCC to remove the option to monitor brew ethanol.

E. Requirement To Conduct RATA

1. What did we propose?

The EPA proposed a requirement in 40 CFR 63.2163 to conduct annual RATA for all VOC CEMS, which were previously exempt from this quality assurance requirement. This proposed requirement specified the use of Procedure 1 of appendix F to part 60 to evaluate the performance of the installed VOC CEMS over an extended period of time (81 FR 95829, December 28, 2016). The EPA also proposed to replace an outdated reference with the current version of the EPA's traceability protocol for use in quality assurance procedures for CEMS.

2. How did the requirements change since proposal?

The EPA has maintained the proposed requirement to conduct ongoing RATA; however, in response to public comments, we are revising the frequency of the RATA. We are finalizing a requirement for facilities to conduct RATA for each CEMS at least once every 3 years, instead of annually. The EPA also corrected the proposed rule language (see 40 CFR 63.2163(b)(3)) to clarify that the current version of the EPA's traceability protocol (EPA/600/R–12/531) replaces citation 2 of Procedure 1 of appendix F to 40 CFR part 60; at proposal, the EPA incorrectly cited reference 2 of Performance Specification 8 of appendix B to 40 CFR part 60.

3. What key comments did we receive and what are our responses?

Comment: A commenter did not support the proposed requirement to require annual RATA for all CEMS and stated that it was a costly procedure that would not enhance process control or achieve any valid regulatory goal. If RATA are required, the commenter suggested that RATA be conducted on a 3- to 5-year cycle, rather than annually. The commenter also requested the final rule clarify that RATA are not required every time a CEMS is repaired or replaced.

One commenter stated the more stringent monitoring requirements were not justified because it would not lead to a reduction in emissions and would unnecessarily increase cost.

Response: During the site visits conducted for this rulemaking, it was noted that many of the malfunctions recorded by the facilities subject to this rule were due to malfunctions of the compliance monitoring systems. Regular RATA ensure the CEMS continue to produce valid data, which is necessary for the owner or operator, as well as the EPA, to ensure compliance. A RATA assesses both the instrument accuracy in measuring the target analyte in the emission matrix (which daily calibrations and audits using reference gases do not) as well as the representativeness of the CEMS sampling location.

It is routine for the EPA to require annual RATA of CEMS. While the original rule did not require annual RATA for FID CEMS, the EPA has finalized revisions to require ongoing quality assurance procedures (including RATA) in many rules since 2001. For example, ongoing quality assurance procedures were included in the Metal Coil Surface Coating, Miscellaneous Coating Manufacturing, Plywood and Composite Wood Products, and Portland Cement Manufacturing MACT standards, promulgated on June 10, 2002; December 11, 2003; July 30, 2004; and February 12, 2013, respectively. The addition of RATA procedures to the Nutritional Yeast rule helps complete this missing, but necessary, quality-assurance component.

However, to reduce burden, the EPA is finalizing a requirement to conduct RATA at least once every 3 years, instead of annually, as proposed.

The EPA is not revising the rule language to state that RATA are not required in certain instances. In fact, the replacement of a CEMS would require a RATA to ensure accuracy of the measured data.

4. What is the rationale for our final approach?

For the reasons explained in the preamble to the proposed rule (81 FR 95829, December 28, 2016) and in the comment responses in section IV.E.3 of this preamble, we are finalizing requirements in 40 CFR 63.2163 to conduct RATA, as proposed, with the changes related to frequency and the traceability protocol citation described in section IV.E.2 of this preamble.

F. Requirement To Collect All Valid CEMS Data

1. What did we propose?

The EPA proposed a requirement to collect CEMS data at all times during each batch monitoring period, except for periods of monitoring system malfunctions, required monitoring system quality assurance or quality control activities, and any scheduled maintenance (81 FR 95829, December 28, 2016). The requirements were proposed at 40 CFR 63.2163, 63.2170, 63.2181(c)(8), and 63.2182(b)(9).

2. How did the requirements change since proposal?

The EPA is finalizing, as proposed, the requirement to collect all valid CEMS data. In response to comments, we have also finalized clarifications to the rule text to reinstate 40 CFR 63.8(c)(4)(ii), (c)(7), and (g)(2) of the General Provisions that specify the minimum operation requirements for CEMS (at least one cycle every 15 minutes), the definition and requirements for ''out of control'' CEMS, and the procedures for the reduction of CEMS data to hourly averages.

3. What key comments did we receive and what are our responses?

Comment: A commenter stated that collecting CEMS data at all times, instead of for 75 percent of the batch hours, is an impossible bar that is not achievable in practice. The commenter stated that collecting data from 75 percent of batch hours is a reasonable accommodation of the fact that monitoring equipment cannot operate perfectly or be calibrated 100 percent of the time in an industrial plant. The commenter suggested a monitoring requirement of total CEMS uptime of 75 percent of fermentation time during rolling 12-month periods. The commenter also requested the EPA clarify that ''at all times'' means logging data once every 15 minutes.

The commenter stated that nothing in the record supports the theory that more stringent monitoring will add precision to the measurement and that any such precision would not be meaningful from an operation or compliance standpoint. The commenter noted the existing monitoring requirements are sufficient to determine the average VOC concentration in a fermenter batch and across numbers of batches. The commenter was concerned that

requiring more stringent monitoring could subject facilities to enforcement actions and citizen suits.

The commenter recommended three alternative monitoring methods for periods that CEMS are not available. The commenter also requested the EPA define expressly the procedures for monitoring system out-of-calibration, downtime, or missing data in the rule language, rather than using cross references to other EPA technical procedures.

Response: We emphasize that the proposed amendments specified that data must be collected ''at all times during each batch monitoring period, except for periods of monitoring system malfunctions, required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance.'' We disagree that a requirement to collect CEMS data at all other times is an impossible bar that is not achievable in practice. As far back as 1994, the EPA's Office of Water reported that total hydrocarbon (THC) CEMS, which are a subset of VOC CEMS, along with other analyzers necessary to correct values to standard moisture and oxygen content, were ''. . . able to demonstrate a data capture rate of 100 percent, based on four measurements per minute.'' [2] Electronically submitted data from Portland cement source owners or operators currently using VOC CEMS as a compliance method also refutes the commenter's assertion. As shown from a quick search of submissions to the EPA's ERT,[3] at least five separate facilities [4] report greater than 90-percent uptime for their THC CEMS.[5] Moreover, none of the facilities reported an inability to collect monitoring data at all times that their units were operating and the commenter did not provide any examples of the inability to collect data other than monitor malfunctions or quality assurance/quality control activities.

We find that the commenter misinterprets the requirement to collect data at all times. The proposed rule does not require the VOC CEMS to be operating perfectly or calibrated for 100 percent of the time. In fact, the rule specifically prohibits data collection during periods of monitoring system malfunction or of required monitoring system quality assurance or control activities—such as calibrations and scheduled maintenance (see 40 CFR 63.2170(b)). Moreover, the rule allows owners or operators to establish and follow their own CEMS quality control programs with site-specific performance evaluation plans that cover items such as initial and subsequent calibrations, calibration drift specifications, preventive maintenance, accuracy audit procedures, and CEMS corrective action procedures (see 40 CFR 63.8(d)(2)), as referenced by Table 6 of the rule). The commenter's concern for practicality regarding 100-percent data collection is misplaced; while the rule requires complete data collection from certain periods, it does not require 100-percent data collection. Moreover, in the event that data are not collected as required during certain periods, the occurrences are specified as deviations, rather than automatic violations, of the rule; such deviations are to be reported by owners or operators to regulatory authorities who would take appropriate corrective action as necessary (see 40 CFR 63.2170(d)). Finally, source owners or operators are able to use the aforementioned site-specific monitoring plans to obtain approval from regulatory authorities for replacement emissions monitoring capabilities through approaches such as redundant or independent temporary systems prior to their use. While we reasoned that a facility may achieve enhanced process control from the amendments to the rule, this potential enhancement was not the basis for requiring the collection of CEMS data at all times. Given the variability in emissions throughout the process of manufacturing a batch of yeast, it is necessary to collect data at all times the CEMS are operational (given the exemptions noted above) to calculate accurate BAVOC values. The goal of the revision is to ensure the values collected and reported are suitable for demonstrating compliance with the rule. The enhanced monitoring data will allow us, owners or operators, and the public to have greater confidence in compliance determinations based on those measurements, and, therefore, greater confidence that the expected health benefits of the rule are achieved.

We disagree with the commenter's view that the monitoring is more stringent or could subject facilities to an increased number of enforcement actions or citizen suits, as the rule requires compliance with the emission limitations at all times. Monitoring itself does not affect a facility's actual compliance status and, as stated above, monitoring downtime is characterized as a deviation from, rather than violation of, emission standards. Regarding enforcement discretion, we rely on our regulatory partners to assess the individual, case-specific facts and to take appropriate action when necessary to correct problems. Owners or operators can take steps under their own control to reduce or eliminate any compliance concerns through activities such as increased attention to emissions-causing processes; and development, acceptance, and use of redundant monitoring systems.

We agree with the commenter's suggestion to clarify in the rule a minimum CEMS cycle time of 15 minutes, in which a value would be collected and recorded. This clarification was included by reinstating the applicability of 40 CFR 63.8(c)(4)(ii) of the General Provisions in Table 6. Furthermore, we have reinstated the applicability of 40 CFR 63.8(g)(2) of the General Provisions in Table 6 that allows a minimum of two data points (each representing 15-minute periods) or an arithmetic or integrated 1-hour average of CEMS data to constitute a valid hour of data collection during periods of calibration, quality assurance, or maintenance activities. These two sections of the General Provisions were not applicable to the 2001 Manufacturing of Nutritional Yeast, because alternate definitions were included in the rule. Now that the CEMS requirements have been updated, there is no need for separate requirements for this source category and the requirements from the General Provisions can be applied.

We do not agree with suggestions to write out monitoring system procedures when those procedures already exist in other applicable rules. Where relevant procedures already exist in other rules, our policy is to cross-reference those procedures; cross-referencing eliminates duplicative portions of rules and ensures consistency. While we do not see the need for alternative monitoring methods for periods when VOC CEMS are unavailable, since the

[2] Available at *https://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission.*

[3] Available at *https://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission.*

[4] The facilities and periods over which THC monitoring was reported include: Ash Grove Cement in Durkee, Oregon, from July through December 2016; Signal Mountain Cement Company in Chattanooga, Tennessee, from September 2015 through December 2016; Cemex Construction Materials Atlantic in Knoxville, Tennessee, from February through December 2016; Holcim (US) in Theodore, Alabama, from January through December 2016; and Lehigh Ready Mix Cement in Leeds, Alabama, from July through December 2016.

[5] While the Portland cement manufacturing emission reports only require CEMS downtime greater than or equal to 90 percent to be reported [see 40 CFR 63.1354(b)(10)], subject facilities—just like as proposed for nutritional yeast manufacturers—are required to conduct all monitoring in continuous operation at all times that the units are operating [see 40 CFR 63.1350(i) and (m)(2)].

aforementioned data on the use of CEMS in other source categories from the EPA's ERT showed no periods of VOC CEMS unavailability, the rule does not prohibit owners or operators from proposing—and from regulatory authorities accepting—alternate means for assessing emissions as part of corrective action procedures for a malfunctioning VOC CEMS as part of the source's quality control program. Given the high level of variability in emissions between batches that was demonstrated by the data used to analyze the brew ethanol monitoring option, we would recommend owners or operators seek other means—perhaps redundant VOC CEMS—as better alternatives for determining compliance during periods when the primary VOC CEMS is malfunctioning. Of course, even with approval of other means for assessing emissions, failure to provide VOC CEMS data as required would remain a deviation and constitute monitor downtime, which must be reported according to rule requirements in 40 CFR 63.2181.

4. What is the rationale for our final approach?

For the reasons explained in the preamble to the proposed rule (81 FR 95829, December 28, 2016) and in the comment responses in section IV.F.3 of this preamble, we are finalizing requirements to collect all valid CEMS data, as proposed, with the additional clarifications described in section IV.F.2 of this preamble. The final requirements are specified at 40 CFR 63.2163, 63.2170, 63.2181(c)(8), and 63.2182(c)(5), and in Table 6 to subpart CCCC.

G. Compliance Dates for the Amendments

1. What did we propose?

The EPA proposed that currently operating facilities must immediately comply with one of the two revised forms of the fermenter VOC standards upon the effective date of the final rule, and that facilities that currently demonstrate compliance by monitoring brew ethanol in the fermenter have up to 1 year to install CEMS. The EPA proposed that currently operating facilities must immediately comply with the additional testing, monitoring, reporting, and recordkeeping requirements (*i.e.,* the removal of GC CEMS, collection of all valid CEMS data from the entire batch monitoring period, requirement to conduct RATA, use of Procedure 1 of Appendix F to part 60 for VOC CEMS, and the electronic reporting requirements), as well as with the revised SSM requirements. The EPA also proposed that sources that are constructed or reconstructed after promulgation of the rule revisions must comply with all amendments upon startup of the affected source (81 FR 95834, December 28, 2016).

2. How did the requirements change since proposal?

Based on public comments, the EPA has changed the compliance date for existing sources to comply with the revised form of the fermenter VOC standards from immediate compliance upon promulgation of the rule to 1 year after the effective date of this rule. The EPA has clarified language in 40 CFR 63.2181(c)(4) through (7) describing facilities' reporting obligations under each of the three options for demonstrating compliance. The language, as finalized, allows facilities transitioning between compliance demonstration using the 98-Percent Option and the Average Option to report compliance in a semi-annual compliance report under different approaches for different 12-month calculation periods, as appropriate. This allows existing facilities the ability to continue to demonstrate compliance using the 98-Percent Option for all 12-month calculation periods that end before or on the compliance date for this amendment. For example, if the effective date of this final rule is October 31, 2017, then the compliance date for this amendment would be October 31, 2018. If an existing facility was scheduled to submit a semiannual compliance report by January 31, 2019, for the reporting period covering July 1, 2018, through December 31, 2018; the facility could demonstrate compliance for the 12-month calculation periods ending on July 31, 2018, August 31, 2018, September 30, 2018, and October 31, 2018, using the 98-Percent Option and for the 12-month calculation periods ending on November 30, 2018, and December 31, 2018, using the Average Option. Facilites may voluntarily choose to demonstrate compliance using the revised form of the emission limitations earlier, so that all of the 12-month calculation periods ending within the semiannual compliance report demonstrate compliance using the same form of the emission limitations. Facilities that choose to use the Batch Option to demonstrate compliance with the emission limitations must apply the demonstration to all batches within a semiannual reporting period; that is, facilities cannot transition to demonstrating compliance under the Batch Option in the middle of a reporting period. Therefore, unless an existing facility that is transitioning from the 98-Percent Option to the Batch Option is due to begin a new semiannual reporting period in the month following the compliance date for this amendment, the facility has two interim options for demonstrating compliance. Assuming, for example purposes, a reporting period of July 1, 2018, through December 31, 2018, and a compliance date for the final rule on October 31, 2018; the facility could demonstrate compliance for the entire reporting period using the Batch Option. Alternately, the facility could demonstrate compliance using the 98-Percent Option for 12-month calculation periods ending on July 31, August 31, September 30, and October 31, and demonstrate compliance for 12-month calculation periods ending on November 30 and December 31, 2018, using the Average Option. The facility could then begin demonstrating compliance for the January 1, 2019, through June 30, 2019, reporting period using the Batch Option. A new table, Table 7, has been added to the rule to summarize when existing and new affected sources must comply with the different requirements for the form of the emission limitations.

Facilities that currently demonstrate compliance by monitoring brew ethanol have up to 3 years after the effective date of the rule to install CEMS, instead of the proposed 1 year. A new table, Table 8, has been added to the rule to summarize when existing and new affected sources must comply with the different requirements for emissions monitoring equipment.

3. What key comments did we receive and what are our responses?

Comment: One commenter does not support complying with the revised form of the fermenter standards immediately upon promulgation of the rule, and requested a minimum of 2 years to demonstrate compliance. The commenter stated it would take time for facilities to convert to any new methodology, especially as it relates to recordkeeping and reporting. The commenter remarked that immediate compliance upon issuance of a final rule is impracticable and unduly burdensome; facilities will not know when the EPA plans to issue the final rule and will have no understanding in advance of what the final rule will require.

Response: We disagree that immediate compliance would be impracticable for certain reasons the commenter noted; specifically, the commenter knows the final rule will be issued by October 1,

2017, due to the court-ordered deadline for this rulemaking. Furthermore, it is not accurate to say the commenter will have ''no understanding'' of what the final rule will require, given the nature of notice-and-comment rulemaking. The EPA notes that the emission limitations are simply expressed in a revised format and are not expected to result in any changes in compliance status. However, it is also reasonable to provide additional time to demonstrate continuous compliance with the revised form of the emission standard for facilities that are currently operating because it will require a change in recordkeeping and reporting procedures. CAA section 112(i)(3) requires that compliance dates for existing sources require compliance with any emission standard, limitation, or regulation promulgated under section 112 ''as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard.'' While we believe, based on information gathered during the site visits and phone calls conducted prior to the proposed rulemaking, that the facilities have all of the data needed to demonstrate continuous compliance with the amended requirements immediately, it is prudent to allow time to train staff and establish long-term procedures for the efficient management of this data. Therefore, the EPA has finalized amendments allowing the facilities up to 1 year to demonstrate continuous compliance with the revised form of the emission limitations and the associated reporting and recordkeeping requirements. We believe that 1 year is a sufficient period of time for facilities to update recordkeeping systems and train staff. The current emission limitations require facilities to record the emissions from each batch in a rolling 12-month period, compare the emissions from each batch with the standard, and count how many of the batches had emissions equal to or lower than the limit. A facility then determines the total number of batches that were manufactured during the rolling 12-month period and calculates the percentage of batches in that period that met the emission limitations. The revised form of the standard is slightly more streamlined in that facilities simply average the emissions from each batch produced in a given fermentation stage over the 12-month period and compare it to the emission limitation. While this necessitates a change in the overall calculation and reporting procedures, it does not require significant actions such as the selection, installation, and testing of new equipment or changes to the yeast manufacturing process that would warrant 2 years to implement the revisions. As specified in section III.E of this preamble to the rule, facilities must continue to demonstrate continuous compliance with the existing emission limitations and reporting and recordkeeping requirements during the time it takes them to transition to the revised requirements. The revised requirements are expected to be slightly more streamlined than the existing requirements and there is no prohibition against facilities from demonstrating compliance with the new form of the emission limitations and associated reporting and recordkeeping requirements immediately.

Comment: Two commenters do not support having only 1 year to install CEMS if a facility currently monitors brew ethanol. The commenters requested a minimum of 3 years to comply to allow for the purchase, design, testing, and installation of new CEMS equipment. The commenters stated 3 years is consistent with the approach for sources when the rule was originally promulgated and the EPA has authority to allow 3 years to comply under CAA section 112(i)(3).

Response: The EPA has finalized requirements allowing the one existing facility that currently demonstrates compliance by monitoring brew ethanol up to 3 years to install CEMS to demonstrate compliance. This facility must continue to meet the performance test and operation and maintenance requirements of 40 CFR 63.2161 and 40 CFR 63.2164 during this time. Additionally, we note that the facility must comply with the revised form of the emission limitations at the specified time (within 1 year), regardless of the monitoring method used.

4. What is the rationale for our final approach?

For the reasons explained in the comment responses in section IV.G.3 of this preamble and in the response to comments document in the docket for this rulemaking, we are finalizing the requirements related to the compliance dates for the demonstration of compliance with the revised form of the fermenter VOC standards and the use of CEMS for existing facilities with the changes described in section IV.G.2 of this preamble. We finalized revisions in Table 7 and Table 8 to subpart CCCC to specify the emission limitation and monitoring system timelines. We finalized the revisions requiring immediate compliance for the additional testing, monitoring, reporting, and recordkeeping requirements (*i.e.,* the removal of GC CEMS in 40 CFR 63.2163(a), collection of all valid CEMS data from the entire batch monitoring period in 40 CFR 63.2163(h), requirement to conduct RATA in 40 CFR 63.2163(b)(1), use of Procedure 1 of Appendix F to part 60 for VOC CEMS in 40 CFR 63.2163(b)(3), and the electronic reporting requirements in 40 CFR 63.2181(a)), as well as with the revised SSM requirements as proposed.

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

A. What are the affected facilities?

We anticipate that four nutritional yeast facilities currently operating in the United States will be affected by this final rule.

B. What are the air quality impacts?

The amendments to this subpart will have a positive impact on air quality. While facilities will not need to install additional controls to comply with the fermenter emission limitations, the revisions remove the exemption that allowed up to 2 percent of the total number of batches to be produced with no limit on emissions (*i.e.,* the revisions apply the emission limitations continuously). The rule revisions also remove the exemption that allowed emissions from batches produced during periods of malfunction, other than monitoring system malfunctions, to be excluded when determining compliance with emission limitations. While the air quality impact of these changes cannot easily be quantified due to a current lack of data on the number of and emissions from previously exempted batches, the practical effect is that production of all batches of nutritional yeast at affected sources will now be required to meet emission limitations. The other revisions, which affect testing, monitoring, recordkeeping, and reporting requirements, will ensure that emissions monitoring equipment continues to perform as expected and provides reliable data from each facility to be used in determining compliance. For reference, the baseline emissions for each facility are documented in the memorandum, ''Emissions Data and Acute Risk Factor Used in Residual Risk Modeling: Manufacturing of Nutritional Yeast Source Category,'' which is available in the docket for this action (Docket ID. No EPA–HQ–OAR–2015–0730–0007).

C. What are the cost impacts?

We have estimated compliance costs for all existing sources to perform RATA for VOC CEMS and for the single facility currently monitoring brew ethanol to install the necessary monitoring equipment (*i.e.,* VOC CEMS). We estimated a total capital investment of $511,000 and an average annual cost of approximately $115,000. The details of the cost estimates are documented in the memorandum, ''Costs for the Manufacturing of Nutritional Yeast Source Category—Final Rule,'' which is available in the docket for this action.

D. What are the economic impacts?

The economic analysis conducted for this action is presented in the memorandum, ''Economic Impact Analysis for the Manufacturing of Nutritional Yeast Risk and Technology Review (RTR),'' which is available in the docket for this action. The costs of this action are associated with the installation and maintenance of CEMS at one facility, and ongoing RATA for CEMS at all four facilities subject to subpart CCCC. The equivalent annualized net cost of this action is approximately $86,000 under a 3-percent discount rate, and $89,000 under a 7-percent discount rate.

This action is projected to affect four facilities, and none of these facilities is ultimately owned by a small entity. Of the four facilities affected by this final action, two are ultimately owned by the same private entity. The remaining two facilities are each ultimately owned by different private entities. The equivalent annualized net costs for each of the three entities range from approximately $8,600 to $65,000 under a 3-percent discount rate, and from approximately $8,300 to $70,000 under a 7-percent discount rate. The equivalent annualized net compliance costs for the three entities are all estimated to be less than 0.1 percent of sales for their respective ultimate parent companies. Therefore, we expect that this final action will not have a significant economic impact on the affected entities.

E. What are the benefits?

As discussed above, the amendments to this subpart will have positive impacts on air quality and may improve air quality by removing the brew ethanol monitoring option and the exemption that allowed a portion of batches to be produced without being subject to emission limitations. The changes to monitoring methods will increase the reliability of emissions data collected by facilities by requiring continued maintenance of emission monitoring systems and monitoring of actual emission measurements at all times instead of allowing emission estimates based on brew ethanol correlations and collection of 100 percent of valid CEMS data (instead of 75 percent). These changes will allow regulators to clearly assess whether the standards for the protection of public health and the environment are being met. In particular, the demographics analysis shows that increased risk levels are concentrated around the facility that is not currently using CEMS. The amendments will directly benefit this population, of which 100 percent are definded as minority, by increasing the accuracy of the emissions data that is monitored and reported (see section V.F of this preamble). Other amendments will result in additional benefits, such as streamlined reporting through electronic methods for owners or operators of nutritional yeast manufacturing facilities and increased access to emissions data by stakeholders, as described in the preamble to the proposed rule (81 FR 95834, December 28, 2016).

F. What analysis of environmental justice did we conduct?

To examine the potential for any environmental justice issues that might be associated with emissions from this source category, we performed a demographic analysis of the population close to the four affected facilities (within 50 kilometers (km) and within 5 km). In this analysis, we evaluated the distribution of HAP-related cancer risks and non-cancer hazards from the four nutritional yeast manufacturing facilities across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks.

The analysis indicated that the minority population living within 50 km (1,700,000 people, of which 41 percent are minority) and within 5 km (131,567 people, of which 68 percent are minority) of the four nutritional yeast manufacturing facilities is greater than the minority population found nationwide (28 percent). The specific demographics of the population within 5 and 50 km of the facilities indicate potential disparities in certain demographic groups, including the ''African American,'' ''Below the Poverty Level,'' and ''Over 25 and without high school diploma'' groups.

When examining the risk levels of those exposed to emissions from the four nutritional yeast manufacturing facilities, we find approximately 750 persons around one facility are exposed to a cancer risk greater than or equal to 1-in-1 million with the highest exposure to these individuals of less than 2-in-1 million. Of these 750 persons, all are defined as minority. When examining the non-cancer risks surrounding these facilities, no one is predicted to have a chronic non-cancer TOSHI greater than 1. These findings are based on the level of acetaldehyde emissions the facility reported to the 2011 NEI. The facility calculated these emissions by applying acetaldehyde emissions rates (pounds of acetaldehyde per batch) for each fermentation stage determined from a stack test conducted in 2000. During the public comment period, the facility performed additional testing and determined that the acetaldehyde emissions rates during the Februray 2017 test were approximately half of the previous rates. Therefore, the facility anticipates that future estimates of annual emissions will be reduced. Additionally, this facility currently monitors brew ethanol to comply with the emission limitations established in this NESHAP. The final amendments require the facility to install CEMS to monitor emissions. We anticipate that the use of CEMS will directly benefit this population by increasing the accuracy of the emissions data that are monitored and reported because the CEMS reflects batch-specific emission characteristics that are not accounted for with the brew ethanol correlation.

The EPA has determined that this rule does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples because the health risks based on actual emissions are low (below 2-in-1 million), the population exposed to risks greater than 1-in-1 million is relatively small (750 persons), and the rule maintains or increases the level of environmental protection for all affected populations.

The methodology and the results of the demographic analysis are included in the technical report, ''Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Nutritional Yeast Manufacturing Facilities,'' which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2015–0730–0015).

G. What analysis of children's environmental health did we conduct?

The EPA assessed risks to infants and children as part of the health and risk assessments, as well as the proximity analysis conducted for this action. These analyses are documented in the

memoranda, ''Residual Risk Assessment for the Manufacturing of Nutritional Yeast Source Category in Support of the October, 2017 Risk and Technology Review Final Rule'' and ''Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Nutritional Yeast Manufacturing Facilities,'' which are available in the docket for this action.

The results of the proximity analysis show that children 17 years and younger as a percentage of the population in close proximity to nutritional yeast manufacturing facilities and with an estimated cancer risk greater than or equal to 1-in-1 million is similar to the percentage of the national population in this age group (25 percent versus 24 percent, respectively). The difference in the absolute number of percentage points of the population 17 years old and younger from the national average indicates a 1-percent over-representation near nutritional yeast manufacturing facilities.

Consistent with the EPA's *Policy on Evaluating Health Risks to Children*,[6] we conducted inhalation risk assessments for the Manufacturing of Nutritional Yeast source category, considering risk to infants and children. Children are exposed to chemicals emitted to the atmosphere via two primary routes: Directly via inhalation or indirectly via ingestion or dermal contact with various media that have been contaminated with the emitted chemicals. The EPA considers the possibility that children might be more sensitive than adults to toxic chemicals, including chemical carcinogens. For each carcinogenic HAP included in this assessment that has a potency estimate available, the EPA calculated individual and population cancer risks by multiplying the corresponding lifetime average exposure estimate by the appropriate unit risk estimate (URE). This calculated cancer risk is defined as the upper-bound probability of developing cancer over a 70-year period (*i.e.,* the assumed human lifespan) at that exposure. Because UREs for most HAP are upper-bound estimates, actual risks at a given exposure level may be lower than predicted, and could be zero. For the EPA's list of carcinogenic HAP that act by a mutagenic mode-of action, we applied the EPA's *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.*[7] This guidance has the effect of adjusting the URE by factors of 10 (for children aged 0–1), 3 (for children aged 2–15), or 1.6 (for 70 years of exposure beginning at birth), as needed in risk assessments. In this case, this has the effect of increasing the estimated lifetime risks for these pollutants by a factor of 1.6. With regard to other carcinogenic pollutants for which early-life susceptibility data are lacking, it is the EPA's long-standing science policy position that use of the linear low-dose extrapolation approach (without further adjustment) provides adequate public health conservatism in the absence of chemical-specific data indicating differential early-life susceptibility or when the mode of action is not mutagenicity. The basis for this methodology is also provided in the 2005 Supplemental Guidance.

Unlike linear dose-response assessments for cancer, non-cancer health hazards generally are not expressed as a probability of an adverse occurrence. Instead, hazard of non-cancer effects is expressed by comparing an exposure to a reference level as a ratio. The HQ is the estimated exposure divided by a reference level (*e.g.,* the reference concentration, RfC). For a given HAP, exposures at or below the reference level (HQ≤1) are not likely to cause adverse health effects. As exposures increase above the reference level (HQs increasingly greater than 1), the potential for adverse effects increases. For exposures predicted to be above the RfC, the risk characterization includes the degree of confidence ascribed to the RfC values for the compound(s) of concern (*i.e.,* high, medium, or low confidence) and discusses the impact of this on possible health interpretations. The reference levels used to determine the HQs incorporate generally conservative uncertainty factors that account for effects in the most susceptible populations including all life stages (*e.g.,* infants and children).

The EPA concludes that the standards provide an ample margin of safety to protect public health of all demographic groups, including children.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.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 a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an economic analysis of the potential costs and benefits associated with this action. This analysis, ''Economic Impact Analysis for the Manufacturing of Nutritional Yeast Risk and Technology Review (RTR),'' is available in the docket for this rule.

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

This rule is not subject to the requirements of Executive Order 13771 because this rule results in no more than *de minimis* costs.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1886.03. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

Concurrent to the residual risk and technology reviews for the NESHAP, the EPA finalized amendments that change the form of the current emission limitations, require the use of VOC CEMS, require valid CEMS data from each hour of the batch monitoring period, require ongoing tests to evaluate the performance of the CEMS over time, require electronic reporting, and remove exemptions for malfunctions so that affected facilities would be subject to the emission standards at all times. This information collection request documents the recordkeeping and reporting requirements and burden imposed by the rule—both the requirements that were previously promulgated and retained, as well as the final amendments.

Respondents/affected entities: Manufacturers of nutritional yeast.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart CCCC).

Estimated number of respondents: Four facilities.

[6] *Policy on Evaluating Health Risks to Children,* U.S. Environmental Protection Agency, Washington, DC. May 2014. Available at *http://www2.epa.gov/sites/production/files/2014-05/documents/1995_childrens_health_policy_statement.pdf.*

[7] *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens.* Risk Assessment Forum, U.S. Environmental Protection Agency, Washington, DC. EPA/630/R–03/003F. March 2005. Available at *http://www.epa.gov/raf/publications/pdfs/childrens_supplement_final.pdf.*

Frequency of response: Initially and semiannually.

Total estimated burden: 1,370 hours (per year) for the responding facilities and 175 hours (per year) for the Agency. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $817,000 (per year), which includes $695,000 annualized capital and operation and maintenance costs for the responding facilities and $9,500 (per year) for the Agency to comply with all of the requirements in this NESHAP.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final 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. This action will not impose any requirements on small entities.

This action is projected to affect four facilities, and none of these facilities is ultimately owned by a small entity. Details of the associated analysis are presented in the memorandum, ''Economic Impact Analysis for the Manufacturing of Nutritional Yeast Risk and Technology Review (RTR),'' which is available in the docket for this action. At the time of proposal for this action, there was one entity which was assumed to be a small business for the purpose of the analysis, as the complex ownership structure made it difficult to clearly determine the entity's size. However, between proposal and promulgation, this entity was sold to a company that owns other nutritional yeast manufacturing facilities, and which is not a small business.

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. The nationwide equivalent annualized net cost of this action for affected industrial sources is approximately $86,000 under a 3 percent discount rate, and $89,000 under a 7 percent discount rate. Details of the associated economic analysis are presented in the memorandum ''Economic Impact Analysis for the Manufacturing of Nutritional Yeast Risk and Technology Review (RTR),'' which is available in the docket for this action.

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. No tribal facilities are known to be engaged in the nutritional yeast manufacturing industry that would be affected by this action. 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. This action's health and risk assessments are contained in sections IV.A and V.G of this preamble.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The action is not related to the energy sector nor the supply, production, or price of energy.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards that are reasonably available and already widely used by industry. The EPA conducted a search to identify potentially applicable voluntary consensus standards. However, the Agency identified no available standards that were practical for use as alternates and none were brought to our attention in comments. Therefore, the EPA has decided to use EPA Method 25A of 40 CFR part 60, appendix A (Method) and EPA/600/R–12/531, EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards (Protocol). The Method is used to determine total gaseous organic concentration using a flame ionization analyzer. More information about the Method is available at: *https://www.epa.gov/emc/method-25a-gaseous-organic-concentration-flame-ionization.* The Protocol is used to certify calibration gases for continuous emission monitors and specifies methods for assaying gases and establishing traceability to National Institute of Standards and Technology reference standards. The Protocol and associated information is available at: *https://www.epa.gov/air-research/epa-traceability-protocol-assay-and-certification-gaseous-calibration-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 (58 FR 7629, February 16, 1994).

The documentation for this decision is contained in the proposal (81 FR 95824, December 28, 2016), section V.F of this preamble, and the technical report, ''Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Nutritional Yeast Manufacturing Facilities,'' which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2015–0730–0015).

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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 29, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 40 CFR part 63 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.*

■ 2. Section 63.14 is amended by redesignating paragraphs (m)(5) through (m)(23) as (m)(6) through (m)(24), respectively; and adding a new paragraph (m)(5) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(m) * * *

(5) EPA/600/R–12/531, EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards, May 2012, IBR approved for § 63.2163(b).

* * * * *

■ 3. Part 63 is amended by revising subpart CCCC to read as follows:

Subpart CCCC—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

What This Subpart Covers

Sec.

Subpart CCCC—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

What This Subpart Covers

§ 63.2130 What is the purpose of this subpart?

This subpart establishes national emission limitations for hazardous air pollutants (HAP) emitted from manufacturers of nutritional yeast. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.2131 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a nutritional yeast manufacturing facility that is, is located at, or is part of a major source of HAP emissions.

(1) A manufacturer of nutritional yeast is a facility that makes yeast for the purpose of becoming an ingredient in dough for bread or any other yeast-raised baked product, or for becoming a nutritional food additive intended for consumption by humans. A manufacturer of nutritional yeast does not include production of yeast intended for consumption by animals, such as an additive for livestock feed.

(2) A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) [Reserved]

§ 63.2132 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing ''affected source'' that produces *Saccharomyces cerevisiae* at a nutritional yeast manufacturing facility.

(b) The affected source is the collection of equipment used in the manufacture of the nutritional yeast species *Saccharomyces cerevisiae.* This collection of equipment includes fermentation vessels (fermenters), as described in paragraph (c) of this section. The collection of equipment used in the manufacture of the nutritional yeast species *Candida utilis* (torula yeast) is not part of the affected source.

(c) The emission limitations in this subpart apply to fermenters in the affected source that meet all of the criteria listed in paragraphs (c)(1) and (2) of this section.

(1) The fermenters are ''fed-batch'' as defined in § 63.2192.

(2) The fermenters are used to support one of the last three fermentation stages in a production run (*i.e.,* third-to-last stage, second-to-last stage, and last stage), which may be referred to as ''stock, first generation, and trade,'' ''seed, semi-seed, and commercial,'' or ''CB4, CB5, and CB6'' stages.

(d) The emission limitations in this subpart do not apply to flask, pure-culture, yeasting-tank, or any other set-batch (as defined in § 63.2192) fermentation, and they do not apply to any operations after the last dewatering operation, such as filtration.

(e) The emission limitations in Table 1 to this subpart do not apply to fermenters during the production of specialty yeast (defined in § 63.2192).

(f) An affected source is a ''new affected source'' if you commenced construction of the affected source after October 19, 1998, and you met the applicability criteria in § 63.2131 at the time you commenced construction.

(g) An affected source is ''reconstructed'' if it meets the criteria for reconstruction as defined in § 63.2.

(h) An affected source is ''existing'' if it is not new or reconstructed.

§ 63.2133 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, then you must comply with paragraph (a)(1) or (2) of this section.

(1) If you start up your affected source before May 21, 2001, then you must comply with this subpart no later than May 21, 2001.

(2) If you start up your affected source on or after May 21, 2001, then you must comply with this subpart upon startup of your affected source.

(b) If you have an existing affected source, then you must comply with this subpart no later than May 21, 2004.

(c) If you have an area source that increases its emissions, or its potential to emit, so that it becomes a major source of HAP, then paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the affected source must be in compliance with this subpart by no later than 1 year after it becomes a major source.

(d) You must meet the notification requirements in § 63.2180 according to the schedule in § 63.2180 and in subpart A of this part.

Emission Limitations

§ 63.2140 What emission limitations must I meet?

You must meet the applicable emission limitations in Table 1 to this subpart, according to the timeline provided in Table 7 to this subpart.

General Compliance Requirements

§ 63.2150 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the applicable emission limitations in Table 1 to this subpart at all times, and demonstrate compliance according to paragraphs (a)(1) through (3) of this section.

(1) To demonstrate compliance with emission limitations by using the 98-Percent Option, you must follow the procedures of § 63.2171(b).

(2) To demonstrate compliance with emission limitations by using the Average Option, you must follow the procedures of § 63.2171(c).

(3) To demonstrate compliance with emission limitations by using the Batch Option, you must follow the procedures of § 63.2171(d).

(b) You must monitor VOC concentration continuously for each batch by using the applicable monitoring method in Table 8 to this subpart.

(c) If the date upon which you must demonstrate initial compliance as specified in § 63.2160 falls after the compliance date specified for your affected source in § 63.2133, then you must maintain a log detailing the operation and maintenance of the continuous emission monitoring systems and the process and emissions control equipment during the period between those dates.

(d) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether an affected source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

Testing and Initial Compliance Requirements

§ 63.2160 By what date must I conduct an initial compliance demonstration?

(a) For each emission limitation in Table 1 to this subpart for which you demonstrate compliance using the Average Option, you must demonstrate initial compliance for the period ending on the last day of the month that is 12 calendar months (or 11 calendar months, if the compliance date for your affected source is the first day of the month) after the compliance date that is specified for your affected source in § 63.2133.

(b) For each emission limitation in Table 1 to this subpart for which you demonstrate compliance using the Batch Option, you must demonstrate initial compliance for the period ending June 30 or December 31 (use whichever date is the first date following the compliance date that is specified for your affected source in § 63.2133).

§ 63.2161 What performance tests and other procedures must I use if I monitor brew ethanol?

(a) You must conduct each performance test in Table 2 to this subpart that applies to you, as specified in paragraphs (b) through (f) of this section.

(b) You must conduct performance tests under such conditions as the Administrator specifies, based on representative performance of the affected source for the period being tested, and under the specific conditions that this subpart specifies in Table 2 to this subpart and in paragraphs (b)(1) through (4) of this section. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(1) You must conduct each performance test concurrently with brew ethanol monitoring to establish a brew-to-exhaust correlation as specified in paragraph (e) of this section.

(2) For each fermentation stage, you must conduct one run of the EPA Test Method 25A of 40 CFR part 60, appendix A–7, over the entire length of a batch. The three fermentation stages do not have to be from the same production run.

(3) You must obtain your test sample at a point in the exhaust-gas stream before you inject any dilution air. For fermenters, dilution air is any air not needed to control fermentation.

(4) You must record the results of the test for each fermentation stage.

(c) You may not conduct performance tests during periods of malfunction.

(d) You must collect data to correlate the brew ethanol concentration to the VOC concentration in the fermenter exhaust according to paragraphs (d)(1) through (3) of this section.

(1) You must collect a separate set of brew ethanol concentration data for each fed-batch fermentation stage while manufacturing the product that constitutes the largest percentage (by mass) of average annual production.

(2) You must measure brew ethanol as specified in § 63.2164 concurrently with conducting a performance test for VOC

in fermenter exhaust as specified in paragraph (b) of this section. You must measure brew ethanol at least once during each successive 30-minute period over the entire period of the performance test for VOC in fermenter exhaust.

(3) You must keep a record of the brew ethanol concentration data for each fermentation stage over the period of EPA Test Method 25A of 40 CFR part 60, appendix A–7, performance test.

(e) For each set of data that you collected under paragraphs (b) and (d) of this section, you must perform a linear regression of brew ethanol concentration (percent) on VOC fermenter exhaust concentration (parts per million by volume (ppmv) measured as propane). You must ensure the correlation between the brew ethanol concentration, as measured by the brew ethanol monitor, and the VOC fermenter exhaust concentration, as measured by EPA Test Method 25A of 40 CFR part 60, appendix A–7, is linear with a correlation coefficient of at least 0.90.

(f) You must calculate the VOC concentration in the fermenter exhaust for each batch using the brew ethanol concentration data according to Equation 1 of this section, and using the constants (CF and y) calculated by the applicable linear regression performed under paragraph (e) of this section.

$$BAVOC = BAE * CF + y \qquad \text{(Eq. 1)}$$

Where:

BAVOC = Batch-average concentration of VOC in fermenter exhaust (ppmv measured as propane), calculated for compliance demonstration

BAE = Batch-average concentration of brew ethanol in fermenter liquid (percent), measured by the brew ethanol monitor

CF = Constant established at performance test and representing the slope of the regression line

y = Constant established at performance test and representing the y-intercept of the regression line

§ 63.2162 When must I conduct subsequent performance tests if I monitor brew ethanol?

(a) For each emission limitation in Table 1 to this subpart for which compliance is demonstrated by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161, you must conduct an EPA Test Method 25A of 40 CFR part 60, appendix A–7, performance test and establish a brew-to-exhaust correlation according to the procedures in Table 2 to this subpart and in § 63.2161, at least once every year.

(b) The first subsequent performance test must be conducted no later than 365 calendar days after the initial performance test conducted according to § 63.2160. Each subsequent performance test must be conducted no later than 365 calendar days after the previous performance test. You must conduct a performance test for each 365 calendar day period during which you demonstrate compliance using the brew ethanol correlation developed according to § 63.2161.

§ 63.2163 If I monitor fermenter exhaust, what are my monitoring installation, operation, and maintenance requirements?

(a) You must install and certify a CEMS that generates a single combined response value for VOC concentration (VOC CEMS) according to the procedures and requirements in Performance Specification 8—Performance Specifications for Volatile Organic Compound Continuous Emission Monitoring Systems in Stationary Sources in appendix B to part 60 of this chapter.

(b) You must operate and maintain your VOC CEMS according to the procedures and requirements in Procedure 1—Quality Assurance Requirements for Gas Continuous Emission Monitoring Systems Used for Compliance Determination in appendix F to part 60 of this chapter, except with regard to provisions concerning relative accuracy test audit (RATA), cylinder gas audit (CGA), and relative accuracy audit (RAA) frequencies; out of control period definition; and CEMS data status during out of control periods; which are instead specified in this paragraph for frequencies; and § 63.8(c)(7) for the definition of and status of CEMS data during out of control periods.

(1) You must conduct a RATA at least once every 12 calendar quarters, in accordance with sections 8 and 11, as applicable, of Performance Specification 8.

(2) You must conduct a CGA or RAA in the calendar quarters during which a RATA is not conducted, but in no more than 11 quarters in succession.

(3) As necessary, rather than relying on citation 2 of Procedure 1 of appendix F to 40 CFR part 60, you must rely on EPA/600/R–12/531 (incorporated by reference, see § 63.14).

(4) Your affected source must meet the criteria of Performance Specification 8, section 13.2.

(c) You must use Method 25A in appendix A–7 to part 60 of this chapter as the Reference Method.

(d) You must calibrate your VOC CEMS with propane.

(e) You must set your VOC CEMS span at less than 5 times the relevant VOC emission limitation given in Table 1 of this subpart. Note that the EPA considers 1.5 to 2.5 times the relevant VOC emission limitation to be the optimum range, in general.

(f) You must complete the performance evaluation and submit the performance evaluation report before the compliance date that is specified for your affected source in § 63.2133.

(g) You must monitor VOC concentration in fermenter exhaust at any point prior to dilution of the exhaust stream.

(h) You must collect data using the VOC CEMS at all times during each batch monitoring period, except for periods of monitoring system malfunctions, required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance.

(i) For each CEMS, you must record the results of each inspection, calibration, and validation check.

(j) You must check the zero (low-level) and high-level calibration drifts for each CEMS in accordance with the applicable Performance Specification of 40 CFR part 60, appendix B. You must adjust the zero (low-level) and high-level calibration drifts, at a minimum, whenever the zero (low-level) drift exceeds 2 times the limits of the applicable Performance Specification. You must perform the calibration drift checks at least once daily except under the conditions of paragraphs (j)(1) through (3) of this section.

(1) If a 24-hour calibration drift check for your CEMS is performed immediately prior to, or at the start of, a batch monitoring period of a duration exceeding 24 hours, then you are not required to perform 24-hour-interval calibration drift checks during that batch monitoring period.

(2) If the 24-hour calibration drift exceeds 2.5 percent of the span value in fewer than 5 percent of the checks over a 1-month period, and the 24-hour

calibration drift never exceeds 7.5 percent of the span value, then you may reduce the frequency of calibration drift checks to at least weekly (once every 7 days).

(3) If, during two consecutive weekly checks, the weekly calibration drift exceeds 5 percent of the span value, then you must resume a frequency of at least 24-hour interval calibration checks until the 24-hour calibration checks meet the test of paragraph (j)(2) of this section.

§ 63.2164 If I monitor brew ethanol, what are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each brew ethanol monitor according to the manufacturer's specifications and in accordance with § 63.2150(d).

(b) Each of your brew ethanol monitors must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 30-minute period within each batch monitoring period. Except as specified in paragraph (c) of this section, you must have a minimum of two cycles of operation in a 1-hour period to have a valid hour of data.

(c) You must reduce the brew ethanol monitor data to arithmetic batch averages computed from two or more data points over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hour of data must consist of at least one data point representing a 30-minute period.

(d) You must have valid brew ethanol monitor data from all operating hours over the entire batch monitoring period.

(e) You must set the brew ethanol monitor span to correspond to not greater than 5 times the relevant emission limitation; note that we consider 1.5 to 2.5 times the relevant emission limitation to be the optimum range, in general. You must use the brew-to-exhaust correlation equation established under § 63.2161(f) to determine the span value for your brew ethanol monitor that corresponds to the relevant emission limitation.

(f) For each brew ethanol monitor, you must record the results of each inspection, calibration, and validation check.

(g) The gas chromatograph (GC) that you use to calibrate your brew ethanol monitor must meet the requirements of paragraphs (g)(1) through (3) of this section.

(1) You must calibrate the GC at least daily, by analyzing standard solutions of ethanol in water (0.05 percent, 0.15 percent, and 0.3 percent).

(2) For use in calibrating the GC, you must prepare the standard solutions of ethanol using the procedures listed in paragraphs (g)(2)(i) through (vi) of this section.

(i) Starting with 100-percent ethanol, you must dry the ethanol by adding a small amount of anhydrous magnesium sulfate (granular) to 15–20 milliliters (ml) of ethanol.

(ii) You must place approximately 50 ml of water into a 100-ml volumetric flask and place the flask on a balance. You must tare the balance. You must weigh 2.3670 grams of the dry (anhydrous) ethanol into the volumetric flask.

(iii) You must add the 100-ml volumetric flask contents to a 1000-ml volumetric flask. You must rinse the 100-ml volumetric flask with water into the 1000-ml flask. You must bring the volume to 1000 ml with water.

(iv) You must place an aliquot into a sample bottle labeled ''0.3% Ethanol.''

(v) You must fill a 50-ml volumetric flask from the contents of the 1000-ml flask. You must add the contents of the 50-ml volumetric flask to a 100-ml volumetric flask and rinse the 50-ml flask into the 100-ml flask with water. You must bring the volume to 100 ml with water. You must place the contents into a sample bottle labeled ''0.15% Ethanol.''

(vi) With a 10-ml volumetric pipette, you must add two 10.0-ml volumes of water to a sample bottle labeled ''0.05% Ethanol.'' With a 10.0-ml volumetric pipette, you must pipette 10.0 ml of the 0.15 percent ethanol solution into the sample bottle labeled ''0.05% Ethanol.''

(3) For use in calibrating the GC, you must dispense samples of the standard solutions of ethanol in water in aliquots to appropriately labeled and dated glass sample bottles fitted with caps having a Teflon® seal. You may keep refrigerated samples unopened for 1 month. You must prepare new calibration standards of ethanol in water at least monthly.

(h) You must calibrate the brew ethanol monitor according to paragraphs (h)(1) through (3) of this section.

(1) To calibrate the brew ethanol monitor, you must inject a brew sample into a calibrated GC and compare the simultaneous ethanol value given by the brew ethanol monitor to that given by the GC. You must use either the Porapak® Q, 80–100 mesh, 6′ x ⅛″, stainless steel packed column; or the DB Wax, 0.53 millimeter x 30 meter capillary column.

(2) If a brew ethanol monitor value for ethanol differs by 20 percent or more from the corresponding GC ethanol value, you must determine the brew ethanol values throughout the rest of the batch monitoring period by injecting brew samples into the GC not less frequently than once every 30 minutes. From the time at which you detect a difference of 20 percent or more until the batch monitoring period ends, the GC data will serve as the brew ethanol monitor data.

(3) You must perform a calibration of the brew ethanol monitor at least four times per batch.

§ 63.2165 How do I demonstrate initial compliance with the emission limitations if I monitor fermenter exhaust?

(a) You must demonstrate initial compliance with each emission limitation in Table 1 to this subpart that applies to you according to the methods in Table 3 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2180(f).

Continuous Compliance Requirements

§ 63.2170 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section and § 63.2163 or § 63.2164.

(b) Except for periods of monitoring system malfunctions, required monitoring system quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance, you must collect data using the CEMS or brew ethanol monitor, as applicable, at all times during each batch monitoring period.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or quality control activities in data averages and calculations used to report emission or operating levels, or to fulfill a data collection requirement. You must use all the data collected during all other periods in assessing the operation of the control system.

(d) Any hour during the batch monitoring period for which quality-assured VOC CEMS data or brew ethanol monitor data, as applicable, are not obtained is a deviation from monitoring requirements and is counted as an hour of monitoring system downtime.

§ 63.2171 How do I demonstrate continuous compliance with the emission limitations?

(a) You must demonstrate continuous compliance with each emission

limitation in Table 1 to this subpart that applies to you according to the methods specified in Table 4 to this subpart and the applicable procedures of this section.

(b) To demonstrate compliance with emission limitations by using the 98-Percent Option, you must calculate the percentage of within-concentration batches (as defined in § 63.2192) for each 12-month calculation period by following the procedures in this paragraph and paragraphs (e)(1) and (2) of this section. At the end of each calendar month, you must determine the percentage of batches that were in compliance with the applicable maximum concentration in the 12-month calculation period. The total number of batches in the calculation period is the sum of the numbers of batches of each fermentation stage for which emission limitations apply. To determine which batches are in the 12-month calculation period, you must include those batches for which the batch monitoring period ended at or after midnight on the first day of the period and exclude those batches for which the batch monitoring period did not end before midnight on the last day of the period.

(c) To demonstrate compliance with emission limitations by using the Average Option, you must follow the procedures in this paragraph and paragraphs (e)(1) and (2) of this section. At the end of each calendar month, you must determine the average VOC concentration from all batches in each fermentation stage in a 12-month calculation period. To determine which batches are in a 12-month calculation period, you must include those batches for which the batch monitoring period ended at or after midnight on the first day of the period and exclude those batches for which the batch monitoring period did not end before midnight on the last day of the period.

(d) To demonstrate compliance with emission limitations by using the Batch Option, you must determine the average VOC concentration in the fermenter exhaust for each batch of each fermentation stage in a semiannual reporting period (*i.e.,* January 1 through June 30 or July 1 through December 31). To determine which batches are in the semiannual reporting period, you must include those batches for which the batch monitoring period ended at or after midnight on the first day of the period and exclude those batches for which the batch monitoring period did not end before midnight on the last day of the period.

(e) To demonstrate compliance with an emission limitation using a 12-month calculation period, you must follow the procedures in paragraphs (e)(1) and (2) of this section.

(1) The first 12-month calculation period begins on the compliance date that is specified for your affected source in § 63.2133 and ends on the last day of the month that includes the date 1 year after your compliance date, unless the compliance date for your affected source is the first day of the month, in which case the first 12-month calculation period ends on the last day of the month that is 11 calendar months after the compliance date.

(2) The second 12-month calculation period and each subsequent 12-month calculation period begins on the first day of the month following the first full month of the previous 12-month calculation period and ends on the last day of the month 11 calendar months later.

Notification, Reports, and Records

§ 63.2180 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c); 63.8(e), (f)(4) and (6); and 63.9(b) through (h) that apply to you by the dates specified.

(b) If you start up your affected source before May 21, 2001, you are not subject to the initial notification requirements of § 63.9(b)(2).

(c) If you are required to conduct a performance test as specified in § 63.2161 to this subpart, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(d) If you are required to conduct a performance evaluation as specified in § 63.2163, you must submit a notification of the date of the performance evaluation at least 60 days prior to the date the performance evaluation is scheduled to begin as required in § 63.8(e)(2).

(e) If you are required to conduct a performance test as specified in Table 2 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(f) For each initial compliance demonstration required in Table 3 to this subpart, you must submit the Notification of Compliance Status no later than July 31 or January 31, whichever date follows the initial compliance period that is specified for your affected source in § 63.2160(a) or (b). The first compliance report, described in § 63.2181(b)(1), serves as the Notification of Compliance Status.

§ 63.2181 What reports must I submit and when?

(a) You must submit each report in Table 5 to this subpart that applies to you.

(1) On and after October 16, 2017, you must also comply with reporting for performance tests or for performance evaluations as specified in paragraphs (a)(1)(i) and (ii) of this section.

(i) Within 60 days after the date of completing each performance test as required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (a)(1)(i)(A) through (C) of this section.

(A) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site.

(B) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(C) If you claim that some of the performance test information being submitted under paragraph (a)(1)(i)(A) of this section is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (a)(1)(i)(A) of this section.

(ii) Within 60 days after the date of completing each continuous monitoring system performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (a)(1)(ii)(A) through (C) of this section.

(A) For performance evaluations of continuous monitoring systems measuring RATA pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the evaluation, you must submit the results of the performance evaluation to the EPA via the CEDRI. Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT or an alternate file format consistent with the XML schema listed on the EPA's ERT Web site.

(B) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the evaluation, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(C) If you claim that some of the performance evaluation information being submitted is CBI, then you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage media to the EPA. The electronic storage media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to the schedule in Table 5 to this subpart and according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must include the information specified in paragraph (c) of this section. If you are demonstrating compliance with an emission limitation using a 12-month calculation period (*e.g.,* the Average Option), then the first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.2133 and ending on either June 30 or December 31 (use whichever date is the first date following the end of the first 12 calendar months after the compliance date that is specified for your affected source in § 63.2133). If you are demonstrating compliance with an emission limitation using the Batch Option, then the first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.2133 and ending on either June 30 or December 31 (use whichever date is the first date following the compliance date that is specified for your affected source in § 63.2133).

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first compliance reporting period specified in paragraph (b)(1) of this section.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31. Each subsequent compliance report must include the information specified in paragraph (c) of this section.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information listed in paragraphs (c)(1) through (8) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) For each 12-month calculation period ending on a calendar month that falls within a reporting period for which you are using the 98-Percent Option to comply, the percentage of batches that are within-concentration batches.

(5) For each 12-month calculation period ending on a calendar month that falls within a reporting period for which you are using the 98-Percent Option to comply and your affected source fails to meet an applicable standard, the information for each batch for which BAVOC exceeded the applicable maximum VOC concentration in Table 1 to this subpart and whether the batch was in production during a period of malfunction or during another period.

(6) For each 12-month calculation period ending on a calendar month that falls within a reporting period for which you are using the Average Option to comply or for any reporting period for which you are using the Batch Option to comply, and your affected source meets an applicable standard, the information in paragraph (c)(6)(i) or (ii) of this section, depending on the compliance option selected from Table 1 to this subpart.

(i) If you are using the Average Option to comply, the average BAVOC of all batches in each fermentation stage for each 12-month calculation period ending on a calendar month that falls within the reporting period that did not exceed the applicable emission limitation.

(ii) If you are using the Batch Option to comply, a certification that BAVOC for each batch manufactured during the reporting period did not exceed applicable emission limitations.

(7) For each 12-month calculation period ending on a calendar month that falls within a reporting period for which you are using the Average Option to comply or for any reporting period for which you are using the Batch Option to comply and your affected source fails to meet an applicable standard, the information in paragraph (c)(7)(i) or (ii) of this section, depending on the compliance option selected from Table 1 to this subpart.

(i) If you are using the Average Option to comply, the average BAVOC of all batches in each fermentation stage for each 12-month calculation period that failed to meet the applicable standard; the fermenters that operated in each fermentation stage that failed to meet the applicable standard; the duration of each failure; an estimate of the quantity of VOC emitted over the emission limitation; a description of the method used to estimate the emissions; and the actions taken to minimize emissions and correct the failure.

(ii) If you are using the Batch Option to comply, the fermenters and batches that failed to meet the applicable standard; the date, time, and duration of each failure; an estimate of the quantity of VOC emitted over the emission

limitation; a description of the method used to estimate the emissions; and the actions taken to minimize emissions and correct the failure.

(8) The total operating hours for each fermenter, the total hours of monitoring system operation for each CEMS or brew ethanol monitor, and the total hours of monitoring system downtime for each CEMS or brew ethanol monitor.

§ 63.2182 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Notification of Compliance Status and compliance report that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) Records of failures to meet a standard, specified in § 63.2181(c)(5) and (7).

(3) Records of performance tests and performance evaluations as required in § 63.10(b)(2)(viii) and (ix).

(b) For each affected source that monitors brew ethanol, you must keep records demonstrating the calculation of the brew-to-exhaust correlations specified in § 63.2161.

(c) For each CEMS and brew ethanol monitor, you must keep the records listed in paragraphs (c)(1) through (5) of this section.

(1) Records described in § 63.10(b)(2)(vi), (vii), (x), and (xi). The CEMS must allow the amount of excess zero (low-level) and high-level calibration drift measured at the interval checks to be quantified and recorded.

(2) Records described in § 63.10(c)(1) through (6).

(3) Records of the quality control program as specified in § 63.8(d), including the program of corrective action; the current version of the performance evaluation test plan, as specified in § 63.8(e)(3); and previous (*i.e.,* superseded) versions of the performance evaluation test plan for a period of 5 years after each revision to the plan.

(4) Requests for alternatives to RATA for CEMS as required in § 63.8(f)(6)(i).

(5) Records of each deviation from monitoring requirements, including a description of the time period during which the deviation occurred, the nature and cause of the deviation, the corrective action taken or preventive measures adopted, and the nature of repairs or adjustments to the monitoring system.

(d) You must keep the records required to show continuous compliance with each emission limitation that applies to you according to the requirements in Table 4 to this subpart.

(e) You must also keep the records listed in paragraphs (e)(1) through (3) of this section for each batch in your affected source.

(1) Unique batch identification number.

(2) Fermentation stage for which you are using the fermenter.

(3) Unique CEMS equipment identification number.

§ 63.2183 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records off site for the remaining 3 years.

(d) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

(e) You must keep written procedures documenting the CEMS quality control program on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator.

Other Requirements and Information

§ 63.2190 What parts of the General Provisions apply to me?

Table 6 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.2191 Who implements and enforces this subpart?

(a) We, the U.S. EPA, or a delegated authority such as your state, local, or tribal agency, can implement and enforce this subpart. If our Administrator has delegated authority to your state, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact the U.S. EPA Regional Office that serves you to find out if this subpart is delegated to your state, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a state, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by our Administrator and are not transferred to the state, local, or tribal agency.

(c) The authorities that will not be delegated to state, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the non-opacity emission limitations in § 63.2140 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.2192 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, in the General Provisions of this part (§§ 63.1 through 63.15), and in this section as follows:

Batch means a single fermentation cycle in a single fermentation vessel (fermenter).

Batch monitoring period means the period that begins at the later of either the start of aeration or the addition of yeast to the fermenter; the period ends at the earlier of either the end of aeration or the point at which the yeast has begun being emptied from the fermenter.

BAVOC means the average VOC concentration in the fermenter exhaust over the duration of a batch (''batch-average VOC concentration'').

Brew means the mixture of yeast and additives in the fermenter.

Brew ethanol means the ethanol in fermenter liquid.

Brew ethanol monitor means the monitoring system that you use to measure brew ethanol to demonstrate compliance with this subpart. The monitoring system includes a resistance element used as an ethanol sensor, with the measured resistance proportional to the concentration of ethanol in the brew.

Brew-to-exhaust correlation means the correlation between the concentration of ethanol in the brew and the concentration of VOC in the

fermenter exhaust. This correlation is specific to each fed-batch fermentation stage and is established while manufacturing the product that comprises the largest percentage (by mass) of average annual production.

Emission limitation means any emission limit or operating limit.

Fed-batch means the yeast is fed carbohydrates and additives during fermentation in the vessel.

Monitoring system malfunction means any sudden, infrequent, and not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

1-hour period means any successive period commencing on the minute at which the batch monitoring period begins and continuing for 60 minutes, except for the last period, which may be less than 60 minutes.

Product means the yeast resulting from the final stage in a production run. Products are distinguished by yeast species, strain, and variety.

Responsible official means responsible official as defined in 40 CFR 70.2.

Set-batch means the yeast is fed carbohydrates and additives only at the start of the batch.

Specialty yeast includes, but is not limited to, yeast produced for use in wine, champagne, whiskey, and beer.

Within-concentration batch means a batch for which BAVOC is not higher than the maximum concentration that is allowed as part of the applicable emission limitation.

TABLE 1 TO SUBPART CCCC OF PART 63—EMISSION LIMITATIONS

For each fed-batch fermenter producing yeast in the following fermentation stage . . .	98-percent option: You must not exceed the following VOC emission limitation [a] according to the timeline in Table 7 to this subpart . . .	Average option: You must not exceed the following VOC emission limitation [a] according to the timeline in Table 7 to this subpart . . .	Batch option: You must not exceed the following VOC emission limitation [a] according to the timeline in Table 7 to this subpart . . .
Last stage	100 ppmv (measured as propane) for BAVOC for at least 98 percent of all batches in each 12-month calculation period described in § 63.2171(b) and (e).	95 ppmv (measured as propane) for the average BAVOC of all batches in this stage in each 12-month calculation period described in § 63.2171(c) and (e).	100 ppmv (measured as propane) for BAVOC for each batch.
Second-to-last stage	200 ppmv (measured as propane) for BAVOC for at least 98 percent of all batches in each 12-month calculation period described in § 63.2171(b) and (e).	190 ppmv (measured as propane) for the average BAVOC of all batches in this stage in each 12-month calculation period described in § 63.2171(c) and (e).	200 ppmv (measured as propane) for BAVOC for each batch.
Third-to-last stage	300 ppmv (measured as propane) for BAVOC for at least 98 percent of all batches in each 12-month calculation period described in § 63.2171(b) and (e).	285 ppmv (measured as propane) for the average BAVOC of all batches in this stage in each 12-month calculation period described in § 63.2171(c) and (e).	300 ppmv (measured as propane) for BAVOC for each batch.

[a] The emission limitation does not apply during the production of specialty yeast.

TABLE 2 TO SUBPART CCCC OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS IF YOU MONITOR BREW ETHANOL

For each fed-batch fermenter for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161, you must . . .	Using . . .	According to the following requirements . . .
Measure VOC as propane	Method 25A,[a] or an alternative validated by EPA Method 301 [b] and approved by the Administrator.	You must measure the VOC concentration in the fermenter exhaust at any point prior to the dilution of the exhaust stream.

[a] EPA Test Method 25A is found in appendix A–7 of 40 CFR part 60.
[b] EPA Test Method 301 is found in appendix A of 40 CFR part 63.

TABLE 3 TO SUBPART CCCC OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For . . .	Average option: You have demonstrated initial compliance if . . .	Batch option: You have demonstrated initial compliance if . . .
Each fed-batch fermenter producing yeast in a fermentation stage (last, second-to-last, or third-to-last) for which compliance is determined by monitoring VOC concentration in the fermenter exhaust.	The average BAVOC of all batches in each fermentation stage during the initial compliance period described in § 63.2160(a) does not exceed the applicable concentration in Table 1 to this subpart.	BAVOC for each batch of each fermentation stage during the initial compliance period described in § 63.2160(b) does not exceed the applicable concentration in Table 1 to this subpart.

TABLE 4 TO SUBPART CCCC OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

For . . .	98-percent option: You must demonstrate continuous compliance by . . .	Average option: You must demonstrate continuous compliance by . . .	Batch option: You must demonstrate continuous compliance by . . .
1. Each fed-batch fermenter producing yeast in a fermentation stage (last, second-to-last, or third-to-last) for which compliance is determined by monitoring VOC concentration in the fermenter exhaust.	Showing that BAVOC for at least 98 percent of the batches for each 12-month calculation period ending within a semiannual reporting period described in §63.2181(b)(3) does not exceed the applicable maximum concentration in Table 1 to this subpart.	Showing that the average BAVOC of all batches in each fermentation stage during each 12-month calculation period ending within a semiannual reporting period described in §63.2181(b)(3) does not exceed the applicable concentration in Table 1 to this subpart.	Showing that BAVOC for each batch within a semiannual reporting period described in §63.2181(b)(3) does not exceed the applicable concentration in Table 1 to this subpart.
2. Each fed-batch fermenter producing yeast in a fermentation stage (last, second-to-last, or third-to-last) for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in §63.2161 [a].			

[a] Monitoring brew ethanol concentration to demonstrate compliance is not allowed on and after October 16, 2020, as specified in Table 8 to this subpart.

TABLE 5 TO SUBPART CCCC OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. The information described in §63.2181(c), as appropriate.	Semiannually according to the requirements in §63.2181(b).
	b. If you fail to meet an applicable standard during the reporting period, then the compliance report must include the information in §63.2181(c)(5) or (7).	Semiannually according to the requirements in §63.2181(b).
2. Performance test report	The results of the performance test, including the information described in §63.7(g).	At least once every 365 calendar days and according to the requirements in §63.2181(a)(1)(i).
3. Performance evaluation report.	The results of the performance evaluation, including information from the performance evaluation plan at §63.8(e)(3).	At least once every twelve calendar quarters and according to the requirements in §§63.2163(f) and 63.2181(a)(1)(ii).

TABLE 6 TO SUBPART CCCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART CCCC

Citation	Subject	Applicable to subpart CCCC?
§63.1	Applicability	Yes.
§63.2	Definitions	Yes.
§63.3	Units and Abbreviations	Yes.
§63.4	Prohibited Activities and Circumvention	Yes.
§63.5	Construction and Reconstruction	Yes.
§63.6	Compliance With Standards and Maintenance Requirements.	1. §63.6(e)(1)(i) does not apply, instead specified in §63.2150(d). 2. §63.6(e)(1)(ii), (e)(3), (f)(1), and (h) do not apply. 3. Otherwise, all apply.
§63.7	Performance Testing Requirements	1. §63.7(a)(1) and (2) do not apply, instead specified in §63.2162. 2. §63.7(e)(1) and (e)(3) do not apply, instead specified in §63.2161(b). 3. Otherwise, all apply.
§63.8	Monitoring Requirements	1. §63.8(a)(2) is modified by §63.2163. 2. §63.8(d)(3) is modified by §63.2182(c)(3) and §63.2183(e). 3. §63.8(a)(4), (c)(1)(i), (c)(1)(iii), (c)(4)(i), (c)(5), (e)(5)(ii), and (g)(5) do not apply. 4. §63.8(c)(6), (c)(8), (e)(4), (g)(1), and (g)(3) do not apply, instead specified in §§63.2163(b) and (j), 63.2164(c), and 63.2182(c)(1) and (5). 5. Otherwise, all apply.
§63.9	Notification Requirements	1. §63.9(b)(2) does not apply because rule omits requirements for initial notification for affected sources that start up prior to May 21, 2001. 2. §63.9(f) does not apply. 3. Otherwise, all apply.
§63.10	Recordkeeping and Reporting Requirements.	1. §63.10(b)(2)(ii) does not apply, instead specified in §63.2182(a)(2) and (c)(5). 2. §63.10(b)(2)(i), (b)(2)(iv), (b)(2)(v), (c)(15), (d)(3), (e)(2)(ii), and (e)(3) and (4) do not apply. 3. §63.10(d)(5) does not apply, instead specified in §63.2181(c)(5) and (7). 4. Otherwise, all apply.
§63.11	Flares	No.
§63.12	Delegation	Yes.
§63.13	Addresses	Yes.

TABLE 6 TO SUBPART CCCC OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART CCCC—Continued

Citation	Subject	Applicable to subpart CCCC?
§ 63.14	Incorporation by Reference	Yes.
§ 63.15	Availability of Information	Yes.

TABLE 7 TO SUBPART CCCC OF PART 63—EMISSION LIMITATION APPLICABILITY TIMELINE

For each . . .	During this time frame . . .	You must comply with the emission limitations in Table 1 to this subpart using the . . .
Existing affected source	Before 10/16/2017	98-Percent Option.
	Between 10/16/2017 and October 16, 2018	98-Percent Option, Average Option, or Batch Option.
	On and after October 16, 2018	Average Option or Batch Option.
New or reconstructed affected source that you start up prior to 10/16/2017.	Before 10/16/2017	98-Percent Option.
	Between 10/16/2017 and October 16, 2018	98-Percent Option, Average Option, or Batch Option.
	On and after October 16, 2018	Average Option or Batch Option.
New or reconstructed affected source that you start up after 10/16/2017.	After 10/16/2017	Average Option or Batch Option.

TABLE 8 TO SUBPART CCCC OF PART 63—MONITORING SYSTEM REQUIREMENTS TIMELINE

For each . . .	During this time frame . . .	You must monitor VOC concentration by . . .
Existing affected source	Before 10/16/2017	Monitoring fermenter exhaust using a CEMS or by monitoring brew ethanol concentration using a brew ethanol monitor.
	Between 10/16/2017 and October 16, 2020	Monitoring fermenter exhaust using a VOC CEMS or by monitoring brew ethanol concentration using a brew ethanol monitor.
	On and after October 16, 2020	Monitoring fermenter exhaust using a VOC CEMS.
New or reconstructed affected source that you start up prior to 10/16/2017.	Before 10/16/2017	Monitoring fermenter exhaust using a CEMS or by monitoring brew ethanol concentration using a brew ethanol monitor.
	Between 10/16/2017 and October 16, 2020	Monitoring fermenter exhaust using a VOC CEMS or by monitoring brew ethanol concentration using a brew ethanol monitor.
	On and after October 16, 2020	Monitoring fermenter exhaust using a VOC CEMS.
New or reconstructed affected source that you start up after 10/16/2017.	After 10/16/2017	Monitoring fermenter exhaust using a VOC CEMS.

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FEDERAL REGISTER

Vol. 82 Monday,
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Part III

The President

Proclamation 9658—General Pulaski Memorial Day, 2017

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9658 of October 10, 2017

General Pulaski Memorial Day, 2017

By the President of the United States of America

A Proclamation

Today, we commemorate General Casimir Pulaski, a Polish immigrant whose heroic contributions to the American Revolutionary War helped shape our Nation's history. Known as the ''Father of the American Cavalry,'' General Pulaski demonstrated bravery as a soldier and exceptional leadership as a military officer. General Pulaski is internationally renowned for having supported and fought for independence and freedom, both in his native Poland and in the United States.

Born into Polish nobility, General Pulaski and his family fought to preserve a free and self-governing Poland. Exiled from his country after a failed uprising against Russian control of Poland, the Marquis de Lafayette and Benjamin Franklin recruited General Pulaski to join the fight for freedom in the American Revolution. During his first military engagement with the British, at the Battle of Brandywine, General Pulaski led a courageous charge that averted a defeat of the American cavalry, saving the life of General George Washington and earning him the rank of Brigadier General in the United States Continental Army.

General Pulaski gave his complete devotion to the American cause for freedom. He spent the harsh winter that ran from 1777 into 1778 at Valley Forge with General Washington, and used his own personal finances to supply his cavalry legion when resources were scarce. Fatefully, on October 9, 1779, General Pulaski was severely wounded leading a daring charge against British forces, this time in the Battle of Savannah. General Pulaski died shortly thereafter, paying the ultimate sacrifice for his adopted American compatriots.

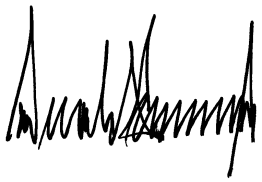
General Pulaski once wrote to General Washington: ''I came here, where freedom is being defended, to serve it, and to live or die for it.'' In recognition of his selfless devotion to our country and its cause, the Congress, in 2009, granted honorary citizenship to General Pulaski, one of only eight people ever to have earned this distinction. He is an example for all those who love freedom and seek the courage to defend it.

General Pulaski's defense of the Polish-American values of liberty, the rule of law, and the sovereignty of the people symbolizes the close bond between the United States and Poland. We have helped one another in the most challenging of times, from the American Revolution to the Polish liberation from communism. Today, our strong bilateral relationship with Poland, forged initially by remarkable individuals like General Pulaski, continues to enhance the important security, economic, and social ties that help bring prosperity to both countries.

More than 200 years after General Pulaski's heroic death, there are 9.5 million Americans of Polish descent. They carry forward General Pulaski's legacy by protecting our shared values, strengthening our cultural heritage, and serving in our Armed Forces. They remind us that the story of Poland, like the story of America, is of a people who have never lost hope, have never been broken, and have never forgotten who they are.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 11, 2017, as the 88th anniversary of General Pulaski Memorial Day. I encourage all Americans to commemorate on this occasion those who have contributed to the furthering of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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