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# Rules and Regulations

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2017-0910; Product Identifier 2017-CE-027-AD; Amendment 39-19136; AD 2017-26-05]

RIN 2120-AA64

#### Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Gulfstream Aerospace Corporation Models G-1159A (GIII), G-IV, and GIV-X airplanes. This AD was prompted by a report that certain flap tracks were manufactured with the upper flange thickness less than design minimum. This AD requires replacing any defective flap track. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective January 25, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 25, 2018.

**ADDRESSES:** For service information identified in this final rule, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31404-2206; telephone: (800) 810-4853; fax: (912) 965-3520; email: [pubs@gulfstream.com](mailto:pubs@gulfstream.com); internet: <http://www.gulfstream.com/product-support/technical-publications/pubs/index.htm>. You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available on the internet at <http://www.regulations.gov> by searching for

and locating Docket No. FAA-2017-0910.

#### Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0910; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800-647-5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Ron Wissing, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474-5552; fax: (404) 474-5606; email: [ronald.wissing@faa.gov](mailto:ronald.wissing@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Gulfstream Aerospace Corporation (Gulfstream) Models G-1159A (GIII), G-IV, and GIV-X airplanes. The NPRM published in the **Federal Register** on September 22, 2017 (82 FR 44359). The NPRM was prompted by a report from Gulfstream that, during maintenance while replacing flap tracks on one of the affected airplanes, it was discovered that certain flap tracks were manufactured with the upper flange thickness less than design minimum and do not meet design load margins. The NPRM proposed to require replacing any defective flap track. We are issuing this AD to correct the unsafe condition on these products.

##### Comments

We gave the public the opportunity to participate in developing this final rule. The following presents the comment received on the NPRM and the FAA's response to the comment.

##### Request To Change the Effective Date

Gulfstream requested that the effective date be set in-line with the

service information incorporated by referenced in the proposed AD.

Gulfstream stated that the compliance time specified in Gulfstream III Customer Bulletin Number 187, Gulfstream G450 Customer Bulletin Number 195, and Gulfstream IV Customer Bulletin Number 240, all dated June 28, 2017, which are the incorporated by reference documents listed in the proposed AD, is 12 months from the release date of the service information.

Gulfstream stated that if the AD becomes effective before January 18, 2018, the compliance time will be less than that allowed in the service information.

We do not agree that the possibility of this AD becoming effective before January 18, 2018, will result in a reduced compliance time than that allowed in the related service information. We infer that the commenter thinks a reduced compliance time would cause an undue burden on the owners/operators of the affected airplanes. This AD will not be effective until 35 days after publication in the **Federal Register**; therefore, we do not believe there will be any significant difference in the allowable compliance time for operators. We have not changed this AD based on this comment.

##### Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed except for minor editorial changes. We have determined that these minor changes:

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

##### Related Service Information Under 14 CFR Part 51

We reviewed Gulfstream III Customer Bulletin Number 187, Gulfstream G450 Customer Bulletin Number 195, and Gulfstream IV Customer Bulletin Number 240, all dated June 28, 2017. The applicable model service information describes procedures for replacing any discrepant flap track C with an airworthy part. This service information is reasonably available because the interested parties have

access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

We estimate that this AD affects 6 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace flap track C ..	99 work-hours × \$85 per hour = \$8,415 per flap track C.	\$10,644 per flap track C.	\$19,059 per flap track C. There may be a flap track C on the left-side and the right-side of the airplane, for a total of 2 per airplane.	\$114,354 per flap track C.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

**Authority for This Rulemaking**

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

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

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

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

**2017–26–05 Gulfstream Aerospace**

**Corporation:** Amendment 39–19136; Docket No. FAA–2017–0910; Product Identifier 2017–CE–027–AD.

**(a) Effective Date**

This AD is effective January 25, 2018.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Gulfstream Aerospace Corporation Model G–1159A (GIII), serial number (S/N) 460; Model G–IV, S/Ns 1129,

1151, 1167, 1175, 1214, and 1380; and Model GIV–X (G450), S/Ns 4118 and 4227 airplanes.

**(d) Subject**

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

**(e) Unsafe Condition**

This AD was prompted by a report that certain flap tracks were manufactured with the upper flange thickness less than design minimum. We are issuing this AD to prevent deformation or failure of a flap track that could cause flap actuator failure, “B track” roller overload, flap twisting/failure, or asymmetrical flap track failure. This failure could result in an unrecoverable roll.

**(f) Compliance**

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

**(g) Replace Flap Track C**

Within the next 6 months after January 25, 2018 (the effective date of this AD), replace the flap track C on the left side, part number (P/N) 1159WM20052–105, and/or the flap track C on the right side, P/N 1159WM20052–106, with an airworthy part. Accomplish the replacements following Gulfstream III Customer Bulletin Number 187, Gulfstream G450 Customer Bulletin Number 195, or Gulfstream IV Customer Bulletin Number 240, all dated June 28, 2017, as applicable.

**(h) Reporting Requirement**

Although Gulfstream III Customer Bulletin Number 187, Gulfstream G450 Customer Bulletin Number 195, and Gulfstream IV Customer Bulletin Number 240, all dated June 28, 2017, specify to submit certain information to the manufacturer, this AD does not require that action.

**(i) Special Flight Permit**

Special flight permits under 14 CFR 39.23 are allowed with the following limitation: Do not extend 39 degrees (FULL) flaps until airspeed is at or below 170 knots.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards



District Office, as appropriate. If sending information directly to the manager of the ACO Branch, send it to the attention of the person identified in paragraph (k) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraph (g) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with this AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

#### (k) Related Information

For more information about this AD, contact Ron Wissing, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474-5552; fax: (404) 474-5606; email: [ronald.wissing@faa.gov](mailto:ronald.wissing@faa.gov).

#### (l) Material Incorporated by Reference

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

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

(i) Gulfstream III Customer Bulletin Number 187, dated June 28, 2017.

(ii) Gulfstream G450 Customer Bulletin Number 195, dated June 28, 2017.

(iii) Gulfstream IV Customer Bulletin Number 240, dated June 28, 2017.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31402-2206; telephone: (800) 810-4853; fax: (912) 965-3520; email: [pubs@gulfstream.com](mailto:pubs@gulfstream.com); internet: [www.gulfstream.com/product-support/technical-publications/pubs/index.htm](http://www.gulfstream.com/product-support/technical-publications/pubs/index.htm).

(4) You may view this service information at FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

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

Issued in Kansas City, Missouri, on December 13, 2017.

Pat Mullen,

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

[FR Doc. 2017-27441 Filed 12-20-17; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2017-0526; Product Identifier 2017-NM-026-AD; Amendment 39-19109; AD 2017-24-05]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

##### Correction

In rule document 2017-25379 beginning on page 56156 in the issue of Tuesday, November 28, 2017, make the following correction:

On page 56157, in the third column, in § 39.13, under the heading (c) Applicability, the second and third lines should read as follows: "Company Model 737-100, -200, -200C, -300, -400, and -500 series airplanes,".

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Part 584

#### Magnitsky Act Sanctions Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement certain provisions of the Sergei Magnitsky Rule of Law Accountability Act of 2012.

**DATES:** *Effective:* December 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202-622-2410.

## SUPPLEMENTARY INFORMATION:

### Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website ([www.treasury.gov/ofac](http://www.treasury.gov/ofac)).

### Background

On December 14, 2012, the President signed into law the Sergei Magnitsky Rule of Law Accountability Act of 2012, Public Law 112-208, title IV, 126 Stat. 1502 (2012) (the "Act"). The Act provides authority for the identification of and imposition of sanctions on certain persons related to the detention, abuse, and death of Sergei Magnitsky or responsible for certain gross violations of human rights in the Russian Federation.

Section 404(a) of the Act requires the President to submit to certain congressional committees a list of each person the President has determined meets certain criteria set forth in the Act. Section 406 of the Act requires the President, with certain exceptions, to exercise powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to the extent necessary to freeze, and prohibit all transactions in, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person of persons on the list required by Section 404(a) of the Act.

Section 404(a) of the Act sets out criteria for inclusion on the list, namely, certain persons who the President determines:

(1) Are responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or were involved in the criminal conspiracy uncovered by Sergei Magnitsky;

(2) Are responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking: To expose illegal activity carried out by officials of the Government of the Russian Federation; or to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

(3) Acted as agents of or on behalf of a person in a matter relating to an

activity described in paragraph (1) or (2).

Pursuant to Presidential Memorandum of April 5, 2013: Delegation of Functions Under Section 404 and 406 of Public Law 112–208 (78 FR 22761, April 16, 2013), the President delegated certain functions and authorities, including the functions and authorities set forth in section 404(a) of the Act, with respect to the determinations provided for therein, and section 406(a)(1) of the Act, with respect to the freezing, and prohibiting all transactions in, property, to the Secretary of the Treasury, in consultation with the Secretary of State.

Section 406(d) of the Act requires the Secretary of the Treasury to issue regulations, licenses, and orders as are necessary to carry out Section 406 of the Act. In furtherance of this requirement and the Presidential delegation of functions and authorities noted above, OFAC is promulgating the Magnitsky Act Sanctions Regulations, 31 CFR part 584 (the “Regulations”).

The Regulations implement targeted sanctions that are directed at persons determined to meet the criteria set forth above. The sanctions do not generally prohibit trade or the provision of banking or other financial services to the Russian Federation. Instead, the sanctions apply where the transaction or service in question involves property or interests in property that are blocked pursuant to these sanctions.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in section 406 of the Act. *See, e.g.*, §§ 584.201 and 584.205. Persons designated by or under the authority of the Secretary of the Treasury pursuant to the Magnitsky Act or otherwise subject to blocking pursuant to the Act are referred to throughout the Regulations as “persons whose property and interests in property are blocked pursuant to § 584.201(a).” The names of persons designated pursuant to the Act are published on OFAC’s Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC’s website. Those names also are published in the **Federal Register** as they are added to the List.

Sections 584.202 and 584.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 584.204 of subpart B provides that all expenses

incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. The section further provides that blocked property may, in OFAC’s discretion, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 584.205 of subpart B prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part, and any conspiracy formed to violate such prohibitions.

Section 584.206 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to sections 203(b)(1)–(4) of IEEPA (50 U.S.C. 1702(b)(1)–(4)). These exempt transactions relate to personal communications, donations of articles intended to be used to relieve human suffering, the importation and exportation of information or informational materials, and transactions ordinarily incident to travel.

Subpart C of the Regulations defines key terms used throughout the Regulations, and subpart D contains interpretive sections regarding the Regulations. Section 584.410 of subpart D explains that the property and interests in property of an entity are blocked if the entity is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked, whether or not the entity itself is designated pursuant to the Act.

Transactions otherwise prohibited under the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. Subpart E of the Regulations also contains certain statements of specific licensing policy in addition to the general licenses. General licenses and statements of licensing policy relating to this part also may be available through the Magnitsky Sanctions page on OFAC’s website: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as

the procedures governing the potential imposition of a civil monetary penalty or issuance of a Finding of Violation. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

### Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

### Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

### List of Subjects in 31 CFR Part 584

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign Trade, Investments, Loans, Magnitsky, Russia, Penalties, Reporting and recordkeeping requirements, Securities, Services.

■ For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control adds part 584 to 31 CFR chapter V to read as follows:

## PART 584—MAGNITSKY ACT SANCTIONS REGULATIONS

### Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

584.101 Relation of this part to other laws and regulations.

**Subpart B—Prohibitions**

- 584.201 Prohibited transactions involving blocked property.
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- 584.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
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- 584.206 Exempt transactions.

**Subpart C—General Definitions**

- 584.300 Applicability of definitions.
- 584.301 Blocked account; blocked property.
- 584.302 Effective date.
- 584.303 Entity.
- 584.304 Information or informational materials.
- 584.305 Interest.
- 584.306 Licenses; general and specific.
- 584.307 OFAC.
- 584.308 Participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky.
- 584.309 Person.
- 584.310 Property; property interest.
- 584.311 Magnitsky Act.
- 584.312 Transfer.
- 584.313 United States.
- 584.314 United States person; U.S. person.
- 584.315 U.S. financial institution.

**Subpart D—Interpretations**

- 584.401 Reference to amended sections.
- 584.402 Effect of amendment.
- 584.403 Termination and acquisition of an interest in blocked property.
- 584.404 Transactions ordinarily incident to a licensed transaction.
- 584.405 Provision of services.
- 584.406 Offshore transactions involving blocked property.
- 584.407 Payments from blocked accounts to satisfy obligations prohibited.
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- 584.409 Setoffs prohibited.
- 584.410 Entities owned by one or more persons whose property and interests in property are blocked.

**Subpart E—Licenses, Authorizations, and Statements of Licensing Policy**

- 584.501 General and specific licensing procedures.
- 584.502 Effect of license or other authorization.
- 584.503 Exclusion from licenses.
- 584.504 Payments and transfers to blocked accounts in U.S. financial institutions.
- 584.505 Entries in certain accounts for normal service charges.
- 584.506 Investment and reinvestment of certain funds.
- 584.507 Provision of certain legal services.
- 584.508 Payments for legal services from funds originating outside the United States.
- 584.509 Emergency medical services.

**Subpart F—Reports**

- 584.601 Records and reports.

**Subpart G—Penalties and Finding of Violation**

- 584.701 Penalties.
- 584.702 Pre-Penalty Notice; settlement.
- 584.703 Penalty imposition.
- 584.704 Administrative collection; referral to United States Department of Justice.
- 584.705 Finding of Violation.

**Subpart H—Procedures**

- 584.801 Procedures.
- 584.802 Delegation by the Secretary of the Treasury.

**Subpart I—Paperwork Reduction Act**

- 584.901 Paperwork Reduction Act notice.
- Authority:** 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Public Law 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Public Law 112–208, 126 Stat. 1502, (22 U.S.C. 5811 note).

**Subpart A—Relation of This Part to Other Laws and Regulations****§ 584.101 Relation of this part to other laws and regulations.**

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

**Subpart B—Prohibitions****§ 584.201 Prohibited transactions involving blocked property.**

(a) All property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: Any person who the Secretary of the

Treasury, in consultation with the Secretary of State, determines:

(1) Is responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or was involved in the criminal conspiracy uncovered by Sergei Magnitsky;

(2) Is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking:

(i) To expose illegal activity carried out by officials of the Government of the Russian Federation; or

(ii) To obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

(3) Acted as an agent of or on behalf of a person in a matter relating to an activity described in paragraph (a)(1) or (2) of this section.

**Note 1 to paragraph (a):** The names of persons who meet the criteria in paragraph (a) of this section and are designated pursuant to the Magnitsky Act, whose property and interests in property are therefore blocked pursuant to this paragraph (a), are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier "MAGNIT." The SDN List is accessible through the following page on OFAC's website: [www.treasury.gov/sdn](http://www.treasury.gov/sdn). Additional information pertaining to the SDN List can be found in appendix A to this chapter. See § 584.410 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this paragraph (a).

**Note 2 to paragraph (a):** The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of the property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this paragraph (a) also are published in the **Federal Register** and incorporated into the SDN List with the identifier "[BPI–MAGNIT]."

**Note 3 to paragraph (a):** Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, and administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this paragraph (a).

**Note 4 to paragraph (a):** The Magnitsky Act requires the President to submit to certain congressional committees a list of each person the President has determined meet the Act's criteria, which correspond to the criteria set forth in this section. The Magnitsky Act provides that the President shall exercise all powers granted by the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706 (except that the requirements of Section 202 of such act requiring the declaration of a national emergency (50 U.S.C. 1701) shall not apply), to the extent necessary to freeze and prohibit all transactions in all property and interests in property of a person on this list if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person. The Magnitsky Act also provides for an exception from the above prohibitions for persons included on a classified annex if the President determines that such an exception is vital for the national security interests of the United States, and for a waiver of the above prohibitions if the Secretary of the Treasury determines that such a waiver is in the national interests of the United States.

(b) The prohibitions in paragraph (a) of this section include prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section, except for donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this section, any dealing in any securities (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any securities on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such securities may have or might appear to have

assigned, transferred, or otherwise disposed of the securities.

(d) The prohibitions in paragraph (a) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

**§ 584.202 Effect of transfers violating the provisions of this part.**

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 584.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interest.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 584.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued

pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

**Note to paragraph (d):** The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property and interests in property blocked pursuant to § 584.201(a).

**§ 584.203 Holding of funds in interest-bearing accounts; investment and reinvestment.**

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 584.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in

instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 584.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 584.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 584.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

**§ 584.204 Expenses of maintaining blocked physical property; liquidation of blocked property.**

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 584.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 584.201(a) may, in the discretion of

OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

**§ 584.205 Evasions; attempts; causing violations; conspiracies.**

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

**§ 584.206 Exempt transactions.**

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The prohibitions contained in this part do not apply to the importation from any country and the exportation to any country of any information or informational materials, as defined in § 584.304, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods (including software) or technology for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial

network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 584.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation or exportation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

(d) *Humanitarian donations.* The prohibitions of this part do not apply to donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

**Subpart C—General Definitions**

**§ 584.300 Applicability of definitions.**

The definitions in this subpart apply throughout the entire part.

**§ 584.301 Blocked account; blocked property.**

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 584.201 held in the name of a person whose property and interests in property are blocked pursuant to § 584.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

**Note to § 584.301:** See § 584.410 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 584.201(a).

**§ 584.302 Effective date.**

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part, and, with respect to a person whose property and interests in property are blocked pursuant to § 584.201(a), is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

**§ 584.303 Entity.**

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

**§ 584.304 Information or informational materials.**

(a) The term *information or informational materials* includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

**Note to paragraph (a):** To be considered information or informational materials, artworks must be classified under heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (EAA), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

**§ 584.305 Interest.**

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., “an interest in property”), means an interest of any nature whatsoever, direct or indirect.

**§ 584.306 Licenses; general and specific.**

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC’s website: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).

(c) The term *specific license* means any license or authorization issued pursuant to this part, but not set forth in subpart E of this part or made available on OFAC’s website: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).

**Note to § 584.306:** See § 501.801 of this chapter on licensing procedures.

**§ 584.307 OFAC.**

The term *OFAC* means the Department of the Treasury’s Office of Foreign Assets Control.

**§ 584.308 Participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky.**

The term *participated in efforts to conceal the legal liability for the*

*detention, abuse, or death of Sergei Magnitsky* includes direct or indirect, knowing or unknowing, involvement in, among others:

(a) Actions with the intent or effect of obstructing the release of evidence regarding Sergei Magnitsky’s treatment during his detention;

(b) Posthumous legal proceedings against Sergei Magnitsky; or

(c) The making of any false or misleading reports or accounts by officials of the Russian Federation concerning Sergei Magnitsky’s detention, abuse, or death, or the fraudulent tax scheme he discovered, including official statements or findings regarding Sergei Magnitsky’s treatment during his detention that contradict the July 6, 2011, findings of the independent investigation by the Presidential Council on the Development of Civil Society and Human Rights, or the December 28, 2009, report of the Public Oversight Commission for the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention.

**§ 584.309 Person.**

The term *person* means an individual or entity.

**§ 584.310 Property; property interest.**

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors’ sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

**§ 584.311 Magnitsky Act.**

The term *Magnitsky Act* means the Sergei Magnitsky Rule of Law Accountability Act of 2012, Public Law 112–208, title IV, 126 Stat. 1502 (2012).

**§ 584.312 Transfer.**

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

**§ 584.313 United States.**

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

**§ 584.314 United States person; U.S. person.**

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

**§ 584.315 U.S. financial institution.**

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or other extensions of

credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

#### Subpart D—Interpretations

##### § 584.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

##### § 584.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

##### § 584.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 584.201(a), such property shall no longer be deemed to be property blocked pursuant to § 584.201(a), unless there exists in the property another interest that is blocked pursuant to § 584.201(a), the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is

transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 584.201(a), such property shall be deemed to be property in which such person has an interest and therefore blocked.

##### § 584.404 Transactions ordinarily incident to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 584.201(a); or

(2) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(b) *Example.* A license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 584.201(a), also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 584.201(a).

##### § 584.405 Provision of services.

(a) The prohibitions on transactions contained in § 584.201 apply to services performed in the United States or by U.S. persons, wherever located, including by a foreign branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 584.201(a); or

(2) With respect to property interests of any person whose property and interests in property are blocked pursuant to § 584.201(a).

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 584.201(a).

**Note to § 584.405:** See §§ 584.507 and 584.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

##### § 584.406 Offshore transactions involving blocked property.

The prohibitions in § 584.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 584.201(a).

##### § 584.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 584.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

**Note to § 584.407:** See also § 584.502(e), which provides that no license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

##### § 584.408 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 584.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including charge cards, debit cards, or other credit facilities issued by a financial institution to a person whose property and interests in property are blocked pursuant to § 584.201(a).

##### § 584.409 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 584.201 if effected after the effective date.

##### § 584.410 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 584.201(a) have an interest in all property and interests in property in which such blocked persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 584.201(a), regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).



**Subpart E—Licenses, Authorizations, and Statements of Licensing Policy****§ 584.501 General and specific licensing procedures.**

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Magnitsky Sanctions page on OFAC's website: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).

**§ 584.502 Effect of license or other authorization.**

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S.

Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

**§ 584.503 Exclusion from licenses.**

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

**§ 584.504 Payments and transfers to blocked accounts in U.S. financial institutions.**

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 584.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

**Note to § 584.504:** See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 584.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

**§ 584.505 Entries in certain accounts for normal service charges.**

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

**§ 584.506 Investment and reinvestment of certain funds.**

Subject to the requirements of § 584.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 584.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 584.201(a).

**§ 584.507 Provision of certain legal services.**

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be specifically licensed, authorized pursuant to § 584.508, which authorizes certain payments for legal services from funds originating outside the United States, or otherwise authorized pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to



facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. Federal, State, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. Federal, State, or local court or agency;

(4) Representation of persons before any U.S. Federal, State, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

**Note to paragraph (a):** Consistent with § 584.404, U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by this paragraph. Additionally, U.S. persons who provide services authorized by this paragraph do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act is prohibited unless licensed pursuant to this part.

**Note to § 584.507:** U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds necessary for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and*

*Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings*, which is available on OFAC's website: [www.treasury.gov/ofac](http://www.treasury.gov/ofac).

**§ 584.508 Payments for legal services from funds originating outside the United States.**

(a) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 584.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act is authorized from funds originating outside the United States, provided that the funds do not originate from:

(1) A source within the United States;

(2) Any source, wherever located, within the possession or control of a U.S. person; or

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 584.507(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

**Note to paragraph (a):** This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 584.507(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 584.201(a), any other part of this chapter, or any Executive order has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) All required reports must reference this section and are to be submitted to OFAC using one of the below methods:

(i) *Email:* [OFAC.Regulations.Reports@treasury.gov](mailto:OFAC.Regulations.Reports@treasury.gov); or

(ii) *U.S. mail:* OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

**Note to § 584.508:** U.S. persons who receive payments in connection with legal services authorized pursuant to § 584.507(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 584.507(a).

**§ 584.509 Emergency medical services.**

The provision and receipt of nonscheduled emergency medical services that are otherwise prohibited by this part or any Executive orders or further Presidential action relating to the Magnitsky Act are authorized.

**Subpart F—Reports**

**§ 584.601 Records and reports.**

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

**Subpart G—Penalties and Finding of Violation**

**§ 584.701 Penalties.**

(a) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

**Note to paragraph (a)(1):** As of December 21, 2017, IEEPA provides for a maximum civil penalty not to exceed the greater of \$289,238 or an amount that is twice the amount of the transaction that is the basis of

the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.*

(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to other applicable laws.

**§ 584.702 Pre-Penalty Notice; settlement.**

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b) *Response—(1) Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC.

For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within 30 days as set forth in this paragraph (b). The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.*

A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Enforcement Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless

the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

**§ 584.703 Penalty imposition.**

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

**§ 584.704 Administrative collection; referral to United States Department of Justice.**

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

**§ 584.705 Finding of Violation.**

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act;

(ii) Considers it important to document the occurrence of a violation; and,

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response—(1) Right to respond.* An alleged violator has the right to

contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; Default determination.* A response to an initial Finding of Violation must be made within 30 days as set forth in this paragraph (b). The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(i) *Computation of time for response.* A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the initial Finding of Violation, and must include the OFAC identification number listed on the initial Finding of Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response.* Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501. The response should include all documentary or other evidence

available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c)(1) *Determination.* If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(2) *Determination that a Finding of Violation is not warranted.* If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

**Note to paragraph (c)(2):** A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

## Subpart H—Procedures

### § 584.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

### § 584.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to the Magnitsky Act; Presidential Memorandum of April 5, 2013: Delegation of Functions Under Section 404 and 406 of Public Law 112–208 (78 FR 22761, April 16, 2013); or any Executive orders or further Presidential action relating to the Magnitsky Act, may be taken by the Director of OFAC or by any other person to whom the

Secretary of the Treasury has delegated authority so to act.

## Subpart I—Paperwork Reduction Act

### § 584.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: December 11, 2017.

**John E. Smith,**

*Director, Office of Foreign Assets Control.*

Approved: December 11, 2017.

**Sigal P. Mandelker,**

*Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.*

[FR Doc. 2017–27499 Filed 12–20–17; 8:45 am]

**BILLING CODE 4810–AL–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2017–0699; FRL–9971–86–Region 6]

### Approval and Promulgation of Implementation Plans; Arkansas; Revisions to the Definitions for Arkansas Plan of Implementation for Air Pollution Control: Volatile Organic Compounds

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a portion of the revision to the Arkansas State Implementation Plan (SIP) submitted by Arkansas Department of Environmental Quality (ADEQ) on March 24, 2017. The revision updates the definition of “volatile organic compounds” (VOC). Specifically, the submitted revision will incorporate the EPA’s latest definition of VOC on the basis that these compounds make negligible contribution to tropospheric ozone formation. This action is being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective March 21, 2018, unless EPA receives relevant adverse comments by January

22, 2018. If EPA receives relevant adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2017-0699, at <http://www.regulations.gov> or via email to [salem.nevine@epa.gov](mailto:salem.nevine@epa.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, please contact Ms. Nevine Salem, (214) 665-7222, [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov). 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>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Nevine Salem, (214) 665-7222, [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Nevine Salem or Mr. Bill Deese at 214-665-7253.

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

## I. Background

Tropospheric ozone, commonly known as smog, is formed when VOCs and nitrogen oxides (NO<sub>x</sub>) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, the EPA and state governments

limit the amount of VOCs that can be released into the atmosphere. VOCs are those organic compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate) that form ozone through atmospheric photochemical reactions. Different VOCs have different levels of reactivity. That is, they do not react to form ozone at the same speed or do not form ozone to the same extent. Some VOCs react slowly or form less ozone; therefore, changes in their emissions have less and, in some cases, very limited effects on local or regional ozone pollution episodes. It has been the EPA’s policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory VOC definition so as to focus VOC control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs.

EPA periodically revises the list of negligibly reactive compounds to add or delete VOCs from regulation on the basis that these compounds make a negligible contribution to tropospheric ozone formation. Section 302(s) of the CAA specifies that the EPA has the authority to define the meaning of “VOC,” and hence what compounds shall be treated as VOCs for regulatory purposes. The policy of excluding negligibly reactive compounds from the VOC definition was first set forth in the “Recommended Policy on Control of Volatile Organic Compounds” (42 FR 35314, July 8, 1977) and was supplemented most recently with the “Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans” (Interim Guidance) (70 FR 54046, September 13, 2005). The EPA uses the reactivity of ethane as the threshold for determining whether a compound has negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and therefore suitable for exemption from the regulatory definition of VOC. Compounds that are more reactive than ethane continue to be considered VOCs for regulatory purposes and therefore are subject to control requirements. The selection of ethane as the threshold compound was based on a series of smog chamber experiments that underlay the 1977 policy.

The EPA lists compounds that it has determined to be negligibly reactive in its regulations as being excluded from the definition of VOC. (40 CFR 51.100(s)). The Arkansas submittal will update its SIP to be consistent with current EPA definitions to provide clarity and consistency for owners and operators of sources subject to ADEQ rules regarding VOC control.

The specific organic compounds that will be excluded from ADEQ’s definition of VOC that is in the SIP with this revision include: *trans*-1,3,3,3-tetrafluoropropene; 2,3,3,3-tetrafluoropropene; <sup>1</sup> HCF<sub>2</sub>OCF<sub>2</sub>H (HFE-134); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-236cal2); HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (HFE-338pcc13); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)); <sup>2</sup> *trans* 1-chloro-3,3,3-trifluoroprop-1-ene; <sup>3</sup> and 2-amino-2-methyl-1-propanol.<sup>4</sup>

## II. The EPA’s Evaluation

On March 24, 2017, ADEQ submitted SIP revisions to EPA for review and approval. A portion of the submitted revision update the definition of VOC found at the Arkansas Pollution Control & Ecology Commission’s (Commission or APC&EC) Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. Specifically, the revision adds *trans*-1,3,3,3-tetrafluoropropene; 2,3,3,3-tetrafluoropropene; HCF<sub>2</sub>OCF<sub>2</sub>H (HFE-134); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-236cal2); HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (HFE-338pcc13); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)); *trans* 1-chloro-3,3,3-trifluoroprop-1-ene; and 2-amino-2-methyl-1-propanol to the list of compounds excluded from the VOC definition on the basis that these compounds make a negligible contribution to the tropospheric ozone formation. These changes are consistent with EPA’s definition of VOC at 40 CFR 51.100(s), section 110 of the CAA and meet the regulatory requirements pertaining to the SIPs.<sup>5</sup> Pursuant to CAA section 110(I), the Administrator shall not approve a revision of a plan if the revisions would interfere with any applicable requirement concerning attainment and reasonable further

<sup>1</sup> See 78 FR 62451, October 22, 2013—Exclusion of *trans*-1&2, 3,3,3,3-tetrafluoropropene.

<sup>2</sup> See 78 FR 9823, February 12, 2013—Exclusion of group of four Hydrofluoropolyethers (HPEPs).

<sup>3</sup> See 78 FR 53029, August 28, 2013—Exclusion of *trans* 1-Chloro-3,3,3 trifluoroprop-1-ene.

<sup>4</sup> See 79 FR 17037, March 27, 2014—Exclusion of 2-amino-2-methyl-1-propanol.

<sup>5</sup> See Interim Guidance on Control of Volatile Organic Compounds in Ozone Implementation Plans. (70 FR 54046, September 13, 2005).

progress (as defined in CAA section 171), or any other applicable requirement of the Act. The revision to Arkansas Regulation No. 19, Chapter 2: Definitions, is approvable under section 110(l) because it reflects changes to federal regulations based on findings that the aforementioned compounds are negligibly reactive.<sup>6</sup>

### III. Final Action

Pursuant to section 110 of the CAA, EPA is approving the revision to the Arkansas SIP updating the VOC definition. EPA has evaluated Arkansas' March 24, 2017, submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations and consistent with EPA policy.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on March 21, 2018 without further notice unless we receive relevant adverse comment by January 22, 2018. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we 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, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Arkansas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 6 Office (please contact Ms.

Nevine Salem 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 (62 FR 27968, May 22, 1997).

### V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The 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**. 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 February 20, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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).)

Samuel Coleman was designated the Acting Regional Administrator on December 15, 2017 through the order of succession outlined in Regional Order R6-1110.13, a copy of which is included in the docket for this action.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

<sup>6</sup>Please see footnotes 1 through 4 in this rulemaking.

Reporting and recordkeeping requirements.

Dated: December 15, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart E—Arkansas**

■ 2. In § 52.170, in paragraph (c), the table titled “EPA-Approved Regulations in the Arkansas SIP” is amended by revising the entry for Regulation No. 19, Chapter 2, to read as follows:

**§ 52.170 Identification of plan.**

\* \* \* \* \*  
2. (c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP**

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
<b>Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control</b>				
*	*	*	*	*
<b>Chapter 2: Definitions</b>				
Chapter 2 .....	Definitions .....	3/24/2017	12/21/2017, [Insert <b>Federal Register</b> citation] ..	
*	*	*	*	*

[FR Doc. 2017–27458 Filed 12–20–17; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R06–OAR–2016–0520; EPA–R06–OAR–2017–0129; FRL–9971–85–Region 6]

**Approval and Promulgation of Implementation Plans; Louisiana; Regional Haze State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is finalizing an approval of revisions to the Louisiana State Implementation Plan (SIP) submitted by the State of Louisiana through the Louisiana Department of Environmental Quality (LDEQ) that address regional haze for the first planning period. LDEQ submitted these revisions to address the requirements of the Clean Air Act (CAA) and the EPA’s rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as

the “regional haze program”). To address the Best Available Retrofit Technology (BART) requirement for sulfur dioxide (SO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>) and particulate matter (PM), the EPA is finalizing approval of source-by-source BART determinations for certain electric generating and non-electric generating units. To address the BART requirement for NO<sub>x</sub> for electric generating units, we are finalizing our proposed determination that Louisiana’s participation in the Cross-State Air Pollution Rule’s (CSAPR) trading program for ozone-season NO<sub>x</sub> qualifies as an alternative to BART.

**DATES:** This rule is effective on January 22, 2018.

**ADDRESSES:** The EPA has established dockets for this action under Docket ID No. EPA–R06–OAR–2016–0520 for non-electric generating units and Docket ID No. EPA–R06–OAR–2017–0129 for electric generating units (EGUs). All documents in the dockets are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at

the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Huser, 214–665–7347.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

- I. Background
  - A. The Regional Haze Program
  - B. Our Previous Actions
  - C. CSAPR as an Alternative to Source-Specific NO<sub>x</sub> BART
- II. Summary of Final Action
- III. Response to Comments
  - A. Modeling
  - B. NRG Big Cajun II
  - C. Cleco Brame Energy Center
  - D. Entergy Nelson
  - E. Legal
  - F. CSAPR-Better-Than-BART
  - H. Long-Term Strategy and Reasonable Progress
  - I. Compliance Date for Nelson
- IV. Final Action
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

**I. Background**

*A. The Regional Haze Program*

Regional haze is visibility impairment that is produced by a multitude of sources and activities that are located across a broad geographic area and emit fine particulates (PM<sub>2.5</sub>) (*e.g.*, sulfates, nitrates, organic carbon (OC), elemental carbon (EC), and soil dust), and their precursors (*e.g.*, sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and in some cases, ammonia (NH<sub>3</sub>) and volatile organic compounds (VOCs)). Fine

particle precursors react in the atmosphere to form PM<sub>2.5</sub>, which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that can be seen. PM<sub>2.5</sub> can also cause serious adverse health effects and mortality in humans; it also contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, “Interagency Monitoring of Protected Visual Environments” (IMPROVE), shows that visibility impairment caused by air pollution occurs virtually all of the time at most national parks and wilderness areas. In 1999, the average visual range in many Class I areas (*i.e.*, national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States was 100–150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range was less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. CAA programs have reduced some haze-causing pollution, lessening some visibility impairment and resulting in partially improved average visual ranges.

CAA requirements to address the problem of visibility impairment continue to be implemented. In Section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation’s national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing, man-made impairment of visibility in 156 national parks and wilderness areas designated as mandatory Class I Federal areas. On December 2, 1980, the EPA promulgated regulations to address visibility impairment in Class I areas that is “reasonably attributable” to a single source or small group of sources, *i.e.*, “reasonably attributable visibility impairment.” These regulations represented the first phase in addressing visibility impairment. The EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues, and the EPA promulgated regulations addressing regional haze in

1999. The Regional Haze Rule<sup>1</sup> revised the existing visibility regulations to add provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze are included in our visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. States were required to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install and operate the “Best Available Retrofit Technology” (BART). Larger “fossil-fuel fired steam electric plants” are one of these source categories. Under the Regional Haze Rule, states are directed to conduct BART determinations for “BART-eligible” sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. The evaluation of BART for electric generating units (EGUs) that are located at fossil-fuel fired power plants having a generating capacity in excess of 750 megawatts must follow the “Guidelines for BART Determinations Under the Regional Haze Rule” at appendix Y to 40 CFR part 51 (hereinafter referred to as the “BART Guidelines”). Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides for greater progress towards improving visibility than BART.

#### B. Our Previous Actions

On June 13, 2008, Louisiana submitted a SIP to address regional haze (“2008 Louisiana Regional Haze SIP” or “2008 SIP revision”). We acted on that submittal in two separate actions. Our

<sup>1</sup> Here and elsewhere in this document, the term “Regional Haze Rule,” refers to the 1999 final rule (64 FR 35714), as amended in 2005 (70 FR 39156, July 6, 2005), 2006 (71 FR 60631, October 13, 2006), 2012 (77 FR 33656, June 7, 2012), and January 10, 2017 (82 FR 3078).

first action was a limited disapproval<sup>2</sup> because of deficiencies in the state’s regional haze SIP submittal arising from the remand by the U.S. Court of Appeals for the District of Columbia of the Clean Air Interstate Rule (CAIR). Our second action was a partial limited approval/partial disapproval<sup>3</sup> because the 2008 SIP revision met some but not all of the applicable requirements of the CAA and our regulations as set forth in sections 169A and 169B of the CAA and 40 CFR 51.300–308, but as a whole, the 2008 SIP revision strengthened the existing SIP. In that action we disapproved Louisiana’s long-term strategy, finding that it was deficient given our finding that certain of Louisiana’s BART determinations were not fully approvable.<sup>4</sup> We found that Louisiana followed the requirements with regards to reasonable progress goals, but that the goals did not reflect appropriate emissions reductions for BART. We found that the long term strategy satisfied most requirements of 40 CFR 51.308(d)(3), but was deficient since it relied on BART determinations which we disapproved.

On August 11, 2016, Louisiana submitted a SIP revision to address the deficiencies related to BART for four non-EGU facilities: Sid Richardson, Phillips 66 Company—Alliance Refinery, Mosaic, and EcoServices, LLC. Based on the BART analysis and modeling provided by Sid Richardson, LDEQ concluded that the facility is not subject to BART because its model visibility impact was less than 0.5 deciviews (dv). We proposed to approve this determination. We also proposed approval of LDEQ’s determination that the current controls installed and operating conditions at the Phillips 66 Company—Alliance Refinery subject to BART units constitute BART. The emission limits which reflect current controls and operating conditions at the facility for all subject to BART units are included in Administrative Order on Consent (AOC) No. AE–AOC–14–00211A between LDEQ and Phillips 66 in accordance with 40 CFR 51.308(e), and were provided in the August 11, 2016 SIP revision. We further proposed approval of LDEQ’s determination that the current controls and operating conditions at the Mosaic facility constitute BART. The emission limits for Mosaic under current controls and operating conditions are included in AOC No. AE–AOC–14–00274A which was included in the August 11, 2016 SIP revision. Finally, we proposed approval

<sup>2</sup> 77 FR 33642 (June 7, 2012).

<sup>3</sup> 77 FR 39425 (July 3, 2012).

<sup>4</sup> 77 FR 39426 (July 3, 2012).



of LDEQ's determination that the current controls and operating conditions at the EcoServices LLC facility constitute BART. The emission limits for EcoServices are included in AOC No. AE-AOC-14-00957 between LDEQ and EcoServices. We proposed to approve that August 11, 2016 revision in its entirety on October 27, 2016.<sup>5</sup> We received no comments on our October 27, 2016 proposal and we are finalizing that approval here.

On February 10, 2017, Louisiana submitted a SIP revision intended to address the deficiencies related to BART for EGU sources. On May 19, 2017, we proposed to approve that revision, with the exception of the portion related to Entergy's Nelson facility. We proposed to approve the LDEQ determination that the BART-eligible units at the following facilities do not cause or contribute to visibility impairment and are not subject to BART: Terrebonne Parish Consolidated Government Houma Generating Station (Houma), Louisiana Energy and Power Authority Plaquemine Steam Plant (Plaquemine), Lafayette Utilities System Louis "Doc" Bonin Generating Station, Cleco Teche, Entergy Sterlington, NRG Big Cajun I, and NRG Big Cajun II. We also proposed to approve the LDEQ BART determinations for subject to BART units at the following facilities: Cleco's Brame Energy Center, and Entergy's Willow Glen, Little Gypsy, Ninemile Point, Waterford and Michoud facilities. We proposed to approve the AOCs for Brame, Willow Glen, Little Gypsy, and Ninemile Point. We are now finalizing our approval that BART has been addressed for these units.

We note that Entergy applied for a permit for Michoud, which included the decommissioning of the subject to BART Units 2 and 3, and the construction of new units. We proposed to approve the BART determination for Units 2 and 3 based on the draft permit indicating the units would no longer be operational. We expected the permit would be finalized before we took final action but it has not yet been finalized. We addressed this possibility by also proposing that LDEQ could submit another enforceable document to ensure that Units 2 and 3 cannot restart without a BART determination and emission limits, or otherwise demonstrate that the units have been decommissioned to the point that they cannot restart without obtaining a new NSR permit. LDEQ provided additional information from Entergy indicating that the units are in the process of being decommissioned, and are non-operational, as reflected in

an email dated October 9, 2017, submitted by LDEQ to supplement its February 2017 SIP revision. We received no comments on our proposed approach for the Michoud BART units. As a result, we approving the SIP's finding that BART is addressed because the units are no longer in operation and are in the process of being decommissioned.

On June 20, 2017, LDEQ submitted a SIP revision for parallel processing related to Entergy's Nelson facility. On July 13, 2017, we proposed to approve this SIP revision along with the remaining portion of the February 2017 SIP revision that addressed BART for the Nelson facility. Specifically, we proposed to approve the LDEQ BART determinations for Nelson Units 6 and 4, and the Unit 4 auxiliary boiler, and the AOC that makes the emission limits that represent BART permanent and enforceable for the purposes of regional haze. We also solicited comment with respect to any information that would support or refute the costs in Entergy's evaluation of SO<sub>2</sub> controls for Unit 6. On June 21, 2017, Entergy submitted a comment to LDEQ on its proposed SIP revision requesting a three-year compliance deadline to achieve the proposed SO<sub>2</sub> BART limit for Nelson Unit 6. Entergy's letter explained that the company has coal contracts in place for the next three years, so the revised compliance date would provide the company sufficient time to transition to new mines with lower sulfur coal. Additionally, Entergy stated that it did not have the necessary equipment to blend varying fuel supplies. On August 24, 2017, we received a letter from LDEQ explaining their intent to revise the compliance date in the SIP revision for Nelson Unit 6 based on Entergy's comment letter. On September 26, 2017, we supplemented our proposed approval of the SO<sub>2</sub> BART determination for Nelson by proposing to approve the three-year compliance date. On October 26, 2017, we received LDEQ's final SIP revision addressing Nelson, including a final AOC with emission limits and a SO<sub>2</sub> compliance date three years from the effective date of the EPA's final approval of the SIP revision.

#### *C. CSAPR as an Alternative to Source-Specific NO<sub>x</sub> BART*

In 2005, the EPA promulgated CAIR, which required 28 states and the District of Columbia to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> that significantly contribute to non-attainment or interfere with maintenance of the 1997 national ambient air quality standards (NAAQS) for fine particulates and/or 8-hour ozone

in any downwind state.<sup>6</sup> EPA demonstrated that CAIR would achieve greater reasonable progress toward the national visibility goal than would BART and determined that states participating in CAIR could rely on CAIR as an alternative to EGU BART for SO<sub>2</sub> and NO<sub>x</sub>.<sup>7</sup>

Louisiana's 2008 Regional Haze SIP relied on participation in CAIR as an alternative to meeting the source-specific EGU BART requirements for SO<sub>2</sub> and NO<sub>x</sub>.<sup>8</sup> Shortly after Louisiana submitted its SIP to us, however, the D. C. Circuit remanded CAIR (without vacatur).<sup>9</sup> The court thereby left CAIR and CAIR Federal Implementation Plans (FIPs) in place in order to "temporarily preserve the environmental values covered by CAIR" until we could, by rulemaking, replace CAIR consistent with the court's opinion.<sup>10</sup> In 2011, we promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR.<sup>11</sup> While EGUs in Louisiana were required to participate in CAIR for both SO<sub>2</sub> and NO<sub>x</sub>, Louisiana EGUs are only included in CSAPR for ozone-season NO<sub>x</sub>.<sup>12</sup>

In 2012, we issued a limited disapproval of Louisiana's and several other states' regional haze SIPs because of reliance on CAIR as an alternative to EGU BART for SO<sub>2</sub> and/or NO<sub>x</sub>.<sup>13</sup> We also determined that CSAPR would provide for greater reasonable progress than BART and amended the Regional Haze Rule to allow CSAPR participation as an alternative to source-specific SO<sub>2</sub> and/or NO<sub>x</sub> BART for EGUs, on a pollutant-specific basis.<sup>14</sup> Because Louisiana EGUs are included in CSAPR for NO<sub>x</sub>, Louisiana can rely on CSAPR to satisfy the EGU BART requirement for NO<sub>x</sub>.

CSAPR has been subject to extensive litigation, and on July 28, 2015, the D. C. Circuit issued a decision generally

<sup>6</sup> 70 FR 25161 (May 12, 2005).

<sup>7</sup> 70 FR 39104, 39139 (July 6, 2005).

<sup>8</sup> See 40 CFR 51.308(e)(4) (2006).

<sup>9</sup> The court decided to vacate CAIR on July 11, 2008, and revised its decision, so as to remand the rule without vacatur, on December 23, 2008. *North Carolina v. EPA*, 531 F. 3d 896, 901 (D.C. Cir. 2008), modified, 550 F. 3d 1176 (D.C. Cir. 2008). Louisiana's initial Regional Haze SIP was submitted on June 13, 2008. 77 FR 39425.

<sup>10</sup> 550 F. 3d at 1178.

<sup>11</sup> 76 FR 48207 (August 8, 2011).

<sup>12</sup> 76 FR 82219, at 82226 (December 30, 2011).

<sup>13</sup> The limited disapproval triggered the EPA's obligation to issue a FIP or approve a SIP revision to correct the relevant deficiencies within 2 years of the final limited disapproval action. CAA section 110(c)(1); 77 FR 33642, at 33654 (August 6, 2012).

<sup>14</sup> While that rulemaking also promulgated FIPs for several states to replace reliance on CAIR with reliance on CSAPR as an alternative to BART, it did not include a FIP for Louisiana. 77 FR 33642, 33654.

<sup>5</sup> 81 FR 74750 (October 27, 2016).



upholding CSAPR but remanding without vacating the CSAPR emissions budgets for a number of states.<sup>15</sup> On October 26, 2016, we finalized an update to CSAPR that addresses the 1997 ozone NAAQS portion of the remand as well as the CAA requirements addressing interstate transport for the 2008 ozone NAAQS.<sup>16</sup> Additionally, three states, Alabama, Georgia, and South Carolina, have adopted or committed to adopt SIPs to replace the remanded FIPs and will continue their participation in the CSAPR program on a voluntary basis with the same budgets. On November 10, 2016, we proposed a rule intended to address the remainder of the court's remand as it relates to Texas.<sup>17</sup> This separate proposed rule included an assessment of the impacts of the set of actions that the EPA had taken or expected to take in response to the D. C. Circuit's remand on our 2012 demonstration that participation in CSAPR provides for greater reasonable progress than BART. Based on that assessment, the EPA proposed that states may continue to rely on CSAPR as an alternative to BART on a pollutant-specific basis. On September 29, 2017, we finalized our proposed finding that the EPA's 2012 analytical demonstration remains valid and that participation in CSAPR, as it now exists, meets the Regional Haze Rule's criteria for an alternative to BART.<sup>18</sup> LDEQ's February 2017 SIP revision relies on CSAPR as an alternative to BART for control of NO<sub>x</sub> from EGUs.

**II. Summary of Final Action**

This action finalizes our proposed approval of the BART determinations for non-EGU facilities,<sup>19</sup> our proposed approval of the BART determinations for EGU facilities,<sup>20</sup> our proposed

approval of the BART determination for Nelson Unit 6,<sup>21</sup> our proposed approval of the reliance on CSAPR by EGUs for NO<sub>x</sub> BART requirements, and our proposed approval that the BART eligible sources<sup>22</sup> at the following facilities do not cause or contribute to visibility impairment and are not subject to BART: Terrebonne Parish Consolidated Government Houma Generating Station (Houma), Louisiana Energy and Power Authority Plaquemine Steam Plant (Plaquemine), Lafayette Utilities System Louis "Doc" Bonin Generating Station, Cleco Teche, Entergy Sterlington, NRG Big Cajun I, and NRG Big Cajun II. With the exception of the change in compliance date for Nelson Unit 6, we note that we are finalizing the proposed rules referenced above as proposed.<sup>23</sup> A brief summary of the SIP submittal provisions being finalized is included below.

We are finalizing our approval of the Louisiana Regional Haze SIP as we have found it to meet the applicable provisions of the Act and EPA regulations and it is consistent with EPA guidance. We find that the core requirements for regional haze SIPs found in 40 CFR 51.308(d) such as: The requirement to establish reasonable progress goals, the requirement to determine the baseline and natural visibility conditions, and the requirement to submit a long-term strategy; the BART requirements for regional haze visibility impairment with respect to emissions of visibility impairing pollutants from non-EGUs and EGUs in 40 CFR 51.308(e); and the requirement for coordination with state and Federal Land Managers in 51.308(i) are met. This final action includes, among other things, the approval of the

following: The determination that the emission limits reflected in the AOC between LDEQ and Phillips 66 meet the BART requirements, the determination that the sources listed in Tables 1, 2, and 3 below are not subject to BART, the determination that the sources listed in Table 4 below are subject to BART, the determination that the emission limits and operating conditions reflected in the AOC for Mosaic Fertilizer, LLC meet the BART requirements, the determination that the emission limits and operating conditions reflected in the AOC for EcoServices, LLC meet the BART requirements, the determination that emission limits and operating conditions listed in the AOC for Louisiana Generating, LLC meet the applicable BART requirements for Big Cajun II, the determination that the emission limits and operating conditions listed in the AOC for Cleco meet BART requirements for Cleco Brame Energy Center, and the determination that the emission limits and operating conditions in the AOCs for Entergy meet the applicable BART requirements for Waterford, Willow Glen, Ninemile, Little Gypsy, and Nelson. This final rule renders the limits and conditions included in the AOCs mentioned above federally enforceable. We are also finalizing approval of the three-year compliance date for Nelson Unit 6 in this final rule.<sup>24</sup>

Additionally, this final action fully approves the 2008, 2016, and the two 2017 SIP revisions as supplemented with respect to § 51.308(e), and addresses all deficiencies identified in our previous partial disapproval and partial limited approval of the 2008 SIP submission.<sup>25</sup>

TABLE 1—RETIRED SOURCES

Facility name	Units	Parish
Louisiana Energy and Power Authority Morgan City Steam Plant .....	Units 1, 2, 3, and 4 boilers .....	St. Mary/St. Martin.
City of Ruston Ruston Electric Generating Plant .....	Boilers 1, 2, and 3 .....	Lincoln.
City of Natchitoches Utility Department .....	3 boilers .....	Natchitoches.

TABLE 2—BART-ELIGIBLE SOURCES SCREENED OUT USING MODEL PLANT ANALYSIS

Facility name	Units	Parish
Louisiana Energy and Power Authority Plaquemine Steam Plant .....	Boilers 1 and 2 .....	Iberville.

<sup>15</sup> Louisiana's ozone season NO<sub>x</sub> budgets were not included in the remand. *EME Homer City Generation v. EPA*, 795 F.3d 118, 138 (D.C. Cir. 2015).

<sup>16</sup> 81 FR 74504 (October 26, 2016).

<sup>17</sup> 81 FR 78954 (November 10, 2016).

<sup>18</sup> 82 FR 45481 (September 29, 2017).

<sup>19</sup> 81 FR 74750 (August 16, 2016).

<sup>20</sup> 82 FR 22936 (May 19, 2017).

<sup>21</sup> 82 FR 32294 (July 13, 2017).

<sup>22</sup> The BART-eligible source is the collection of BART-eligible units at a stationary source. 40 CFR Appendix Y, II.A.4

<sup>23</sup> On September 26, 2017, we published a proposed rule amending our July 13, 2017 proposal. This amended proposed rule proposed a new

compliance date of three years from the date the rule becomes final. See, 82 FR 32294 (July 13, 2017) and 82 FR 44753 (September 26, 2017).

<sup>24</sup> *Id.*

<sup>25</sup> 77 FR 39425 (July 3, 2012).

TABLE 2—BART-ELIGIBLE SOURCES SCREENED OUT USING MODEL PLANT ANALYSIS—Continued

Facility name	Units	Parish
Lafayette Utilities System Louis “Doc” Bonin Electric Generating Station .....	Units 1, 2, and 3 .....	Lafayette.
Terrebonne Parish Consolidated Government Houma Generating Station .....	Units 15 and 16 .....	Terrebonne.

TABLE 3—BART-ELIGIBLE SOURCES SCREENED OUT WITH VISIBILITY IMPACT OF LESS THAN 0.5 dv

Facility name	Units	Parish
Cleco Teche .....	Unit 3 .....	St. Mary.
Entergy Sterlington .....	Unit 7 .....	Ouachita.
Louisiana Generating (NRG) Big Cajun I .....	Units 1 and 2 .....	Pointe Coupee.
Louisiana Generating (NRG) Big Cajun II .....	Units 1 and 2 .....	Pointe Coupee.

TABLE 4—SUBJECT TO BART EGU SOURCES

Facility name	Units	BART determination <sup>1</sup>		Parish
		SO <sub>2</sub>	PM	
Cleco Brame Entergy Center.	Nesbitt I (Unit 1) .... Rodemacher II (Unit 2).	3.0 lb/hr .....	37.3 lb/hr .....	Rapides.
		0.30 lb/MMBtu .....	545 lb/hr .....	
Entergy Waterford	Units 1, 2, and auxiliary boiler.	Fuel oil with a sulfur content of 1% or less. No additional control .....	Fuel oil with a sulfur content of 1% or less. No additional control .....	St. Charles.
Entergy Willow Glen.	Units 2, 3, 4, 5, and auxiliary boiler.	No additional controls when burning natural gas <sup>2</sup> .	No additional controls when burning natural gas <sup>2</sup> .	Iberville.
Entergy Ninemile Point.	Units 4 and 5 .....	Fuel oil with a sulfur content of 0.0015%.	Fuel oil with a sulfur content of 0.0015%.	Jefferson.
Entergy Little Gypsy.	Units 2, 3, and auxiliary boiler.	Fuel oil with a sulfur content of 0.0015%. No additional control .....	Fuel oil with a sulfur content of 0.0015%. No additional control .....	St. Charles.
Entergy Nelson .....	Unit 4 and auxiliary boiler. Unit 6 .....	No additional controls when burning natural gas <sup>2</sup> .	No additional controls when burning natural gas <sup>2</sup> .	Calcasieu.
		0.6 lb/MMBtu .....	317.61 lb/hr .....	

<sup>1</sup> Numeric BART limits are on a 30-day rolling basis.

<sup>2</sup> Before fuel oil firing is allowed to take place at the Willow Glen BART units, Nelson Unit 4 or the auxiliary boiler, a revised BART determination for that unit must be promulgated for SO<sub>2</sub> and PM for the fuel oil firing scenario through a FIP or an action by the LDEQ as a SIP revision and approved by the EPA such that the action will become federally enforceable.

We received comments from several commenters on our proposed approval of the BART determinations for EGU facilities,<sup>26</sup> our proposed approval of the BART determination for Nelson Unit 6,<sup>27</sup> and our proposed approval of LDEQ’s revised SIP, which changed the effective date of the emission limits for Nelson Unit 6.<sup>28</sup> We did not receive comments on our proposed approval of the BART determinations for the four subject to BART non-EGU facilities.<sup>29</sup> Our response to the substantive comments are summarized in Section III. We note that we received a comment letter from Cleco Brame Energy Center on August 2, 2017. This comment letter was received outside of the applicable comment period.<sup>30</sup> Additionally, the comments contained in the letter did not raise any issues with our proposal.

They were submitted in response to issues raised by another commenter in a separate comment letter.<sup>31</sup>

We are approving the 2008, 2016, February 2017, and the October 2017 LA RH SIPs (as supplemented by the October 9, 2017 email<sup>32</sup>) submitted by Louisiana as we have determined that they meet all of the regional haze SIP requirements, including the BART requirements in § 51.308(e). We have fully considered all significant comments on our proposed actions on the four RH SIP revision submittals as

supplemented by the October 9, 2017 email, and have concluded that no changes are warranted.

**III. Response to Comments**

We received written comments by the internet and the mail. The full text of comments received from these commenters is included in the publicly posted docket associated with this action at [www.regulations.gov](http://www.regulations.gov). We reviewed all public comments that we received on the proposed actions. Below, we provide a summary of certain comments and our responses. First, we provide a summary of the more significant/relevant modeling related comments with a summary of our responses. The entirety of the modeling comments and our responses thereto are contained in a separate document titled the Modeling RTC document. Second, we provide a summary of all of the relevant technical comments we received and our responses to these comments. Third, we provide a

<sup>26</sup> 82 FR 22936 (May 19, 2017).

<sup>27</sup> 82 FR 32294 (July 13, 2017).

<sup>28</sup> 82 FR 44753 (September 26, 2017).

<sup>29</sup> 81 FR 74750 (October 27, 2016).

<sup>30</sup> The comment period closed on June 19, 2017.

<sup>31</sup> See August 2, 2017 letter from William Matthews (Cleco Corporation) to Jennifer Huser (EPA), Document ID EPA-R06-OAR-2017-0129-003. Cleco submitted its comment letter on August 2, 2017 in response to a comment letter previously submitted by Earthjustice, National Parks Conservation Association, and Sierra Club (the Conservation Organizations) on June 19, 2017. In its letter, Cleco addressed the concerns raised by the Conservation Organizations in their letter.

<sup>32</sup> Email from Vivian Aucoin (LDEQ) forwarding email from Richie Corvers (Entergy) detailing the current status of decommissioning Entergy Michoud Units 2 and 3.

summary below of all of the relevant legal comments and our responses.

#### A. Modeling

*Comment:* Cleco and Entergy assert that their BART-eligible sources were shown through their initial Comprehensive Air Quality Model with Extensions (CAMx) modeling analysis not to have significant impacts above the 0.5 dv threshold and are therefore, not subject to BART. After EPA's initial review of Entergy and Cleco's CAMx modeling<sup>33</sup> provided to EPA and LDEQ before LDEQ proposed its SIP, EPA provided additional guidance to LDEQ and Entergy/Cleco/Trinity. Even though the commenters disagreed with the technical basis of EPA's requests for revised modeling, in response to this guidance, revised modeling analyses<sup>34</sup> were completed for these sources and the commenters maintain that based on their revised modeling analyses, these units are not subject to BART. The commenters state that EPA's CAMx and CALPUFF modeling, which show that these sources are subject to BART, contain significant defects, making the modeling far less reliable than the initial CAMx modeling analyses submitted by Cleco and Entergy. They assert that CAMx modeling is clearly superior to CALPUFF modeling when there are relatively long distances between the modeled source and the Class I areas. The commenters state that the CAMx modeling protocol followed in their initial modeling analysis was proper, minimizes potential bias and shows that the BART-eligible units at Cleco Brame Energy Center and the Entergy Nelson, Waterford, Willow Glen, Ninemile Point, and Little Gypsy facilities have insignificant impacts at all Class I areas. Therefore, the commenters believe that all of these units should have been characterized as not subject to BART by LDEQ and EPA.

The commenters state that EPA should reconsider its evaluation of the submitted CAMx modeling, as the EPA's concerns about the accuracy of these modeling results are unfounded. Commenters provide additional specific comments addressing technical issues related to EPA's assessment of Cleco

and Entergy's CAMx modeling analyses, refutes EPA's criticism in the proposed rule and TSD of this modeling, as well as comments concerning problems with EPA's own CAMx modeling methodology and performance evaluation. These specific comments also address deficiencies with the CALPUFF modeling system, including limitations on modeling at distances greater than 300km and the ability of the CALPUFF model to assess visibility impacts.

*Response:* We disagree with the comments, and we agree with LDEQ that the CALPUFF modeling following the reviewed protocol is an appropriate tool for evaluating visibility impacts and benefits to inform a BART determination. Relying on the CALPUFF modeling results submitted by Cleco<sup>35</sup> and Entergy,<sup>36</sup> as well as EPA's review and additional CALPUFF modeling,<sup>37</sup> included in the February 2017 and October 2017 SIP revisions, LDEQ concluded that the BART-eligible sources at Cleco Brame Energy Center and the Entergy Nelson, Waterford, Willow Glen, Ninemile Point, and Little Gypsy facilities have visibility impacts greater than 0.5 dv and are therefore subject to BART. We are finalizing our approval of LDEQ's subject to BART determinations for these EGU sources. Accordingly, LDEQ performed the required five-factor analyses and made BART determinations for these subject to BART sources. We agree with the commenters that CAMx provides a scientifically defensible platform for assessing visibility impacts over a wide range of source-to-receptor distances and is also more suited than some other modeling approaches for evaluating the impacts of SO<sub>2</sub>, NO<sub>x</sub>, VOC, and PM emissions, as it has a more robust chemistry mechanism. As we discuss below, we utilized CAMx to provide additional data and analysis for some large emission sources. However, CALPUFF is an appropriate tool for BART evaluations and remains the

recommended model for BART.<sup>38</sup> We are confident that CALPUFF distinguishes the relative contributions from sources such that the differences in source configurations, sizes, emission rates, and visibility impacts are well-reflected in the model results. We address specific comments concerning limitations on modeling distance and the ability of CALPUFF to assess visibility impacts from these sources in detail in the Modeling RTC. As discussed in the Modeling RTC document, EPA and FLM representatives have utilized CALPUFF results in a number of different situations when the range was between 300–450 km or more.<sup>39</sup> We note that the Entergy Waterford, Willow Glen, Ninemile Point, and Little Gypsy facilities are located 217 km or less from the nearest Class I area. Therefore, the commenters concern regarding the use of CALPUFF modeling for distances greater than 300km is not relevant to the subject-to-BART determinations for these sources.

As we noted in our May 19, 2017 proposed action and CALPUFF Modeling TSD,<sup>40</sup> the CALPUFF model is typically used for distances less than 300–400 km. Some of the BART-eligible sources in Louisiana are far away from Class I areas, yet have high enough emissions that they may significantly impact visibility at Class I areas in Louisiana and surrounding states. We performed additional modeling using CAMx to evaluate the visibility impacts and benefits of controls for the Entergy Nelson, Cleco Brame, and Big Cajun II

<sup>38</sup> 82 FR 5182, 5196 (Jan. 17, 2017). "As detailed in the preamble of the proposed rule, it is important to note that the EPA's final action to remove CALPUFF as a preferred appendix A model in this *Guideline* does not affect its use under the FLM's guidance regarding AQRV assessments (FLAG 2010) nor any previous use of this model as part of regulatory modeling applications required under the CAA. Similarly, this final action does not affect the EPA's recommendation [See 70 FR 39104, 39122–23 (July 6, 2005)] that states use CALPUFF to determine the applicability and level of best available retrofit technology in regional haze implementation plans."

<sup>39</sup> For example, South Dakota used CALPUFF for Big Stone's BART determination, including its impact on multiple Class I areas further than 400 km away, including Isle Royale, which is more than 600 km away. See 76 FR 76656. Nebraska relied on CALPUFF modeling to evaluate whether numerous power plants were subject to BART where the "Class I areas [were] located at distances of 300 to 600 kilometers or more from" the sources. See Best Available Retrofit Technology Dispersion Modeling Protocol for Selected Nebraska Utilities, p. 3. EPA Docket ID No. EPA-R07-OAR-2012-0158-0008. In our 2014 proposed action and the 2016 final action on Texas regional haze we approved the use of CALPUFF to screen BART-eligible non-EGU sources at distances of 400 to 614 km for some sources. 79 FR 74818 (Dec. 16, 2014), 81 FR 296 (Jan. 5, 2016).

<sup>40</sup> 82 FR 32294 (May 19, 2017).

<sup>33</sup> See Updated BART Applicability Screening Analysis Prepared by Trinity Consultants, November 9, 2015. Available in Appendix D of the 2017 Louisiana Regional Haze SIP.

<sup>34</sup> See October 10, 2016 Letter from Cleco Corporation to Vivian Aucoin and Vennetta Hayes, LDEQ, RE: Cleco Corporation Louisiana BART CAMx Modeling, included in Appendix B of the 2017 Louisiana Regional Haze SIP submittal; CAMx Modeling Report, prepared for Entergy Services by Trinity Consultants, Inc. and All 4 Inc, October 14, 2016, included in Appendix D of the 2017 Louisiana Regional Haze SIP submittal.

<sup>35</sup> CALPUFF Modeling Report BART Applicability Screening Analysis: Cleco Corporation, Brame Energy Center, Teche Power Station, Prepared by Trinity Consultants, July 30, 2015. Available in Appendix B of the 2017 Louisiana Regional Haze SIP submittal.

<sup>36</sup> Updated BART Applicability Screening Analysis Prepared by Trinity Consultants, November 9, 2015. Available in Appendix D of the 2017 Louisiana Regional Haze SIP submittal.

<sup>37</sup> DRAFT Technical Support Document for Louisiana Regional Haze: CALPUFF Best Available Retrofit Technology Modeling Review, April 2017 (revised May 2017 to include Entergy Nelson). Available in Appendix F of the 2017 Louisiana Regional Haze SIP submittal. EPA performed additional modeling for Entergy Nelson to address identified errors in some emission estimates.

sources to address possible concerns with utilizing CALPUFF to assess visibility impacts at Class I areas located far from these large emission sources. LDEQ included this modeling in Appendix F of the October 26, 2017 SIP revision.<sup>41</sup> Our CAMx modeling supports the determination made by LDEQ that Entergy Nelson and Cleco Brame cause or contribute to visibility impairment at nearby Class I areas and are therefore subject to BART. Entergy Nelson has a maximum modeled impact of 2.22 dv at Caney Creek, with 31 days out of the 365 days modeled exceeding 0.5 dv, and 9 days exceeding 1.0 dv. Similarly, Cleco Brame has a maximum modeled impact of 2.833 dv at Caney Creek, with 30 days out of a maximum 365 days modeled exceeding 0.5 dv and 10 days exceeding 1.0 dv. We disagree with the commenters and find that our CAMx modeling is consistent with the BART Guidelines and a previous modeling protocol we developed for the use of CAMx modeling for BART screening for sources in Texas.<sup>42,43</sup> We respond to specific comments concerning our CAMx modeling, including model inputs, model performance, our modeling protocol and the use of direct model results in detail in the Modeling RTC document.

As we discuss in detail in our May 19, 2017 proposed action and CAMx Modeling TSD,<sup>44</sup> the initial CAMx modeling, as well as the revised modeling submitted by Cleco and Entergy<sup>45</sup> was not conducted in

accordance with the BART Guidelines and the previous modeling protocol developed for the use of CAMx modeling for BART screening for sources in Texas and does not properly assess the maximum baseline impacts. We disagree with the commenters and consider this CAMx modeling in the February 2017 LA RH SIP, Appendices B and D, to be invalid for supporting any determination of visibility impacts below 0.5 dv. As discussed in the CAMx Modeling TSD and in our Preliminary Review Response letter to Entergy and Cleco,<sup>46</sup> the initial modeling deviated from the BART guidelines because it did not utilize emissions representative of maximum 24-hr actual emissions from the baseline period, did not evaluate the maximum modeled impact for all days, and did not calculate the deciview visibility impact based on a natural visibility background approach. We also review the revised modeling in detail in the CAMx Modeling TSD, identify a number of short comings in the revised approach, and conclude that it does not properly assess the maximum baseline impacts and is inconsistent with the BART Guidelines. We respond to specific comments concerning the CAMx modeling analyses developed by Trinity Consultants for Cleco and Entergy included in the February 2017 LA RH SIP at Appendices B and D in detail in the Modeling RTC.

#### B. NRG Big Cajun II

*Comment:* NRG stated that it supports EPA's proposed approval of Louisiana's SIP revision, which determined that the Big Cajun II units are not subject to BART. NRG stated that Big Cajun II is not subject to BART, but even if it were, no further controls would be needed because the compliance actions NRG has taken for Mercury and Air Toxics Standards (MATS) and a consent decree,<sup>47</sup> including installation of the existing dry sorbent injection (DSI) system, would be sufficient to meet BART. NRG asserted that, if the requirements set forth in the Consent

Decree between Louisiana Generating<sup>48</sup> and EPA do not satisfy BART, Louisiana Generating's five-factor analysis, which used a baseline based on operation of the existing DSI and represents a realistic depiction of anticipated annual emissions, indicates that no further controls are cost-effective and Big Cajun II's current configuration and emission controls satisfies BART.

*Response:* We agree that Big Cajun II is not subject to BART. Prior to the submittal of the February 2017 Regional Haze SIP, the LDEQ and Louisiana Generating entered into an AOC that made the existing control requirements and maximum daily emission limits permanent and enforceable for BART. The AOC is included in Louisiana's February 2017 SIP revision. The modeling included in the February 10, 2017 SIP submittal (Appendix C) demonstrates that, with these existing controls and enforceable emission limits, Big Cajun II has modeled visibility impacts less than 0.5 dv at all impacted Class I areas, and therefore the facility is not subject to BART. We are finalizing our approval of Louisiana's determination in the SIP that the source is not subject to BART. Because the source was determined to not be subject to BART, LDEQ and EPA have made no determination of what controls, if any, would be necessary to satisfy BART had the source not screened out.

#### C. Cleco Brame Energy Center

*Comment:* Cleco stated that it disagrees with the EPA that there is uncertainty in the cost-effectiveness of the enhanced DSI system for the Rodemacher 2 unit. Cleco stated that cost-effectiveness is calculated by adding annual operation and maintenance costs to the annualized capital cost of an option and then dividing by the reduction in annual emissions from a baseline period. Cleco asserted that, as the EPA acknowledged in its proposal, there are no capital costs associated with upgrading to an enhanced DSI system at Rodemacher 2. Rather, the only costs that Cleco will incur relate to additional reagent and associated waste disposal. Cleco stated that the cost of reagent that the company used in its five-factor analysis was based on actual contracts (currently in place) between the reagent supplier and Cleco. In addition, Cleco determined the reduction in emissions from the baseline period during actual unit testing. Therefore, Cleco believes that there is a high degree of certainty that

<sup>41</sup> DRAFT Technical Support Document for Louisiana Regional Haze: CAMx Best Available Retrofit Technology Modeling April 2017 (Revised May 2017 to include Entergy Nelson). Available in Appendix F of the 2017 Louisiana Regional Haze SIP submittal.

<sup>42</sup> Texas had over 120 BART-eligible facilities located at a wide range of distances to the nearest class I areas in their original Regional Haze SIP. Due to the distances between sources and Class I areas and the number of sources, Texas worked with EPA and FLM representatives to develop a modeling protocol to conduct BART screening of sources using CAMx photochemical modeling. Texas was the only state that screened sources using CAMx and had a protocol developed for how the modeling was to be performed and what metrics had to be evaluated for determining if a source screened out. See Guidance for the Application of the CAMx Hybrid Photochemical Grid Model to Assess Visibility Impacts of Texas BART Sources at Class I Areas, ENVIRON International, December 13, 2007, available in the docket for this action.

<sup>43</sup> EPA, the Texas Commission on Environmental Quality (TCEQ), and FLM representatives verbally approved the approach in 2006 and in email exchange with TCEQ representatives in February 2007 (see email from Erik Snyder (EPA) to Greg Nudd of TCEQ Feb. 13, 2007 and response email from Greg Nudd to Erik Snyder Feb. 15, 2007, available in the docket for this action).

<sup>44</sup> 82 FR 32294, (May 19, 2017).

<sup>45</sup> February 10, 2017 LA RH SIP, Appendices B (Cleco) and D (Entergy).

<sup>46</sup> Technical Support Document for EPA's Proposed Action on the Louisiana Regional Haze State Implementation Plan, April 2017.

<sup>47</sup> The Consent Decree was agreed to and entered in *U.S. of America and Louisiana Department of Environmental Quality vs. Louisiana Generating LLC*, Civil Action No. 09-100-JJB-DLD (M. D. La.). Among other things, the CD requires Louisiana Generating to refuel Big Cajun II Unit 2 to natural gas, and install and continuously operate dry sorbent injection (DSI) at Big Cajun II Unit 1 while maintaining a 30-day rolling average SO<sub>2</sub> emission rate of no greater than 0.380 lb/MMBtu by no later than April 15, 2015. The CD also requires Louisiana Generating to retire, refuel, repower, or retrofit Big Cajun II Unit 1 by no later than April 1, 2025.

<sup>48</sup> NRG is the corporate entity that owns Louisiana Generating (LA Gen), which operates two plants in Louisiana, Big Cajun I and Big Cajun II.

the cost-effectiveness value for an enhanced DSI system is \$967/ton.

Cleco also disagrees with the EPA that there is “uncertainty” with respect to the cost-effectiveness estimates for the dry scrubbing (Spray Dry Absorption or SDA) and wet scrubbing (wet Flue Gas Desulfurization, or wet FGD) options. The estimates were prepared for Cleco by the engineering firm Sargent & Lundy (S&L). S&L is a full-service engineering consulting firm providing expertise in all areas of power plant engineering and design. S&L has considerable experience with the federal and state environmental regulations affecting power plant operations, as well as the specification, evaluation selection, and implementation of emission control technologies for both gas and coal-fueled utility power facilities, including extensive experience with various FGD technologies. For example, since 2000, S&L has provided, or is currently providing, engineering services for the implementation of over 40 wet FGD projects, 30 dry FGD projects, and 25 DSI projects, all of which are technologies that were analyzed as part of the Five-Factor Analysis. As such, S&L is qualified to develop capital and O&M cost estimates for these control analyses.

Cost estimates for the Rodemacher 2 unit were prepared in accordance with the BART Guidelines and the methodology described in EPA’s Control Cost Manual and represent study-level cost estimates. Capital costs for major equipment were developed using equipment costs for similarly sized units (adjusted for actual equipment sizing), site-specific balance-of-plant (BOP) project-specific indirect cost factors. Where possible, default factors from EPA’s Control Cost Manual were used to calculate indirect costs.

The capital cost estimates were provided to LDEQ and EPA for both the wet FGD and SDA options identifying the major cost categories, including civil work, concrete, steel, mechanical equipment, material handling, electrical, piping, controls and instrumentation. In addition, detailed cost effectiveness worksheets were provided to LDEQ and EPA identifying the variable O&M costs (e.g., reagent, waste disposal, auxiliary power and water), indirect operating costs (e.g., property taxes, insurance, and administrative services) and fixed O&M costs (e.g., operating personnel, maintenance material and labor) for both the SDA and wet FGD options. The indirect and fixed operating costs were based on factors provided in EPA’s Control Cost Manual.

Cleco, however, agrees with EPA that the Total Capital Cost figure for the SDA option should be \$378,318,000. The capital cost for the fabric filter and associated auxiliaries were inadvertently included twice in the Total Capital Cost figure line item. As such, the cost effectiveness for the SDA option should be \$6,893/ton, not \$8,589/ton. See attachment *Cleco RPS2 S02 Worksheets 2010–2014 Baseline—Rev I*. Regardless, the cost-effectiveness of the SDA and wet FGD options are significantly higher in comparison to the enhanced DSI option with minimal incremental visibility improvement. Cleco nevertheless agrees with LDEQ and EPA that an enhanced DSI system meets BART for the Rodemacher 2 unit.

*Response:* We agree that the cost effectiveness figures presented in Cleco’s Five Factor Analysis included in the February 2017 LA RH SIP, Appendix B, are reasonable, as we stated in our April 2017 Technical Support Document (April 2017 TSD).<sup>49</sup> “However, because DSI and a fabric filter baghouse are already installed and operational, the cost-effectiveness of Cleco’s enhanced DSI is based only on the cost of the additional reagent and no additional capital costs are involved. Consequently, we believe that the uncertainty of Cleco’s enhanced DSI cost-effectiveness figures is low and that Cleco’s estimated cost-effectiveness of \$967/ton is reasonable.”<sup>50</sup>

We agree with Cleco’s correction to the capital costs provided for SDA, and that the total capital cost figure based on Cleco’s cost estimate should have been \$378,318,000. The estimated cost effectiveness for SDA in their analysis is \$6,893/ton, rather than \$8,589/ton as stated in the Cleco cost analysis.<sup>51</sup>

As discussed in the April 2017 TSD, Cleco did not supply complete documentation for its cost analysis for SDA and wet FGD for Rodemacher 2, including details to support total direct cost and total capital cost figures. Based on our experience reviewing and conducting control cost analyses for many other similar types of facilities, Cleco’s estimates appear high and without complete documentation, some uncertainty exists with respect to Cleco’s cost-effectiveness estimates for SDA and wet FGD—\$6,893/ton and \$5,580/ton, respectively. For example, our estimated cost-effectiveness for similar equipment at Nelson Unit 6 is approximately \$3000/ton.

<sup>49</sup> Technical Support Document for EPA’s Proposed Action on the Louisiana Regional Haze State Implementation Plan, April 2017.

<sup>50</sup> *Id.* at 19.

<sup>51</sup> See Appendix B of the February 2017 LA RH SIP.

We noted, however, that because DSI and a fabric filter baghouse are already installed and operational, the cost-effectiveness of Cleco’s enhanced DSI is based only on the cost of the additional reagent and no additional capital costs are involved. In contrast to enhanced DSI, SDA and wet FGD, require the installation of controls and significant capital costs. We recognize the low cost effectiveness value of enhanced DSI. We also recognize the potentially high incremental costs of obtaining 0.1–0.2 dv of visibility improvement through SDA or wet FGD. Therefore, we are finalizing our approval of LDEQ’s conclusion that enhanced DSI is SO<sub>2</sub> BART for the Rodemacher 2, with a SO<sub>2</sub> emission limit of 0.30 lbs/MMBtu on a 30 day rolling basis.

*Comment:* EPA’s proposed determination [for Cleco’s Brame Unit 2 (Rodemacher 2)] that enhanced DSI constitutes BART due to it being more cost-effective than FGD or scrubber given the small amount of additional visibility improvement that would be achieved with FGD or SDA is incorrect. EPA admitted it did not know the cost of scrubbers and therefore could not make the determination that scrubbers were not cost effective. Additionally, EPA recognized in its proposal that the costs submitted by Cleco were likely too high. EPA provided no discussion concerning the range of cost-effectiveness values for wet FGD that the agency would deem sufficient to justify the incremental visibility improvement relative to enhanced DSI. Nothing in the guidance, statute, or federal rules indicates that incremental costs should be dispositive in a BART determination. EPA must correct the State’s mistakes and provide an accurate estimate of the costs and cost-effectiveness of controls, including enhanced DSI, dry FGD, and wet FGD.

Had EPA or Louisiana developed an accurate cost analysis, it is clear that either a wet or dry FGD at Rodemacher 2 would be well within the range of controls that EPA has previously determined are cost effective. First, with respect to dry FGD systems, it does not appear that Louisiana or EPA evaluated accurate removal efficiencies of various dry FGD systems, especially with the low sulfur coal that is used. SDAs can achieve emission rates lower than 0.06 lb/MMBtu and SO<sub>2</sub> removal efficiencies greater than 95% control.<sup>52</sup> Indeed,

<sup>52</sup> For example, the Newmont Nevada power plant (aka TS Power Plant), equipped with a dry lime FGD system, has achieved an annual average SO<sub>2</sub> rate of 0.034 lb/MMBtu over 2009 to 2016. The Wygen II power plant is also equipped with a dry lime scrubber and burns low sulfur coal, and is

Louisiana failed entirely to evaluate dry FGD systems, such as circulating dry scrubbers (CDS) that are commonly used in the industry and vastly understated the removal efficiencies associated with those controls. The Alstom Novel Integrated Desulfurization system (NID™), has been selected as the most cost effective scrubber option when compared to other technologies in several recent evaluations. Second, with respect to the dry FGD systems that the State did evaluate, it significantly overstated the costs of such control technologies. Together, these errors significantly overstated the cost-effectiveness of dry FGD systems. When those errors are corrected the cost-effectiveness of dry FGD control technology is well within the range of costs that EPA has previously found reasonable.<sup>53</sup> SDA at a controlled emission rate of 0.06 lb/MMBtu is estimated to be \$2,908/ton. SDA or NID™ CDS is estimated to be \$2,808/ton with a controlled emission rate of 0.04 lb/MMBtu.

These supplemental cost analyses, using the same IPM cost spreadsheets used by EPA in its proposed Texas BART analysis,<sup>54</sup> demonstrate that Louisiana's cost analyses for a dry FGD system are greatly overstated.

Louisiana's cost calculations for wet FGD controls at Rodemacher 2 are also erroneous. Contrary to Louisiana's evaluation, wet FGDs can achieve much lower SO<sub>2</sub> emission rates than the 0.04 lb/MMBtu assumed by the State. Indeed, coupled with low sulfur Powder River Basin coal, new wet FGD scrubbers can achieve emission reductions greater than 95%, and are capable of achieving SO<sub>2</sub> emission rates of 0.02 lb/MMBtu. Even assuming a 0.04 lb/MMBtu emission rate, an accurate cost effectiveness evaluation demonstrates that a wet FGD system could be installed for \$2,947/ton of SO<sub>2</sub> removed, which is well within the range

achieving annual average SO<sub>2</sub> rates of 0.048 lb/MMBtu. The Dry Fork Station which began operation in 2011 and is equipped with a dry lime scrubber is achieving an annual average SO<sub>2</sub> rate of 0.050 lb/MMBtu. See Technical Support Document to Comments of Conservation Organizations, Prepared by Victoria R. Stamper, June 18, 2017.

<sup>53</sup> BART controls have been approved that have an average cost-effectiveness of more than \$5,500 per ton. See 77 FR 31,692, 31,711 (May 29, 2012) and 77 FR 61478, 61506 (Oct. 9, 2012) (requiring SO<sub>2</sub> BART controls with an average cost-effectiveness of \$5,587, \$5,583, and \$5,583 for the Kanoelhua, Puna, and Shipman power plants). Other final BART determinations have been only slightly less expensive than the costs here. See, e.g., 77 FR 18052, 18082, 18084, 18087 (Mar. 26, 2012) (approval of Colorado's SIP) and 77 FR 76871 (Dec. 31, 2012) (requiring NO<sub>x</sub> BART controls with an average cost-effectiveness of \$4,887 for Craig Unit 3).

<sup>54</sup> 82 FR 912 (January 4, 2017).

of costs that EPA has found reasonable—most recently in the agency's proposed BART determinations for Texas. Moreover, BART controls have been approved that would lead to equal, or less, visibility improvement than achievable with wet or dry scrubbers at Rodemacher 2.

The commenter states that their supplemental cost analyses of either wet FGD or dry FGD at Brame Unit 2 (Rodemacher 2) show that the costs of either a wet or a dry FGD system are very reasonable, in that other similar sources have had to bear similar costs for pollution control to address BART and regional haze requirements. The incremental costs of installing a dry FGD or a wet FGD system at Brame Unit 2 compared to DSI plus a baghouse are very reasonable and thus should not be the basis for rejecting a dry or wet FGD system at Brame Unit 2. Considering the additional SO<sub>2</sub> reductions and improved visibility benefits of installing the more effective controls of a dry or wet scrubber compared to DSI, EPA should have based its SO<sub>2</sub> BART determination on either wet or dry FGD for Brame Unit 2.

*Response:* We agree with the comment that in some cases SDA and wet FGD may achieve lower emission rates than those evaluated. We evaluated the control capabilities of SDA and wet FGD in our action on Oklahoma BART.<sup>55</sup> There we determined that reduction efficiencies of up to 95% or as low as 0.06 lb/MMBtu SO<sub>2</sub> for dry scrubbers and 97%–98% removal efficiency or an outlet SO<sub>2</sub> of 0.04 lb/MMBtu for wet scrubbers are appropriate levels for the BART evaluation for units when burning low sulfur coals.<sup>56</sup> These limits are a reasonable estimate of potential control and we have consistently used these emission limits in our evaluation of controls for similar units in Texas and Arkansas.<sup>57</sup> We disagree with the comment that the analysis in the February 2017 SIP is deficient because CDS was not evaluated. CDS is a variation on SDA with similar costs and reduction efficiency as the more widely used SDA design. As the commenters note, CDS annual costs are estimated to only be about 1–2% lower than the annual costs of an SDA.

We disagree with the comment concerning consideration of incremental costs. The BART Guidelines state that

<sup>55</sup> 76 FR 16168 (March 22, 2011); 76 FR 81728 (Dec. 28, 2011).

<sup>56</sup> See Appendix C to the Oklahoma TSD, available at [regulations.gov](http://regulations.gov), Document ID: EPA-R06-OAR-2010-0190-0018.

<sup>57</sup> 82 FR 912 (January 4, 2017), 80 FR 18943 (April 8, 2015).

while the average costs (total annual cost/total annual emission reductions) for two control options each may be deemed to be reasonable, the incremental cost of the additional emission reductions to be achieved by option 2 may be very great. In such an instance, it may be inappropriate to choose option 2, based on its high incremental costs, even though its average cost may be considered reasonable.<sup>58</sup> LDEQ reviewed all the available information and determined that the amount of visibility benefit achieved from SDA or wet FGD over enhanced DSI was not large enough to justify the additional cost of these controls at Rodemacher 2. EPA's regulations under the CAA "do not require uniformity between . . . actions in all circumstances and instead 'allow for some variation' in actions taken in different regions." 81 FR at 326 (quoting Amendments to Regional Consistency Requirements, 80 FR 50250, at 50258 (Aug. 19, 2015)). Some variation is to be expected because SIP actions are highly fact-dependent. The state weighed the factors considering all available information, in the February 10, 2017 SIP, and concluded that enhanced DSI is BART for this unit. The CAA allows EPA to review all the information in the SIP submittal and any other publicly available information to make its decision whether it agrees the state's determination meets the applicable requirements. After reviewing the relevant information, we determined that the State's SIP meets the requirements of the Act and the applicable regulations and guidance.

In our review of the cost estimates, we noted a lack of documentation and uncertainty in the Cleco cost-estimates for SDA and wet FGD. We noted, however, that because DSI and a fabric filter baghouse are already installed and operational, the cost-effectiveness of Cleco's enhanced DSI is based only on the cost of the additional reagent and no additional capital costs are involved. The cost-effectiveness of enhanced DSI was estimated to be \$967/ton.<sup>59</sup> In contrast to enhanced DSI, SDA and wet FGD require the installation of controls and significant capital costs. Cleco's cost-effectiveness estimates for SDA and wet FGD are \$6,893/ton and \$5,580/ton, respectively, while the commenter's estimate the costs of SDA, NID™ CDS and wet FGD to be approximately \$2,800/ton or greater.<sup>60</sup> When the

<sup>58</sup> 40 CFR part 51, Appendix Y, IV(D)(e)(5).

<sup>59</sup> LA RH SIP (February 2017), Appendix B.

<sup>60</sup> Technical Support Document to Comments of Conservation Organizations (Stamper Report), Prepared By: Vivian R Stamper (June 18, 2017).

already sunk capital costs of the existing DSI system are removed, the incremental annual cost of enhanced DSI is estimated to be only \$1,695,300/yr. Even accounting for the potential issues in Cleco's SDA and wet FGD cost analyses and considering the commenter's cost estimates, we are cognizant of the enhanced DSI's low cost-effectiveness, and the incremental costs of obtaining the additional 0.1–0.2 dv of visibility improvement that can be achieved by SDA, CDS or wet FGD over enhanced DSI are high. Therefore, we are finalizing our approval of LDEQ's conclusion that the amount of visibility benefit achieved from SDA or wet FGD over enhanced DSI was not large enough to justify the additional cost of these controls and enhanced DSI is SO<sub>2</sub> BART for the Rodemacher 2, with a SO<sub>2</sub> emission limit of 0.30 lbs/MMBtu on a 30 day rolling basis.

*Comment:* With respect to the analysis for the Rodemacher 2 unit, EPA stated the following concerning enhanced DSI:

In considering enhanced DSI, Cleco relied upon on-site testing it had conducted to determine the performance potential of an enhanced DSI system. The testing was conducted to evaluate the effectiveness of the DSI system to control hydrochloric acid for compliance with the Mercury and Air Toxics Standards (MATS), but the continuous emissions monitor system (CEMS) was operating and capturing SO<sub>2</sub> emissions data during the test, which provided the necessary information to determine the control efficiency of DSI and enhanced DSI for SO<sub>2</sub>.

82 FR 22936. On page 19 of the related TSD, EPA further stated:

Cleco also did not provide the DSI testing information, which creates a degree of uncertainty concerning the potential control level of its current DSI system and the enhanced DSI system it reviews. Another concern was that the DSI testing that Cleco relied on was not intended to evaluate DSI for SO<sub>2</sub> control efficiency, which caused some uncertainty concerning the potential control level of DSI and enhanced DSI.

Cleco disagrees that there is a "degree of uncertainty" concerning the potential SO<sub>2</sub> control level of the current DSI system or the enhanced DSI system. Although the testing conducted was based on operating the system to determine removal of hydrogen chloride (HCl), the Rodemacher 2 unit operated a SO<sub>2</sub> continuous emission monitoring system (CEMS) that gathered valid, real-time SO<sub>2</sub> emissions data that demonstrated the achievable reductions. The data gathered by the SO<sub>2</sub> CEMS is the same data submitted to EPA's Air Markets Program Data on a quarterly basis. Cleco, therefore, does not believe that a degree of uncertainty exists with respect to the SO<sub>2</sub> control level.

As stated in the BART Five-Factor Analysis submitted to LDEQ,<sup>61</sup> two performance tests were conducted at very high injection rates to determine the removal that could be achieved while operating the DSI system at close to the maximum design injection rate. The first test was performed at 12,000 lb/hr, which showed an average removal of 66% SO<sub>2</sub> and the second test was conducted at 4,000 lb/hr, which showed an average removal of 63% SO<sub>2</sub>. Both tests were conducted at injection rates significantly higher than the current DSI rate of 1,500 lb/hr. Although the system is designed to inject up to 17,800 lb/hr of Trona, there would be close to no benefit in additional SO<sub>2</sub> reduction since increasing the injection rate by 300% (from 4,000 lb/hr to 12,000 lb/hr) only provided an additional 3% SO<sub>2</sub> reduction on average. Based on the foregoing, Cleco believes there is a high degree of certainty regarding the control levels achievable for the current DSI and enhanced DSI systems.

We also received comments from environmental groups<sup>62</sup> stating that Cleco evaluated two levels of control with DSI: DSI to meet an SO<sub>2</sub> limit of 0.41 lb/MMBtu and "enhanced DSI" to meet an SO<sub>2</sub> limit of 0.30 lb/MMBtu. These proposed limits were based on testing done on-site that Cleco conducted to determine the performance potential of enhanced DSI. However, Cleco did not submit the testing as part of the record for the BART determination. Further, the testing was not done to evaluate SO<sub>2</sub> removal efficiency and was instead done to optimize hydrogen chloride control efficiency. Presumably, Cleco did not concurrently evaluate uncontrolled SO<sub>2</sub> emissions, and thus the accuracy of the assumed SO<sub>2</sub> removal efficiencies with DSI and enhanced DSI of 39% and 63% is questionable.

Further, Brame Unit 2 (Rodemacher 2) is already achieving the assumed "enhanced DSI" level of control of 0.30 lb/MMBtu SO<sub>2</sub> rate with the current DSI operations which are being implemented to meet the MATS hydrogen chloride limit. Based on data in EPA's Air Markets Program Database, the average monthly SO<sub>2</sub> emission rate at Brame Unit 2 was 0.26 lb/MMBtu from June 2015 through the first quarter of 2017. While there have been a few months with monthly SO<sub>2</sub> emission rates in excess of 0.30 lb/MMBtu, the large majority of monthly SO<sub>2</sub> emission

rates at Brame Unit 2 have been at or well below 0.30 lb/MMBtu. Thus, there does not seem to be much if any enhancement needed to achieve 0.30 lb/MMBtu with DSI and a baghouse. Cleco should therefore have assumed a 0.30 lb/MMBtu SO<sub>2</sub> limit, or even lower, as achievable with the currently operated DSI and baghouse. Given that the unit is already achieving a 0.30 lb/MMBtu level, it does appear likely any lower SO<sub>2</sub> emission rates could be achieved with DSI "enhancements."

*Response:* We agree with the commenter that the available testing data demonstrates that increasing the injection rate beyond 4,000 lb/hr (63% removal) results in minimal increased removal efficiency. As we discussed in our TSD and identified by the commenter above, because the DSI testing was not performed to examine optimization of SO<sub>2</sub> removal and Cleco did not provide sufficient detail with regard to how the testing was conducted, we noted "some uncertainty" in the potential control levels for DSI and enhanced DSI. For example, it is unclear if the testing evaluated a range of fuel sulfur content or heat input rates. We therefore reviewed available emissions data from the unit from when the DSI became operational in March 2015 through the end of 2016 and found that based on that information<sup>63</sup> covering a range of actual operations, as well as the provided testing data, Louisiana's selection of 0.30 lbs/MMBtu on a rolling 30-day basis for SO<sub>2</sub> is reasonable for an enhanced DSI system on the Rodemacher 2 unit.

We agree with the comment that recent emission data from June 2015 through the first quarter of 2017 demonstrates the ability to emit at or below 0.3 lb/MMBtu on a monthly basis. However, as also noted by the commenter, monthly emission rates with the current operation of the existing DSI system have also exceeded 0.3 lb/MMBtu at times during that same period. For example, the average monthly emission rate in December 2016 was 0.39 lb/MMBtu. The available testing data demonstrates that the unit is already equipped to operate the existing DSI and fabric filter at a range of injection rates, including the higher injection rates evaluated in the BART analysis, as "enhanced DSI." In order to achieve the emission rate specified in Louisiana's BART determination of 0.30 lbs/MMBtu for SO<sub>2</sub>, made permanent and enforceable in the AOC, Cleco will

<sup>61</sup> LA RH SIP (February 2017), Appendix B.

<sup>62</sup> See Stamper Report (attached as Technical Support Document to Conservation Organizations June 18, 2017 comment letter).

<sup>63</sup> See Figure 1 and accompanying discussion on page 18 of the TSD associated with our May 2017 proposed approval.



have to operate the existing DSI system at higher injection rates to maintain future emissions below 0.3 lb/MMBtu on a rolling 30-day basis.

#### D. Entergy Nelson

*Comment:* LDEQ commented that EPA's cost analysis did not alter its initial conclusion presented in its February 2017 RH SIP submittal that BART was "no further control."

*Response:* In its October 2017 Regional Haze SIP submittal, LDEQ stated that, after a weighing of the five factors and after a review of both Entergy's and EPA's information, "BART is the emission limit of 0.6 lbs/MMBtu based on a 30 day rolling average as defined in the AOC. . . . LDEQ believes, at present, that the use of lower sulfur coal presents the appropriate SO<sub>2</sub> control based on consideration of economics, energy impacts, non-air quality environmental impacts, and impacts to visibility."<sup>64</sup>

*Comment:* Entergy supports the proposed limit for Nelson Unit 6 but disagrees that the Control Cost Manual disallows certain costs such as escalation during construction and owner's costs.<sup>65</sup> These are actual costs that will be incurred during construction and that should have been included in the costs for each add-on control technology evaluated. Entergy also disagrees with EPA's reduction in the contingency factor from 25% to 10%. EPA has provided no justification for its use of 10% for the contingency factor, over than that it is "in the middle of the range employed in the Control Cost Manual."<sup>66</sup> The costs that Entergy submitted in its BART Five-Factor Analysis for Nelson<sup>67</sup> are a more accurate estimate of the *actual* costs for controls at Nelson Unit 6 than the more generic costs that EPA assumed. However, even accepting EPA's cost calculations, the costs of installing SO<sub>2</sub> controls are too high to constitute BART in light of the distance of Nelson from the nearest Class I areas and the minor visibility benefit expected to be achieved by such controls. Based on an evaluation of the five statutory factors required for a BART analysis, LDEQ appropriately concluded that low sulfur coal constitutes SO<sub>2</sub> BART for Nelson 6. As Entergy concluded in the Nelson Five-Factor analysis, "no visibility improvement can reasonably be anticipated to result from the

installation of [SO<sub>2</sub>] controls. Furthermore, the cost of each of the add-on [SO<sub>2</sub>] control options for Unit 6 is estimated as \$3 billion or more per dv improvement."<sup>68</sup>

*Response:* We disagree with commenters' assertions that Allowance for Funds Used During Construction (AFUDC) should be incorporated into our cost analysis, as the practice of incorporating AFUDC is contradictory to the Cost Control Manual (CCM) methodology.<sup>69</sup> The utility industry uses a method known as "levelized costing" to conduct its internal comparisons, which is different from the methods specified by the CCM. Utilities use "levelized costing" to allow them to recover project costs over a period of several years and, as a result, realize a reasonable return on their investment. The CCM uses an approach sometimes referred to as overnight costing, which treats the costs of a project as if the project were completed "overnight," with no construction period and no interest accrual. Since assets under construction do not provide service to current customers, utilities cannot charge the interest and allowed return on equity associated with these assets to customers while under construction. Under the "levelized costing" methodology, AFUDC capitalizes the interest and return on equity that would accrue over the construction period and adds them to the rate base when construction is completed and the assets are used. Although it is included in capital costs, AFUDC primarily represents a tool for utilities to capture their cost of borrowing and return on equity during construction periods. AFUDC is not allowed as a capitalized cost associated with a pollution control device under CCM's overnight costing methodology and is specifically disallowed for SCRs (i.e., set to zero) in the CCM.<sup>70</sup> Therefore, in reviewing other BART determinations, EPA has consistently excluded AFUDC.<sup>71</sup> EPA's position regarding exclusion of AFUDC has been

<sup>68</sup> Nelson Five-Factor Analysis, at 4–6.

<sup>69</sup> EPA Air Pollution Control Cost Manual, Sixth Edition, EPA/452/B-02-001, January 2002 available at [http://www.epa.gov/ttnatc1/dir1/c\\_allchs.pdf](http://www.epa.gov/ttnatc1/dir1/c_allchs.pdf).

<sup>70</sup> CCM (Tables 1.4 and 2.5 show AFUDC value as zero).

<sup>71</sup> See, e.g., 77 FR 20894, 20916–17 (Apr. 6, 2012) (explaining in support of the North Dakota Regional Haze FIP, "we maintain that following the overnight method ensures equitable BART determinations \* \* \*"); 76 FR 52388, 52399–400 (August 22, 2011) (explaining in the New Mexico Regional Haze FIP that the Manual does not allow AFUDC)

upheld in the United States Ninth Circuit Court of Appeals.<sup>72</sup>

In the TSD we discuss Entergy's selection of contingency factor. There, we state that we are not aware of any characteristics of Nelson Unit 6 that would present any unusual difficulty distinguishing it from any other scrubber retrofit, and thus justifying a high estimate for contingency. The CCM uses contingency values ranging from 5 to 15%, depending upon the control device in question and the precise nature of the factors requiring contingency. Entergy has not provided any additional information to support the use of a contingency factor outside of this range. The CCM clarifies that a contingency factor should be reserved (and applied to) only those items that could incur a reasonable but unanticipated increase but are not directly related to the demolition, fabrication, and installation of the system. We used a contingency value of 10% for our analysis and adjustment of Entergy's costs, which lies in the middle of the range employed in the CCM. We believe this value is appropriate for mature technologies such as SDA and wet FGD.<sup>73</sup>

We disagree with the commenter's conclusion that no visibility improvement can reasonably be anticipated to result from the installation of SO<sub>2</sub> controls and that visibility benefits of scrubbers cost \$3 billion/dv or more. This conclusion and estimate in Entergy's Nelson Five-Factor analysis, is based on its CAMx modeling analysis. As we discuss in detail in the CAMx Modeling TSD and in our Modeling RTC document, we consider this submitted CAMx modeling to be invalid for supporting any determination of visibility impacts. The results of Entergy's CALPUFF modeling and EPA's CALPUFF and CAMx modeling assessing the visibility benefits of controls on this unit are included in Appendix D and F of the October 2017 LA RH SIP.

LDEQ reviewed all the available information including the modeling provided by EPA and determined "that additional visibility benefits may be available through the use of FGD." The state, however, weighed the factors considering all available information

<sup>72</sup> *Ariz. ex. rel. Darwin v. U.S. EPA*, 815 F.3d 519 (9th Cir. 2016).

<sup>73</sup> "EIA lists 748 SO<sub>2</sub> scrubber installations in operation in 2015. Of these, 296 are listed as being spray type wet scrubbers, with an additional 42 listed as being tray type wet scrubbers. An additional 269 are listed as being spray dry absorber types." See pg 8 of Technical Support Document for EPA's Proposed Action on the Louisiana State Implementation Plan for the Entergy Nelson Facility, June 2017.

<sup>64</sup> Louisiana Regional Haze SIP, October 2017.

<sup>65</sup> 82 FR at 32298.

<sup>66</sup> TSD for EPA's Proposed Action on the Louisiana State Implementation Plan for the Entergy Nelson Facility, at page 18 (June 2017), Docket No. EPA-R06-OAR-2017-0129-0025.

<sup>67</sup> Nelson Five-Factor Analysis.



contained in the SIP submittal, and concluded that “the use of lower sulfur coal presents the appropriate SO<sub>2</sub> control based on consideration of economics, energy impacts, non-air quality environmental impacts, and impacts to visibility.”

We also note that we disagree with the use of the dollar per deciview metric as the only cost effectiveness metric in BART determinations. We discuss this in detail in our Response to Comments on our final action on Oklahoma Regional Haze.<sup>74</sup> Our decision to not rely on a \$/dv metric was reviewed and upheld in by the Tenth Circuit.<sup>75</sup>

*Comment:* The State makes the claim that a scrubber should be rejected because of the environmental impacts of waste generated by a scrubber. EPA reached the opposite conclusion, stating that FGD and DSI “do not present any significant or unusual environmental impacts.” Moreover, the State ignores that the cost to dispose of scrubber wastes is included in the cost model for a scrubber, as EPA points out. Allowing Nelson to emit 0.6 lb/MMBtu of SO<sub>2</sub> is a ten-fold increase in the SO<sub>2</sub> emissions rate relative to the 0.06 lb/MMBtu which a scrubber can achieve.<sup>76</sup> In the name of considering environmental impacts, the State chose the option that will lead to the *greatest amount of air pollution*. This is not rational decision making, it runs counter to the statutory mandate for the haze program, and it is not approvable. We are unaware of any similar state or EPA decision for a haze SIP. EPA has cited no precedent for approving a State’s selection of the least-effective pollution control on the basis that more effective pollution controls allegedly are worse for the environment.

In addition, the State fails to consider that a dry scrubber generates far less waste than a wet scrubber. And scrubber wastewater can be treated with available technologies to dramatically reduce environmental impacts. See 80 FR 67838 (Nov. 3, 2015). The State’s rejection of a scrubber because of the auxiliary power needed to run a scrubber is without merit. All of the cost calculations for a scrubber reviewed by the State—both EPA’s and Entergy’s—included the energy cost to run the scrubber. Thus, the energy cost is not a

separate consideration, and is not a separate basis for rejecting a scrubber. Just as we are aware of no example of EPA approving the rejection of a scrubber on the basis of scrubber wastes, we are not aware of any EPA decision approving the rejection of a scrubber because of the auxiliary power costs.

*Response:* We disagree with the commenter’s characterization of the State’s consideration of the energy and non-air quality environmental impacts. The consideration of these impacts is required as part of the BART determination. LDEQ stated in the October 2017 SIP:

While additional visibility benefits may be available through the use of FGD, the lower sulfur coal option results in visibility benefits at a lower annual cost. In addition, FGD use results in additional waste due to spent reagent and has some power demands to run the equipment. LDEQ believes, at present, that the use of lower sulfur coal presents the appropriate SO<sub>2</sub> control based on consideration of economics, energy impacts, non-air quality environmental impacts, and impacts to visibility.<sup>77</sup>

LDEQ did not reject additional controls solely on the basis of the non-air quality environmental impacts or energy impacts associated with those controls. LDEQ identified the impacts associated with each control level as required, noting the difference between the lower sulfur coal option and additional add-on controls. LDEQ considered all of the available information, including EPA’s analysis of the associated impacts and costs, and weighed all the factors in making the BART determination for Nelson Unit 6.

*Comment:* EPA cannot possibly have discharged its obligation to ensure that the State’s BART determination is “reasonably moored to the Act’s provisions,” *Alaska Dep’t of Env’tl. Conservation*, 540 U.S. at 485, because EPA claims it was “unable to verify any of the company’s costs,” 82 FR at 32298, and could review only the “general description of the modeling protocol” that Entergy used. See Appendix F, CAMx Modeling TSD at 30. It is axiomatic that EPA cannot approve a plan where the agency is unable to review and verify the accuracy of the analysis on which the plan is based. See *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (“[T]he agency must examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’”) (emphasis added) (quoting

*Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)).

*Response:* We disagree with the comment. While we noted in our proposal that we were unable to verify the company’s costs and that we reviewed a general description of Entergy’s modeling protocol, we also noted that we conducted our own independent cost analysis and CAMx modeling.<sup>78</sup> EPA’s cost and visibility analyses were included by LDEQ as a part of its October 2017 SIP submission (Appendix F) and were included in the information considered by the State in making its BART determination. LDEQ considered all the information contained in the SIP submittal, including information submitted by Entergy, EPA’s review of that information, and EPA’s additional analyses. As a result, LDEQ had adequate information upon which to base its determination.<sup>79</sup>

*Comment:* Neither the State nor EPA offered a rational basis for rejecting a scrubber and EPA did not offer a rational basis for approving the State’s decision. The State did not explain why it rejected a control with cost-effectiveness and visibility improvement values which so many other states, and EPA, have found reasonable for BART determinations. And EPA has not explained how it can approve the rejection of a scrubber when the cost-effectiveness and visibility improvement values are within the range that EPA has found reasonable in so many other haze rulemakings. See generally 42 U.S.C. 7410(k)(3) (requiring EPA to review each SIP submission to ensure compliance with the Act), *id. sec.* 7410(l) (barring EPA approval of a SIP submission that interferes with any applicable requirement of the Act); *Oklahoma v. EPA*, 723 F.3d at 1208–09 (holding that “the statute mandates that the EPA must ensure SIPs comply with the statute” and upholding EPA’s disapproval of the Oklahoma regional haze plan because Oklahoma “failed to follow the [BART] guidelines”).

EPA cannot approve the State’s plan because EPA concluded that the analysis the State relied on is riddled with errors; approving such a plan is

<sup>78</sup> 82 FR 32294 (August 14, 2017).

<sup>79</sup> In response to comments from the Conservation Groups and inquiries from EPA regarding its cost analysis, Entergy submitted a Technical Memorandum clarifying the approach used in its cost analysis. See, Technical Memorandum from Ken Snell, Dated December 6, 2017, Subject: Nelson Unit 6 BART Cost Estimates. Entergy stated although the specific details in the cost estimate are generated from proprietary databases, EPA could do a meaningful review of the cost estimates based on the information included in the submitted analysis.

<sup>74</sup> Response to Technical Comments for Sections E. through H. of the **Federal Register** Notice for the Oklahoma Regional Haze and Visibility Transport Federal Implementation Plan, Docket No. EPA–R06–OAR–2010–0190, 12/13/2011, pdf 116.

<sup>75</sup> *Oklahoma v. EPA*, 723 F.3d 1201 (10th Cir. 2013).

<sup>76</sup> See Stamper Report at 6–7, 9–10 (attached as Technical Support Document to Conservation Organizations June 18, 2017 comment letter).

<sup>77</sup> October 2017 LA RH SIP submission.

arbitrary and capricious. EPA identified multiple errors in Entergy's cost and visibility analyses—errors which Entergy and the State refused to correct, e.g., escalation during construction and owner's costs, a contingency of 25%, and the inability to verify any of the company's costs. EPA's submission of its own analyses to the State does not cure this defect since EPA's analysis is limited by the same lack of access to data from which the State's analysis suffers.

*Response:* As explained in previous responses, EPA reviewed the State's entire submission, including any attached appendices and supporting documentation, and any publicly available information as a whole in determining whether the State's submission is approvable. Though we identified errors in Entergy's cost and visibility analyses, EPA conducted its own cost and visibility analyses in accordance with the applicable regulations and guidelines. EPA's cost and visibility analyses are part of the SIP submission (Appendix F) and were included in the information considered by the State in making its BART determination. We do not believe that our modeling or cost analysis were limited by the lack of access to data. Our cost estimates rely on algorithms designed to use readily available data<sup>80</sup> that provide reasonable estimates of costs. Furthermore, we had all the data necessary to make estimates of visibility impairment. We only noted that there was limited access to documentation to explain the difference between our cost estimates and those provided by Entergy. As stated previously, LDEQ considered all the information contained in the SIP submittal. LDEQ reviewed this information as is evidenced by its SIP submission. LDEQ states, "LDEQ has weighed the five factors and after a review of both Entergy's and EPA's information. . . ."<sup>81</sup> This indicates that the State reviewed the information it received from both Entergy and the EPA, and thus had adequate information upon which to base its determination. After reviewing the relevant information contained in LDEQ's SIP, we determined that the State's SIP meets the requirements of the Act and the applicable regulations and guidance.

*Comment:* Though EPA stated that the State "weighed the statutory factors,"<sup>82</sup> there is no evidence that the State

weighed two of the statutory factors, the remaining useful life of the source and the existing controls in use at the source. BART must be based on a consideration of the five factors. The State's BART analysis appears in a single paragraph, which does not mention two of the five factors: The "remaining useful life of the source" and "existing pollution controls in use at the source," 42 U.S.C. 7491(g)(2). The State's failure to consider existing pollution controls for SO<sub>2</sub> emissions is significant, given that the State treats its BART determination of low-sulfur coal as requiring Nelson to do something new, despite evidence that Nelson is already using low-sulfur coal. As EPA acknowledged, the RS Nelson Plant has already been burning low sulfur Powder River Basin coal for many years.<sup>83</sup>

Similarly, it is important that states consider the "remaining useful life" factor. Cost calculations typically assume that costs will be recovered over the remaining useful life of a source. As a result, the remaining useful life is a key variable in cost analyses.

Whether Entergy or EPA considered these two factors is irrelevant legally, because the statute requires the State, not the plant owner, to determine BART. There is no evidence in the SIP that the State actually considered and relied on any analysis which Entergy or EPA may have conducted of the remaining useful life and existing pollution controls in use at the source. In particular, there is no passage in the State's SIP narrative in which the State discusses how it considered and weighed the remaining useful life and existing pollution controls in use at Nelson.<sup>84</sup> EPA cannot approve a BART determination which fails to consider two factors, the remaining useful life and the existing controls in use at the source, which the statute requires states to consider.

*Response:* As explained in previous responses above, EPA reviews the final SIP document and any accompanying supplementary information or appendices that have been submitted by the State. In the October 2017 LA RH SIP at Appendix D, Entergy's BART analysis for Nelson unit 6 includes a description of existing control equipment at the unit<sup>85</sup> and a statement that remaining useful life does not

impact the cost analysis.<sup>86</sup> In our analysis, we conducted a five-factor analysis and addressed both remaining useful life and the existing controls in use at the source. As discussed in our draft Technical Support Document provided to LDEQ and included in its October 2017 LA RH SIP, Appendix F, in evaluating the cost of switching to lower sulfur coal to meet an emission limit of 0.6 lb/MMBtu, we began by noting that Entergy has purchased both higher and lower sulfur coals. To account for the existing use of low sulfur coal, we applied the premium<sup>87</sup> associated with purchasing only low sulfur coal to the fraction of higher sulfur coal purchased. In making their decision, the State evaluated all available information regarding the remaining useful life of the source and the existing controls in use at the source. LDEQ submitted the analyses conducted by EPA and Entergy as appendices to the LA RH SIP. As such, we took all the information contained in the LA RH SIP into account in making our determination to approve the State's SIP submittal.

*Comment:* The State unreasonably and unlawfully failed to consider the cost-effectiveness of controls in violation of the BART Guidelines. The State stated it selected low-sulfur coal over a scrubber even though additional visibility benefits may be achievable with the use of FGD because the lower sulfur coal option results in visibility benefits at a lower annual cost. The State's BART analysis violates the BART Guidelines by focusing the cost analysis solely on annual costs and by failing to consider cost-effectiveness at all. EPA's proposed approval fails to mention the applicable portions of EPA's own BART Guidelines and to discuss how the State's analysis is inconsistent with the Guidelines. In keeping with the statute, the regulations indicate that it is the total generating capacity of the plant—not any particular unit—that determines whether the BART Guidelines are mandatory.

Nelson began operation in 1960.<sup>88</sup> Nelson Units 1 and 2 each have a

<sup>80</sup> See Page 4–4 of Entergy Nelson five-factor BART analysis, November 9, 2015, revised April 15, 2016. Available in Appendix D of the LA RH SIP.

<sup>81</sup> We estimate the low sulfur coal premium based on 2016 coal purchases for coals above and below 0.6 lb/MMBtu. See Nelson TAD in Appendix F of the LA RH SIP, October 2016, Section 3.2.9.

<sup>82</sup> Louisiana Department of Environmental Quality, Statement of Basis, Proposed Part 70 Operating Permit 0520–00014–V2, Roy S. Nelson Electric Generating Plant, Entergy Gulf States Louisiana, L.L.C. Westlake, Calcasieu Parish, Louisiana, Agency Interest (AI) No. 19588, Activity No. PER20100003 (Oct. 17, 2012), Attached as Exhibit 7 to Sierra Club's August 14, 2017 comment letter.

<sup>83</sup> See EPA Technical Assistance Document at 6–7. See also EPA TSD at 9.

<sup>84</sup> By contrast, the State expressly considers and weighs annual costs, visibility improvement, and environmental impacts of controls. See LA RH SIP, October 2017, p. 6.

<sup>85</sup> See Page 1–1 of Entergy Nelson five-factor BART analysis, November 9, 2015, revised April 15, 2016. Available in Appendix D of the LA RH SIP.

<sup>80</sup> See Cost Analysis in LA RH SIP, October 2017, Appendix F.

<sup>81</sup> LA RH SIP Revision Addendum, June 19, 2017, p. 6.

<sup>82</sup> 82 FR at 32300 (July 13, 2017).

nameplate capacity of approximately 114 MW, Unit 3 is 163 MW, Unit 4 is 592 MW, and Unit 6 is 615 MW. Although Units 1 and 2 have been spun off into a separate permit, the current Title V permit provides that the “facility capacity” is 1,204 MW.<sup>89</sup> Given that Nelson’s total capacity exceeds 750 MW, BART for Nelson must be determined in accordance with the BART Guidelines.<sup>90</sup>

The BART Guidelines recommend the use of cost-effectiveness “to assess the potential for achieving an objective in the most economical way.” The BART Guidelines specifically caution states not to consider annual costs without also considering cost-effectiveness. The SO<sub>2</sub> BART determination violates the requirements in the BART Guidelines to consider cost-effectiveness of controls. Given that Nelson Unit 6 is located at a plant with a total generating capacity greater than 750 MW, the State is required to determine BART pursuant to the BART Guidelines—which the State failed to do, by failing to consider the cost-effectiveness of controls. The State should have followed the BART Guidelines and considered the cost-effectiveness of controls, which weigh in favor of selecting a scrubber as BART.

It is both irrational and contrary to the purpose of the haze provisions for the State to reject a very cost-effective control, a scrubber, on the ground that the annual cost is higher than the least-effective control, low-sulfur coal. If a state were permitted to reject more effective controls solely on the basis that annual costs are higher, then more effective controls would rarely, if ever, be required. If the State’s rationale were approved by EPA, it would be difficult,

if not impossible, to require the very pollution controls necessary to achieve the statutory mandate to eliminate haze pollution. The State’s rationale must be rejected because it is incompatible with achieving the goal of the Clean Air Act to ultimately eliminate all human-caused haze pollution.

*Response:* We agree with the comment that the total capacity of the Nelson facility exceeds 750 MW and that the State was therefore required to determine BART pursuant to the BART Guidelines for this source. However, we disagree that LDEQ failed to consider cost-effectiveness. LDEQ included estimates of annual costs, cost-effectiveness, and incremental costs for the control options for Nelson Unit 6 in Appendices D and F of its SIP revision. LDEQ considered all information in the record, including all cost information provided by the EPA and Entergy. LDEQ weighed the five factors and concluded that “the use of lower sulfur coal presents the appropriate SO<sub>2</sub> control based on consideration of economics, energy impacts, non-air quality environmental impacts, and impacts to visibility.” EPA has reviewed all the information in the SIP submittal and finds that the state’s determination is approvable.

*Comment:* EPA’s proposed approval of Entergy’s 2012–2016 emissions baseline for the purposes of evaluating costs is arbitrary and contrary to law. As an initial matter, the cost analyses for other Louisiana BART sources, including Little Gypsy Unit 2, the Waterford units, and the Ninemile units, relied on a 2000–2004 emission baseline for the purposes of determining the cost effectiveness of controls. Neither Entergy nor EPA provide any reasoned explanation for treating Nelson differently. Instead, Entergy relied on an unenforceable, more recent operational profile in its BART analysis. Indeed, Entergy’s BART analysis (and its conclusion that no additional controls are cost-effective) is based on baseline emissions from 2012–2014, during which Nelson 6 happened to be operating far less frequently than in earlier years.<sup>91</sup> This is important because using a 2000–2004 baseline, a scrubber is even more cost-effective. The commenter estimates that a dry scrubber would cost \$1,712 to \$1,750 per ton and a wet scrubber would cost \$1,728 to \$1,748 using a 2000–2004 baseline. EPA’s proposed approval of

Entergy’s emission baseline skews the cost analysis.

EPA has repeatedly concluded that states should determine BART using emissions data from 2000–2004. If projected operations will differ from past practice, and the state’s BART determination is based on that emission baseline, the state “must make these parameters or assumptions into enforceable limitations” in the SIP itself. See 40 CFR part 51, App’x. Y § (IV)(D)(4)(d) LDEQ’s proposed SIP contains no such enforceable limitation requiring Entergy to comply with 2012–2014 emissions, and is therefore unapprovable.

*Response:* We disagree with the comment regarding the use of baseline emissions in estimating annual costs and cost-effectiveness. Annual emissions used in evaluating cost effectiveness of controls are based on annual emissions representative of future anticipated annual emissions.<sup>92</sup> The BART guidelines state that in the absence of enforceable limitations, baseline emissions should be based upon continuation of past practice.<sup>93</sup> In many cases, in order to represent future anticipated annual emissions from the source EPA has used actual annual emissions from the most recent five-year period as being consistent with past practice for the purposes of the cost evaluation. EPA typically uses the most recent five years of annual emissions, eliminating the maximum and minimum annual emissions when evaluating cost impacts. For Nelson Unit 6, the cost analysis<sup>94</sup> developed by EPA and included in the October 2017 SIP submittal in appendix F, utilized a baseline based on average emissions from 2011 through 2015, excluding the maximum and minimum values. This analysis was later updated to using 2012–2016, excluding the maximum and minimum values. As stated in the Nelson Technical Assistance Document (Nelson TAD),<sup>95</sup> EPA concluded that using the average annual emissions over the most recent five years, excluding the maximum and minimum years, was a reasonable compromise between simply selecting the maximum value from

<sup>89</sup> Louisiana Department of Environmental Quality, Part 70 Operating Permit 0520–00014–V2, Roy S. Nelson Electric Generating Plant, Entergy Gulf States Louisiana, L.L.C. Westlake, Calcasieu Parish, Louisiana, Agency Interest (AI) No. 19588, Activity No. PER20100003 (issued Oct. 4, 2013). By letters dated May 1, 2015, and August 24, 2015, Entergy confirmed that Units 4 and 6 are BART eligible. LA059–006–4\_4\_Entergy\_Nelson\_6\_BART\_Survey.pdf; LA059–006–4\_7Ltr\_2015–08–24\_from\_FHyman\_to\_VAucoin\_re\_N4–WG3–LG3\_Aux\_Boilers\_BART\_eligibility.pdf. Attached as Exhibit 8 to Sierra Club’s August 14, 2017 comment letter.

<sup>90</sup> To determine whether the total capacity exceeds 750 MW, EPA’s policy is to add the generating capacity of all the units at a power plant, so long as one of the units is subject to BART. See, e.g., 77 FR 12770, 12778 (Mar. 2, 2012) (“[I]t is reasonable to interpret the RHR to mean that if the plant capacity is greater than 750 MW at the time the BART determination is made by the State . . . then the power plant is a facility ‘having a total generating capacity in excess of 750 [MW]’ and any unit at the plant greater than 200 MW is subject to presumptive BART.”); 76 FR 58570, 58596 (Sept. 21, 2011) (concluding that the BART Guidelines are mandatory for Milton R. Young Station because Unit 1 is 277 MW and Unit 2 is 517 MW, which sums to 794 MW).

<sup>91</sup> See Dec. 30 Comments, Ex. C, Entergy Nelson Emissions and Hours of Operation from 2000 through 2016, available at <https://ampd.epa.gov/ampd/>, attached as Exhibit 9.

<sup>92</sup> 40 CFR part 51 app. Y § IV.D.4.d. “The baseline emissions rate should represent a realistic depiction of anticipated annual emissions for the source.”

<sup>93</sup> 40 CFR part 51 app. Y § IV.D.4.d.

<sup>94</sup> “Nelson Technical Assistance Document” (Nelson TAD) in the Louisiana State Implementation Plan for the Entergy Nelson Facility, June 2017, Available in Appendix F of the October 2017 LA RH SIP submittal.

<sup>95</sup> See Technical Assistance Document for the Louisiana State Implementation Plan for the Entergy Nelson Facility, June 2017, Available in Appendix F of the October 2017 LA RH SIP submittal.

2011–2015, or using the average of the values from 2011–2015. We discuss our review of the Entergy cost analysis for Nelson Unit 6 elsewhere in the response to comment section. The commenter is incorrect concerning the baseline used for cost analysis for Little Gypsy Unit 2, the Waterford units, and the Ninemile units. For the Waterford units, we utilized 2015 fuel oil prices and determined cost-effectiveness based on costs and tons reduced per 1,000 barrels of fuel burned. We also identified the highest annual emissions during the 2011–2015 period as part of our review of the BART determination for this source. For Little Gypsy and Ninemile, consideration of cost-effectiveness of controls was not necessary as the sources adopted the most stringent control level available. In addition, we note there are additional differences besides the choice of baseline emissions that we disagree with that resulted in lower estimated costs by the commenter than those estimated by EPA.<sup>96</sup> We discuss the inputs we selected in our cost evaluation in the Nelson TSD.

*Comment:* The SIP is not approvable because it unlawfully fails to require at least presumptive BART for SO<sub>2</sub> emissions as required by the BART Guidelines. For SO<sub>2</sub>, presumptive BART is an emission limit of 0.15 lb/MMBtu. 40 CFR part 51, App. Y § (IV)(E)(4) (“You must require 750 MW power plants to meet specific control levels for SO<sub>2</sub> of either 95 percent control or 0.15 lbs/MMBtu, for each EGU greater than 200 MW that is currently uncontrolled unless you determine that an alternative control level is justified based on a careful consideration of the statutory factors.”). The State’s BART determination for SO<sub>2</sub> is an emission limit of 0.6 lb/MMBtu, which achieves nowhere near a 95% reduction in SO<sub>2</sub> emissions and is four times higher than the presumptive BART rate of 0.15 lb/MMBtu. The State’s failure to require at least the minimum emissions reductions mandated by the BART Guidelines violates the Clean Air Act requirement that BART be determined “pursuant to” the BART Guidelines for plants larger than 750 MW, 42 U.S.C. 7491(b)(2). EPA cannot approve a SIP which violates the Clean Air Act, and thus EPA must disapprove the SO<sub>2</sub> BART determination Nelson Unit 6.

*Response:* We disagree with the comment that the State must require at least a level of control consistent with the presumptive limit for SO<sub>2</sub> of either 95 percent control or 0.15 lbs/MMBtu. As identified by the commenter, the BART Guidelines state that the

presumptive limit applies “unless you determine that an alternative control level is justified based on a careful consideration of the statutory factors.” LDEQ considered all information in the record, including all estimates of visibility benefits, annual costs, cost-effectiveness, and incremental cost provided by EPA and Entergy. The state weighed the factors and concluded that “the use of lower sulfur coal presents the appropriate SO<sub>2</sub> control based on consideration of economics, energy impacts, non-air quality environmental impacts, and impacts to visibility.” EPA has reviewed all the information in the SIP submittal and finds that the state’s determination meets the applicable requirements and therefore is approvable.

*Comment:* EPA’s CALPUFF modeling shows that a scrubber would improve visibility by more than 1 deciview at Caney Creek, and slightly less than 1 deciview at Breton. Draft SIP, Appendix F at 41, Table 4–8. EPA’s CAMx modeling indicated that a scrubber would improve visibility by 0.831 deciviews at Caney Creek and 0.663 deciviews at Upper Buffalo. 82 FR at 32299–300. These are significant amounts of visibility improvement, as indicated by the BART Guidelines instructions on determining which sources are subject to BART; the Guidelines state that a source which causes 1 deciview of impairment “causes” visibility impairment, and a source which leads to 0.5 deciviews of impairment “contributes” to impairment, 40 CFR part 51, App. Y § (III)(A)(1). This visibility improvement is well within the range of values for previous final BART determinations. In addition to being comparable to other BART determinations, the visibility improvement from a new scrubber is necessary as BART to move both affected Class I areas closer to natural visibility conditions.<sup>97</sup>

EPA’s cost and visibility analyses only undermine the State’s proposed BART determination, by demonstrating that the cost and visibility improvement from a scrubber are within the range of values which states and EPA routinely find to be reasonable, and on a case-specific basis, warranted as BART based on a five-factor analysis. EPA’s own analysis concluded that the average cost-effectiveness is \$2,706 per ton for SDA and \$2,743 per ton for wet FGD. 82

<sup>97</sup> The Cost Effectiveness spreadsheet and related documents used to develop the following charts are attached as Exhibit 5. “At a single Class I area” refers to either the benefit at the most impacted Class I area or the highest benefit at any single Class I area (these are often but not always the same Class I area).

FR at 32299. As the chart below indicates, these values are well within the range of average cost-effectiveness values for final BART determinations.<sup>98</sup> EPA has not explained how it can approve the rejection of a scrubber when the cost-effectiveness and visibility improvement values are within the range that EPA has found reasonable in so many other haze rulemakings.

The commenter estimates the costs of a dry scrubber would cost \$2,272 to \$2,335 per ton and a wet scrubber would cost \$2,328 to \$2,361 per ton.<sup>99</sup> And while the commenter states that it does not believe that incremental cost-effectiveness<sup>100</sup> should be a determining factor, it notes that EPA found that the incremental cost-effectiveness of a dry scrubber relative to DSI is \$1,671. Both the average and incremental cost-effectiveness of a scrubber are well-within the range of cost-effectiveness values that states and EPA have found reasonable. See “Cost Effectiveness and Visibility in BART Determinations” spreadsheet (showing that many final BART determinations have an average cost-effectiveness exceeding \$2,700 per ton of SO<sub>2</sub> removed), Attached as Exhibit 5 (“Cost Effectiveness Spreadsheet”). Given the degree to which Nelson contributes to impairment at Class I areas, and the statutory mandate to restore natural conditions to these skies, the cost of a scrubber is justified as BART for this facility.

*Response:* The charts provided by the commenter give the ranges of cost-effectiveness and visibility benefits of controls identified by EPA and states in previous BART determinations for both NO<sub>x</sub> and SO<sub>2</sub>. However, these charts do not provide information on the visibility benefits, costs of controls, or incremental costs and benefits for technologies that were rejected in each of these determinations or in other situations where no additional controls were required to meet BART. Each BART determination is dependent on the specific situation and requires

<sup>98</sup> See also Dec. 30 Comments, Ex. D Letter from Guy Donaldson to Entergy Services (May 20, 2015) (describing deficiencies in modeling); Letter from Kelly McQueen to Guy Donaldson (Apr. 15, 2016), EPA Doc. No. LA059–006– 4 11 Reply to EPA on LA BART Issues Final 4–15–16.pdf (purporting to address EPA concerns about modeling and cost methodology, but declining to correct errors and deficiencies).

<sup>99</sup> See Stamper Report (attached as Technical Support Document to Conservation Organizations June 18, 2017 comment letter).

<sup>100</sup> EPA defines “incremental cost-effectiveness” as the difference between the cost-effectiveness of one pollution control and the cost-effectiveness of the next-most-effective pollution control. See 40 CFR part 51, App. Y § (IV)(D)(4)(E).

<sup>96</sup> For example, gross heat rate and SO<sub>2</sub> rate.

consideration of a number of factors including, the characteristics of the fuel burned at the source, the existing controls, the control efficiency of available control technologies, the remaining useful life, the costs and incremental costs of controls and the anticipated visibility benefit of each potential control. The Regional Haze Rule and BART Guidelines do not require the state to select as BART a more effective technology merely because it has visibility benefits or cost-effectiveness that fall within the range of previous cases, nor do they prohibit the state from choosing as BART a less effective technology measure that falls outside the range of previous cases. The state must consider all 5 statutory factors.

The Clean Air Act gave EPA the power to identify pollutants and set air quality standards. Congress gave states “the primary responsibility for implementing those standards.” *Luminant Generation Co. v. EPA*, 675 F.3d 917, 921 (5th Cir. 2012). (internal quotation marks omitted); see 42 U.S.C. 7407(a) (“Each State shall have the primary responsibility for assuring air quality within [its] entire geographic area.”); *id.* sec. 7401(a)(3) (“[A]ir pollution prevention . . . is the primary responsibility of States and local governments.”) The states have “wide discretion” in formulating SIPs. *Union Elec. Co. v. EPA*, 427 U.S. 246, 250 (1976). The Clean Air Act provides that EPA “shall approve” a SIP “if it meets the applicable requirements of this chapter.” 42 U.S.C. 7410(k)(3). EPA’s regulations under the CAA “do not require uniformity between . . . actions in all circumstances and instead ‘allow for some variation’ in actions taken in different regions.” 81 FR at 326 (quoting *Amendments to Regional Consistency Requirements*, 80 FR 50250, at 50258 (Aug. 19, 2015)). Some variation is to be expected because SIP actions are highly fact-dependent. Though we identified errors in Entergy’s cost and visibility analyses, EPA conducted its own cost and visibility analyses in accordance with the applicable regulations and guidelines. EPA’s cost and visibility analyses are part of the SIP submission (Appendix F) and were included in the information considered by the State in making their BART determination. LDEQ considered all information in the record, including all estimates of visibility benefits, annual costs, cost-effectiveness, and incremental cost provided by EPA and Entergy. The state weighed the factors considering all available information included in the SIP, and concluded that “the use of

lower sulfur coal presents the appropriate SO<sub>2</sub> control based on consideration of economics, energy impacts, non-air quality environmental impacts, and impacts to visibility.” EPA has reviewed all the information in the SIP submittal and finds that the state’s determination is approvable.

*Comment:* EPA arbitrarily ignores the impact that errors in the cost and modeling analyses relied on by the State had on the State’s BART determination. The State rejected a scrubber in favor of low-sulfur coal based on comparing the relative costs and visibility benefits of the two controls. Yet EPA found that the factors on which the State based its decision, cost and visibility benefits, are thoroughly inaccurate. EPA failed to explain how the Entergy analyses the State relied on can be incorrect, but the State’s ultimate BART determination can be approvable.

*Response:* As explained in previous responses, EPA reviewed the State’s entire submission, including any attached appendices and supporting documentation in determining whether the State’s submission is approvable. EPA conducted its own cost and visibility analyses and submitted these analyses to the State for review in its determination. LDEQ reviewed this information as is evidenced by its SIP submission. LDEQ states, “LDEQ has weighed the five factors and after a review of both Entergy’s and EPA’s information . . .” This indicates that the State reviewed the information it received from both Entergy and the EPA in making its determination. After reviewing the relevant information contained in the State’s SIP, we determined that the State’s SIP is approvable.

*Comment:* The record indicates that EPA Region 6 has, on multiple occasions, expressed concerns with Entergy’s modeling and cost analyses, as well as the Company’s proposed baseline emission rates.<sup>101</sup> Those documents—including Entergy’s October 14, 2016 analysis, EPA’s underlying March 16, 2016 *Preliminary Review Response* letter explaining its concerns with Entergy’s modeling methodology, and any EPA response to Entergy’s letter—do not appear to be

included in the administrative record. Moreover, Louisiana’s final BART analysis for Nelson does not address, let alone correct, many of the flaws EPA identified. As a result, the public has been deprived of information relevant to the legal and factual basis for Entergy’s BART analysis, and is therefore unable to comment meaningfully on EPA’s proposed approval of the BART analysis.

*Response:* The letters referenced by the commenter were made available by LDEQ on its website during its comment period. The final February 2017 SIP EPA received from LDEQ did not contain these letters as attachments, so they were inadvertently left out of the EPA docket, but they have since been placed in the docket. We note that the commenter cited to these letters in its comment, indicating that the commenter had the opportunity to review them. We also note that Entergy’s response letter was included in the docket. This response letter included the questions raised by EPA in its initial letter verbatim.<sup>102</sup> EPA did not rely on the Entergy’s CAMx analysis in the October 2017 LA RH SIP, Appendix D, which is referred to by the commenter for our proposed approval of the State’s SIP. While we found Entergy’s modeling and methodology to be flawed, we also conducted our own CAMx modeling which LDEQ included in its SIP submission as an appendix.<sup>103</sup>

#### E. Legal

*Comment:* LDEQ stated it disagreed with EPA’s use of the phrase “adopted and incorporated” when referring to the analysis provided to LDEQ by EPA. It stated that it places all documents and information submitted to it in connection with the development of the SIP in an administrative record. Such placement in the record does not indicate that LDEQ agrees with or has adopted positions, conclusions, or decisions, nor has incorporated them into the SIP revisions submitted to EPA. The final SIP document and any enforceable conditions included therein encompass the final decision by LDEQ.

*Response:* EPA recognizes that LDEQ independently reached the final determination presented in its Nelson RH SIP. We did not intend to imply that we substituted our own judgment for LDEQ’s. When reviewing a SIP to determine whether it meets the

<sup>101</sup> See, e.g., Trinity Consultants, Inc., CAMx Modeling Report Prepared for Entergy Services (Oct. 14, 2016), available at <http://edms.deq.louisiana.gov>, LDEQ AI No. 174156, Doc. Nos. 10369532\_6of7.pdf and 10369532\_7of7.pdf (describing EPA critique of CAMx modeling platform, but excluding underlying letter), attached as Exhibit 4; see also Dec. 30 Comments, Ex. D, Letter from EPA Air Planning Chief Guy Donaldson to Firdina Hyman, Response to Deviations Request for Best Available Retrofit Applicability Screening Modeling (May 20, 2015); Letter from Kelly

<sup>102</sup> Letter dated April 15, 2016, from Kelly McQueen to Guy Donaldson Re Supplement to BART-Related Submittals Provided in Response to CAA Section 114(a) Information Requests for Entergy Louisiana, Entergy New Orleans, and Entergy Gulf States.

<sup>103</sup> October 2017 LA RH SIP, Appendix F.

applicable statutory and regulatory requirements, EPA considers the final SIP document as well as any accompanying supporting documents or appendices that have been submitted by the State. Reviewing the supporting documents and appendices assists EPA in determining how the State reached its final conclusion, and thus, helps determine whether the final conclusion meets the applicable statutory and regulatory requirements. We also note that in the SIP revision submitted to EPA in October 2017, LDEQ stated that the “. . . SIP is being revised to include the EPA information.”<sup>104</sup> This indicates that LDEQ considered the information provided by EPA when making its determination. It is thus appropriate for EPA to similarly rely on this information in our final rule.

*Comment:* LDEQ disagreed with the solicitation of comments on Entergy’s cost per ton figure by EPA. LDEQ stated that it conducted its own public comment period and any comments submitted on this point are procedurally improper.

*Response:* While it is correct that LDEQ conducted its own public comment period, this does not relieve EPA of its duty under the Administrative Procedure Act to provide the public with notice of its proposed rulemaking and an opportunity to comment.

*Comment:* After finding that the Entergy analysis on which the State relies is unverifiable and unsupported by the facts before the agency—which demonstrate that a new scrubber would be both cost effective and significantly improve visibility—EPA inexplicably proposed to approve the State’s BART determination. EPA’s proposal is the quintessential example of an agency decision that is inconsistent with the evidence before the agency, and it would be arbitrary and capricious for EPA to finalize its proposal. *See North Dakota v. EPA*, 730 F.3d 750, 761 (8th Cir. 2013) (citing *Ala. Dep’t of Env’tl. Conservation v EPA*, 540 U.S. 461, 485, 490 (2004)) (EPA must ensure that the state’s regional haze plan is “reasonably moored to the Act’s provisions” and based on “reasoned analysis” of the facts).

*Response:* In our proposal we noted that we were unable to verify the cost analysis submitted by Entergy because it was based on a propriety database.<sup>105</sup> However, as stated in our proposed rule, we developed our own BART analysis, including a control cost analysis, which

was reviewed by LDEQ and submitted as an appendix to LDEQ’s SIP submission<sup>106</sup> and considered in LDEQ’s weighing of the five factors in reaching its determination regarding controls at Nelson. Thus, LDEQ included in its SIP and considered information adequate to provide a basis for its decision. As stated in a previous response, EPA reviews all information submitted by the State along with any other relevant publicly available information in determining whether its SIP submission is approvable, including any appendices or other supporting documentation.

*Comment:* The State also failed to consult with the Federal Land Managers regarding the proposed BART determination for Nelson Unit 6. This violates the statutory and regulatory requirements that each state consult with the Federal Land Managers prior to holding a public hearing on the SIP and that the State include in the public notice a summary of the Federal Land Managers’ recommendations. EPA must disapprove the SIP submission based on the State’s violation of the BART Guidelines and the consultation requirements. “Before holding the public hearing on the proposed revision of an applicable implementation plan to meet the requirements of this section, the State . . . shall consult in person with the appropriate Federal land manager or managers and shall include a summary of the conclusions and recommendations of the Federal land managers in the notice to the public.” 42 U.S.C. 7491(d). EPA may not approve a plan which violates applicable Clean Air Act requirements, and therefore EPA must disapprove the plan based solely on the State’s violation of the consultation requirements.

*Response:* As evidenced by the letter sent to LDEQ by the Fish and Wildlife Service,<sup>107</sup> LDEQ consulted with the appropriate Federal Land Managers regarding its RH SIP submission. In its general comments, the Fish and Wildlife Service stated that more information was needed to determine the validity of LDEQ’s conclusions and recommended that LDEQ include the information it relied upon in reaching its decision. In reference to Nelson, the Fish and Wildlife Service stated that it was aware that more information was available and that it would be interested in reviewing this information. Subsequently, LDEQ submitted an addendum to its SIP to include the analyses conducted by EPA.

LDEQ provided the updated information, as requested, to the Fish and Wildlife Service via email on July 12, 2017.<sup>108</sup>

*Comment:* The only outcome consistent with EPA’s findings in the record is for EPA to disapprove the State’s analysis and issue a federal implementation plan for SO<sub>2</sub> BART setting emission limits consistent with the operation of a new scrubber.

*Response:* As explained in previous responses, EPA reviewed the State’s entire submission, including any attached appendices and supporting documentation, as a whole in determining whether the State’s submission is approvable. After reviewing the relevant information, we determined that the State’s SIP is approvable.<sup>109</sup>

*Comment:* The State expressly notes that in reaching its decision, it relied on Entergy’s analysis.<sup>110</sup> EPA has an independent obligation to ensure that the State’s analysis complies with the Clean Air Act. *See Ala. Dep’t of Env’tl. Conservation v. EPA*, 540 U.S. at 485 (upholding EPA’s interpretation of the Clean Air Act as authorizing EPA to “review permits to ensure that a State’s BACT determination is reasonably moored to the Act’s provisions”); *North Dakota v. EPA*, 730 F.3d at 761 (extending the holding of *Alaska Dep’t of Env’tl. Conservation* to EPA’s role under the haze provisions of the Clean Air Act); *Oklahoma v. EPA*, 723 F.3d 1201, 1208 (10th Cir. 2013) (“Given that the statute mandates that the EPA must ensure SIPs comply with the statute, we fail to see how the EPA would be without the authority to review BART determinations for compliance with the guidelines.”)

*Response:* In its SIP, LDEQ states, “LDEQ has weighed the five factors and after a review of both Entergy’s and EPA’s information. . . .”<sup>111</sup> This indicates that the State reviewed all the information it received from both Entergy and the EPA. As stated in a previous response, LDEQ indicated in its SIP that it was revising its previous submission to include the additional information provided by EPA. This further indicates that the State considered this information in its determination. While we did note the errors that were present in Entergy’s analysis, we also stated that we conducted our own analysis in

<sup>108</sup> Appendix A of the October 2017 Louisiana Regional Haze SIP.

<sup>109</sup> See our proposed rule for our full analysis. 82 FR 32294 (July 13, 2017).

<sup>110</sup> LA RH SIP October 2017 at p. 6.

<sup>111</sup> LA RH SIP Revision Addendum, June 19, 2017, p. 6.

<sup>104</sup> Louisiana Regional Haze State Implementation Plan: EGU BART Analysis, June 19, 2017, p. 3.

<sup>105</sup> 82 FR 32294, 32298 (July 13, 2017).

<sup>106</sup> *Id.*

<sup>107</sup> See, Letter from the U.S. Department of Interior Fish and Wildlife Service to Vivian Aucoin, December 14, 2016.



accordance with the applicable regulations and provisions of the Act, and provided this information to LDEQ.<sup>112</sup> With the inclusion of the information from EPA, LDEQ had adequate information to make its decision.

*Comment:* EPA's proposal violates the procedural requirement of the Clean Air Act that EPA place in the public rulemaking docket the data on which the proposed rule relies. The Act requires that a proposed rule include a summary of the "factual data on which the proposed rule is based," 42 U.S.C. 7607(d)(3)(A), and such "data . . . on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule." *Id.* sec. 7607(d)(3). EPA proposed to approve the State's BART determination, which relies on Entergy's BART analyses. Therefore, EPA's proposed rule also relies on Entergy's BART analyses, yet factual data from Entergy's BART analyses are not included in the docket, namely, the proprietary database for calculating scrubber costs, 82 FR at 32298, and "model inputs, such as emissions or stack parameters" and "worksheets utilized for post-processing, or any of the actual CAMx modeling files." Appendix F, CAMx Modeling TSD at 30. By failing to include this data in the rulemaking docket, EPA has violated 42 U.S.C. 7607(d)(3). See *Kennecott Corp. v. EPA*, 684 F.2d 1007, 1018 (D.C. Cir. 1982) ("If that argument be factually based, the financial analyses clearly form a basis for the regulations and should properly have been included in the docket. In all events, absence of those documents, or of comparable materials showing the nature and scope of its prior practice, makes impossible any meaningful comment on the merits of EPA's assertions."). Entergy's consultant, Trinity, failed to provide fundamental information concerning its visibility modeling. "Trinity did not provide model inputs, such as emissions or stack parameters, or provide worksheets utilized for post-processing, or any of the actual CAMx modeling files so our review is limited only to general description [sic] of the modeling protocol provided in the various CAMx modeling reports provided by Entergy." Draft SIP, Appendix F, CAMx Modeling TSD at 30.

*Response:* As stated in previous responses, EPA conducted its own cost and modeling analyses and submitted them to LDEQ for its consideration. LDEQ considered the information

provided by EPA<sup>113</sup> as well as that provided by Entergy<sup>114</sup> in making its final BART determination based upon weight of evidence. LDEQ stated in its February 2017 SIP submission that it did not have the expertise with which to review the summary of the CAMx modeling analysis provided by Entergy.<sup>115</sup> LDEQ further stated in its June 2017 parallel processing proposed submission that it did not use the results of the CAMx modeling provided by Entergy to determine whether the units in question have satisfied the BART requirements.<sup>116</sup> EPA reviewed the modeling inputs, approach and the model results that were available in Entergy's submitted analysis that were part of the LDEQ's June 2017 proposal. With this information, EPA was able to determine that the modeling was not consistent with the BART guidelines and should not be relied upon.<sup>117</sup> Thus, the underlying information used to generate the CAMx modeling summary in Entergy's analysis is not required to be placed in the docket.<sup>118</sup> After reviewing the relevant information, we determined that the State's SIP is approvable. All of the information EPA relied on its determination was made available in the docket during the comment period.

#### F. CSAPR-Better-Than-BART

*Comment:* Louisiana's proposal unlawfully exempts sources from installing BART controls without going through the exemption process Congress prescribed. The visibility protection provisions of the Clean Air Act include a "requirement" that certain sources "install, and operate" BART controls. 42 U.S.C. 7491(b)(2)(A). Congress specified the standard by which sources could be exempted from the BART requirements, which is that the source is not "reasonably anticipated to cause or contribute to a significant impairment of visibility" in any Class I area. *Id.* sec. 7491(c)(1). Appropriate federal land managers must concur with any proposed exemption. *Id.* sec. 7491(c)(3). Neither EPA nor Louisiana has demonstrated that the Louisiana EGUs subject to BART meet the standards for

an exemption. Nor has EPA or the state obtained the concurrence of federal land managers. Therefore, Louisiana must require source-specific BART for each power plant subject to BART.

*Response:* To the extent the comment is directed to the prior rules that determined and re-determined that CSAPR is better than BART and may be relied upon as an alternative to BART, we disagree that relying on CSAPR is in conflict with the CAA provision regarding exemptions from BART. In addition, the commenter's objection does not properly pertain to this action, but instead to our past action that established 40 CFR 51.308(e)(4). We believe this comment to fall outside of the scope of our action here. To the extent the comment objects to BART alternatives generally, we also disagree. In addition, that objection does not properly pertain to this action, but instead to our past regulatory action that provided for BART alternatives.

*Comment:* Even if Louisiana could meet a BART statutory exemption test, the state cannot rely on CSAPR because of flaws in the rule that purport to show that CSAPR makes more reasonable progress than BART (the "Better than BART" rule). EPA's regulations purport to allow the use of an alternative program in lieu of source-specific BART only if the alternative makes "greater reasonable progress" than would BART. 40 CFR 51.308(e)(2). To demonstrate greater reasonable progress, a state or EPA must show that the alternative program does not cause visibility to decline in any Class I area and results in an overall improvement in visibility relative to BART at all affected Class I areas. *Id.* § 51.308(e)(3)(i)-(ii). Here, EPA claims that its 2012 "Better than BART" rule demonstrated that CSAPR achieves greater reasonable progress than BART. See 77 FR 33642.

EPA compared CSAPR to BART in the Better than BART rule by using CSAPR allocations that are more stringent than now required as well as by using presumptive BART limits that are less stringent than required under the statute.<sup>119</sup> These assumptions tilted the scales in favor of CSAPR. It would be arbitrary and capricious for EPA to rely on such an inaccurate, faulty comparison to conclude that CSAPR will achieve greater reasonable progress than will BART. Even under EPA's skewed comparison, CSAPR achieves barely more visibility improvement than BART at the Breton and Caney Creek National Wilderness Areas. If EPA had modeled accurate BART limits and up-to-date CSAPR allocations, then EPA

<sup>113</sup> LA RH SIP, October 2017, Appendix F.

<sup>114</sup> *Id.* at Appendix D.

<sup>115</sup> LA RH SIP EGU BART Analysis, February 2017, p. 16.

<sup>116</sup> LA RH SIP Revision Addendum, June 19, 2017, p. 5.

<sup>117</sup> See the CAMx Modeling TSD and the Modeling RTC for additional information.

<sup>118</sup> We note that the summary of the CAMx modeling conducted by Entergy was included as part of LA's SIP submission and was available in the docket for review. The summary contained sufficient information for EPA to review Entergy's analysis.

<sup>119</sup> See 2011 Comments at 20-32.

would likely find that CSAPR would lead to less visibility improvement than BART.

As explained in detail in the attached briefing regarding the still-pending litigation challenging EPA's Better than BART rule, the Better than BART rule not only fails to meet the Clean Air Act's statutory requirements for a BART exemption but also fails to account for the geographic and temporal uncertainties in emissions reductions under CSAPR.<sup>120</sup> We also submit and incorporate our February 28, 2011 comments and our supplemental March 27, 2012 comments on the Better than BART Rule, which are relevant to EPA's proposal to rely on CSAPR as a BART alternative.

Moreover, EPA's Better than BART determination fails to account for the inherent uncertainties in emissions reductions under CSAPR. BART is a technology that must be installed and operated year-round, and a corresponding emission limit that must also be met year-round. BART emissions limits must be met on a "continuous basis." See 42 U.S.C. 7602(k) (emphasis added). By contrast, CSAPR allows trading of emissions allowances between sources, including between sources in different states, rather than imposing a fixed emission limit for each source. EPA's assessment of CSAPR Better than BART does not and cannot assess the unknown impact of complex trading under CSAPR on the Class I areas affected by Louisiana sources.

EPA cannot lawfully rely on the Better than BART rule because the rule is based on a version of CSAPR that no longer exists. Accordingly, any conclusion that EPA made in the 2012 Better than BART rule regarding whether CSAPR achieves greater reasonable progress than BART is no longer valid. Since 2012, EPA has significantly changed the allocations and the compliance deadlines for CSAPR. Of particular relevance here, after 2012, EPA increased the total ozone season CSAPR allocations for every covered EGU in Louisiana. 77 FR 34830, 34835 (June 12, 2012). EPA also extended the compliance deadlines by three years, such that the phase 1 emissions budgets take effect in 2015–2016 and the phase 2 emissions budgets take effect in 2017 and beyond. 79 FR 71663 (Dec. 3, 2014).

In addition to EPA's increased emissions budgets and extended compliance timeline, the D.C. Circuit's

decision in *EME Homer City Generation v. EPA*, 795 F.3d 118, 130–32 (D.C. Cir. 2015), which invalidated the SO<sub>2</sub> or NO<sub>x</sub> emission budgets for thirteen states, has fundamentally undermined the rationale underlying EPA's Better than BART rule. Specifically, the Court invalidated the 2014 SO<sub>2</sub> emission budgets for Alabama, Georgia, South Carolina, and Texas, and the 2014 NO<sub>x</sub> emission budgets for Florida, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and West Virginia. *Id.* at 124. Of particular relevance here, the D.C. Circuit invalidated the CSAPR budgets for Texas, Alabama, and Georgia, which most impact visibility at Louisiana's Class I area. As explained in our initial brief in the still-pending challenge to the CSAPR Better than BART rule, the effect of *Homer City* is to pull the rug out from under EPA's BART exemption rule. This remains true even though some states have, in the wake of *Homer City*, opted in to CSAPR in lieu of issuing source-specific BART determinations. Texas, the state with the most SO<sub>2</sub> emissions, has not opted in to CSAPR after the *Homer City* court remanded the CSAPR SO<sub>2</sub> budgets for Texas, and therefore the CSAPR Better than BART Rule rests on facts which no longer exist. These assumptions underpinned EPA's finding that CSAPR was Better than BART. It would be arbitrary and capricious for EPA to now rely on the same assumptions, a blatantly inaccurate, outdated, faulty comparison to conclude that CSAPR will achieve greater reasonable progress than will BART. Even under EPA's skewed comparison, CSAPR barely achieved more visibility improvement than BART at the Breton and Caney Creek National Wilderness Areas. If EPA had modeled accurate BART limits and the modified CSAPR allocations as per the D.C. Circuit decision, then EPA would likely find that CSAPR would lead to less visibility improvement than BART.

*Response:* As we had proposed, our finalized determination that CSAPR participation will resolve NO<sub>x</sub> BART requirements for Louisiana EGUs is based on a separately proposed and finalized action. This comment falls outside of the scope of our action here.

*Comment:* Louisiana's reliance on CSAPR Better than BART is unlawful because the emissions reductions achieved by CSAPR in Louisiana are limited to five months of the year—the ozone season. Given that any controls that might be installed to meet CSAPR are not required to be operated year-round, CSAPR does nothing to protect the affected Class I areas during the

remaining seven months of each year. In fact, as noted in EPA's Technical Support Document and in the National Park Service's comments on EPA's proposed disapproval of Louisiana's 2008 SIP, the adverse impacts of Louisiana NO<sub>x</sub> emissions on visibility are highest in the winter months—*i.e.*, outside of the ozone season. Letter from Susan Johnson, Department of the Interior to Guy Donaldson, EPA Docket ID No. EPA–R06–OAR–2008–0510–0017, at 2 (Mar. 28, 2012), attached as Exhibit 4. Thus, NO<sub>x</sub> emissions reductions that are effective only during the ozone season will not address the visibility impact due to wintertime ammonium nitrate at Breton Island or other Class I areas in neighboring states.

Even within the five-month ozone season, CSAPR allows for temporal variability such that a facility could emit at high levels within a shorter time period, creating higher than anticipated visibility impacts. Because of the high degree of variability and flexibility, power plants may exercise options that would lead to little or no emission reductions. For example, a facility in Louisiana might purchase emission credits from a source beyond the air shed of the Class I area the Louisiana source impairs. Because CSAPR requirements only pertain to the Louisiana source for a fraction of the year, that source may be even more incentivized to purchase emission credits from elsewhere than a source in a fully covered CSAPR state. Thus, without knowing which Louisiana EGUs will reduce pollutants by what amounts under CSAPR, or when they will do so, and because these emissions reductions are applicable for less than half the year, Louisiana simply cannot know the impact of CSAPR upon Breton and other affected Class I areas.

For these reasons, reliance on CSAPR to satisfy the NO<sub>x</sub> BART requirements is unlawful. EPA should disapprove Louisiana's reliance on CSAPR to satisfy the NO<sub>x</sub> requirements, and issue a FIP with source-specific BART determinations for NO<sub>x</sub>.

*Response:* We disagree with this comment, but also note that it should not be directed to this action but rather to the past rulemaking determination that provided BART coverage for pollutant trading under CSAPR as specified at 40 CFR 51.308(e)(4). In any event, the argument that BART must be based on "continuous" control does not transfer to the application and operation of a BART alternative. Sources that would operate under an annual trading program that provides tons per year allocations for a unit are not necessarily applying "continuous" controls either.

<sup>120</sup> See Conservation Groups' Opening Brief, *Util. Air Regulatory Grp. v. EPA*, No. 12–1342, ECF Doc. 1666640 (D.C. Cir. filed Mar. 17, 2017), Exhibit 3 of Sierra Club's June 19, 2007 comment letter.



In fact, they are also free to operate seasonally or with intermittent use of controls so long as they operate within the allocation or purchase allowances whenever emissions may exceed that allocation. We necessarily disagree that EPA regulations would bar seasonal emissions reductions to satisfy requirements for a BART alternative.

*Comment:* Louisiana purports to satisfy the regulatory requirements for a BART alternative by relying on ozone-season budgets for NO<sub>x</sub> that no longer exist. To rely on CSAPR as an alternative to BART, Louisiana must demonstrate that the version of CSAPR that is now in effect, and will be in effect at the time of the final rule, makes greater reasonable progress than BART. Having failed to make that demonstration, Louisiana has not met its burden to show that CSAPR will achieve greater reasonable progress than source-specific BART. See 40 CFR 51.308(e)(2), (3). More troubling, Louisiana's reliance on the CSAPR "Better than BART" rule fails to account for, or even mention, the possibility that CSAPR or the "Better than BART" rule will not exist in any form when the SIP is finalized.

*Response:* As we had proposed, our finalized determination that CSAPR participation will resolve NO<sub>x</sub> BART requirements for Louisiana EGUs is based on a separately proposed and finalized action. On September 29, 2017, we affirmed our proposed finding that the EPA's 2012 analytical demonstration remains valid and that participation in CSAPR, as it now exists, meets the Regional Haze Rule's criteria for an alternative to BART.<sup>121</sup> This comment falls outside of the scope of our action here.

*Comment:* EPA need not wait to finalize this element of the Proposed Rule until the Agency finalizes its proposed finding that CSAPR continues to be better than BART despite the removal of Texas from the annual NO<sub>x</sub> and SO<sub>2</sub> trading programs.<sup>122</sup> EPA has performed technical analyses supporting its conclusion that the ozone season NO<sub>x</sub> trading program remains "better than" BART despite the removal of Texas from the annual programs, which supports a final action in this rulemaking.<sup>123</sup> Further, this Proposed

Rule provides sufficient public notice and opportunity to comment on whether CSAPR participation appropriately satisfies NO<sub>x</sub> BART requirements for Louisiana EGUs. In light of this, EPA should determine in this rulemaking that participation in CSAPR satisfies BART for NO<sub>x</sub> emissions from Louisiana's EGUs. At the very least, EPA should finalize its proposal that CSAPR remains better than BART<sup>124</sup> in an expeditious manner, so that it can finalize this portion of the Proposed Rule.

*Response:* We have finalized our proposed rule finding that CSAPR continues to be better than BART despite the removal of Texas from the annual NO<sub>x</sub> and SO<sub>2</sub> trading programs,<sup>125</sup> so this comment is no longer relevant.

#### *H. Long-Term Strategy and Reasonable Progress*

*Comment:* The proposal unlawfully fails either to approve a corrected long-term strategy or to issue a federal implementation plan ("FIP") containing a proper long-term strategy as required by the CAA and federal regulations. Regardless of whether the previous version of the Regional Haze Rule or the Revised Regional Haze Rule governs this rulemaking, the requirements are the same: EPA is obligated to consider the four statutory factors to determine whether controls are needed at non-BART sources in order to make reasonable progress regardless of whether such measures are needed to attain reasonable progress goals or the uniform rate of progress. See 82 FR 3078, 3080, 3090–91 (Jan. 10, 2017); 79 FR 74818, 74828–30 (Dec. 16, 2014). EPA's proposal does not contain a reasonable progress analysis which considers these four factors for non-BART sources, such as Dolet Hills. The Revised Regional Haze Rule (82 FR 3078) explicitly brings the long-term strategy regulations in line with the statutory command to contain measures as necessary to make reasonable progress. Under the new requirements, "[t]he long-term strategy must include the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress, as determined pursuant to (f)(2)(i) through (iv)."

EPA's proposal provides no evidence that the State submitted a revised

submittal which "evaluate[d] and determine[d] the emission reductions measure that are necessary to make reasonable progress" by evaluating the four statutory factors. Nor is there any evidence of criteria the State used to evaluate which sources should be evaluated in the reasonable progress analysis, and how the four factors were considered. In comments we submitted to the State, we noted that under any reasonable criteria for screening sources, Dolet Hills should be evaluated under the long-term strategy requirements. See Letter from Joshua Smith, Sierra Club to Vivian Aucoin, Louisiana Department of Environmental Quality at 7–11 (Dec. 14, 2016), attached as Exhibit 5. Cleco Power's lignite-fired Dolet Hills Power Station is one of the largest sources of visibility-impairing SO<sub>2</sub> and NO<sub>x</sub> emissions in Louisiana. States and EPA routinely use a Q/D analysis as an initial screening method for determining which sources should be analyzed using the four factors. Using this approach, EPA, the states, and federal land managers generally conduct modeling for any source that has a Q divided by D threshold of 10 or more. Using Dolet Hills's average annual SO<sub>2</sub> and NO<sub>x</sub> emissions from 2000–2016, Dolet Hills easily meets the Q/D threshold for additional modeling based on impacts to Breton National Wilderness Area and Caney Creek National Wilderness Area. For example, the Q/D for Dolet Hills based on annual SO<sub>2</sub> emissions (17,907 tpy) and distance to Breton (500 km) would be 35.8.

Based on the Q/D analysis, EPA was required to issue a FIP applying the four factors to Dolet Hills to determine whether additional emissions reductions are necessary at Dolet Hills to make reasonable progress. EPA's failure to do so violates the statute and the implementing regulations. The Stamper Report also provides a rough estimate of what such a four-factor analysis would look like for Dolet Hills for SO<sub>2</sub>. First, there is ample support for requiring reasonable progress controls at Dolet Hills within a reasonable amount of time—no more than five years—just as EPA did for similar sources in the Texas reasonable progress FIP. Second, as EPA has recognized, the SO<sub>2</sub> control technologies of wet and dry FGD systems are widely used at coal-fired power plants all over the United States, and any energy and non-air quality environmental impacts of these controls are vastly outweighed by the benefits of significant reductions of air pollutants. Third, the Dolet Hills Power Plant began operation in 1986, and Cleco Power has indicated that the expected lifetime of

<sup>121</sup> 82 FR 45481 (September 29, 2017).

<sup>122</sup> Proposed Rule, at 22938 (citing Proposed Rule, Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas, 81 FR 78954 (Nov. 10, 2016) (Proposed Texas Interstate Transport FIP)).

<sup>123</sup> Proposed Rule, Promulgation of Air Quality Implementation Plans; State of Texas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan, 82 FR 912, 946 (Jan. 4, 2017)

("EPA's actions in response to the D.C. Circuit's remand would not adversely impact our 2012 demonstration that CSAPR is better than BART"); Proposed Texas Interstate Transport FIP at 78954.

<sup>124</sup> Proposed Texas Interstate Transport FIP, 81 FR 78954.

<sup>125</sup> 82 FR 45481 (September 29, 2017).

the unit is sixty years. In any event, because there is no enforceable requirement or deadline for retirement, EPA must assume that the remaining useful life of the plant is 30 years—*i.e.*, the life of the SO<sub>2</sub> pollution controls evaluated.

Finally, it is clear that a new wet FGD system at Dolet Hills would be cost effective. Assuming a 98% SO<sub>2</sub> removal efficiency, or a 0.04 lb/MMBtu SO<sub>2</sub> emission rate, and applying EPA's standard cost assumptions (*i.e.*, a 7% interest rate; 30-year life, etc.), the cost of a new wet FGD scrubber at Dolet Hills would be approximately \$1,710/ton, which is well within EPA's range of reasonable BART costs. Moreover, emissions from the lignite-fired Dolet Hills power plant are currently responsible for significant visibility impairment at a number of Class I areas, including a more than 1.0 deciview (“dv”) baseline impact at Caney Creek. Gray Report at 6, Table 5. The modeling also demonstrates that installation of SO<sub>2</sub> controls at Dolet Hills, such as a replacement wet FGD system, would dramatically improve the visibility at all modeled Class I areas. Indeed, the installation of a wet FGD scrubber at Dolet Hills would improve visibility at Caney Creek by 0.799 dv, relative to baseline 2000–2004 emissions. Moreover, a wet FGD system would result in almost a 0.5 dv improvement at Breton Island in Louisiana, and more than 0.5 dv improvement at Wichita Mountains and the Upper Buffalo. Overall cumulative delta dv impacts across six Class I areas would be reduced from 4.23 to 0.93—a cumulative improvement of 3.30 dv.

In sum, the installation of a new WFGD system at Dolet Hills would be well within the range of costs that EPA has deemed reasonable and cost effective. Moreover, the installation of a new wet FGD system at Dolet Hills would result in a significant and noticeable change in visibility on the peak impact days at several Class I areas. Consequently, EPA must evaluate whether additional emission reductions at Dolet Hills are necessary to ensure reasonable progress toward the national goal.

*Response:* In 2012, we proposed to find that Louisiana's Long Term Strategy (LTS) for the first planning period was deficient given our proposed finding that certain of Louisiana's BART determinations were not fully approvable. “In general, the State followed the requirements of 40 CFR 51.308(d)(1), but these goals do not reflect appropriate emissions reductions

from BART.”<sup>126</sup> We finalized that action, which specifically disapproved the State's LTS, but only insofar as it relied on deficient BART determinations.<sup>127</sup> With this final action, we are approving all of LDEQ's SIP submittals, including the ones submitted after the 2008 SIP submittal, which have cured the deficiencies in the 2008 SIP revision submittal as identified in our 2012 action that related to BART, thus correcting the deficiencies in the LTS portion of the SIP as well. We note that the Regional Haze Rule requires states to submit periodic comprehensive SIP revisions that will continue to assess measures needed to achieve reasonable progress; the next SIP revision is due in 2021. We also note that the Revised Regional Haze Rule referenced by the commenter makes changes to the requirements that states have to meet for the second and subsequent implementation periods, but the revised rule is not applicable to this SIP submittal.<sup>128</sup>

#### *I. Compliance Date for Nelson*

*Comment:* The three-year compliance date for Nelson Unit 6 does not meet the Clean Air Act requirement that BART controls be installed as expeditiously as practicable. There is no specific technical or economic evidence in the record to support a three-year compliance date. The record indicates that Entergy is likely meeting the 0.6 lbs/MMBtu limit now. On September 28, 2017, Entergy's counsel wrote to EPA that “You asked whether the Nelson plant currently is meeting an emission rate of 0.6 lbs/MMBtu. The answer is that Nelson 6 generally is emitting at levels below that level, with periodic exceptions when the sulfur content is higher.”<sup>129</sup> In addition, Entergy's reported monthly emissions data over the last several years clearly indicate that “Entergy has been able to consistently purchase coal with a sulfur content that would enable the Nelson Unit to comply with the 0.60 lbs./MMBtu level.”<sup>130</sup>

Even if Nelson is not currently meeting the proposed SO<sub>2</sub> limit, Entergy's counsel represented to EPA that Nelson could meet the 0.6 lbs/MMBtu limit in 2018 and 2019 if the limit was an annual average rather than

a 30-day rolling average.<sup>131</sup> In the same message, Entergy's counsel stated that Nelson could meet the 0.6 lbs/MMBtu limit, with a 30-day rolling average, “for 2020.”<sup>132</sup> EPA's stated rationale for the deadline extension—that Entergy needs three years to comply—is contradicted by Entergy's statement that it could meet a 30-day rolling average of 0.6 lbs/MMBtu beginning in 2020. Entergy represents that it would “be difficult for Nelson to assure compliance with an emission limit of 0.6 lbs/MMBtu before 2020.”<sup>133</sup> Entergy stated that it was unable to blend fuel, yet this is contradicted by the record. The Company has been “consistently” purchasing low-sulfur coal and “blending them in its feed stream for a number of years.”<sup>134</sup> Entergy did not explain what equipment it had on site, what equipment it believes would be necessary to blend coal, and how much the necessary equipment would cost.

Additionally, Entergy could accept penalties for cancelling portions of its 2018 and 2019 contracts. Entergy did not provide any information about the penalties of cancelling the contract. It would have been able to submit this information to EPA and claim it as confidential business information. Neither the State nor EPA considered any other alternatives to extending the compliance deadline by three years. There is no evidence in the record for this amendment that the State or EPA considered the costs for Entergy to purchase the low-sulfur coal and fuel blending equipment necessary to meet the compliance deadline before 2020. Nor is there any evidence that the State or EPA considered alternatives such as lengthening the averaging time for the 0.6 lbs/MMBtu limit for 2018 and 2019. Inexplicably, no consideration was given to the proposal that Entergy itself made: An annual limit for 2018 and 2019, followed by a 30-day rolling average for 2020.

*Response:* In a letter dated October 26, 2017<sup>135</sup> sent to LDEQ and EPA during the respective comment periods, Entergy stated that though it had recently been receiving lower sulfur

<sup>131</sup> Email from William Bumpers to EPA (Sept. 18, 2017), EPA Docket ID No. EPA-R06-OAR-2017-0129-0041 (“If Nelson were given an annual limit of 0.6 lbs/MMBtu for 2018 and 2019, transitioning to a 30-day rolling average for 2020, Entergy Louisiana believes it could achieve such limits.”).

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> See BART Modeling and Cost Information Technical Assistance Document at 6, 15.

<sup>135</sup> Letter from Kelly McQueen to Samuel Coleman, Re: Proposed Approval and Promulgation of Implementation Plans; Louisiana; Regional Haze State Implementation Plan, EPA-R06-OAR-2017-0129, October 26, 2017.

<sup>126</sup> 77 FR 11856 (Feb. 28, 2012).

<sup>127</sup> 77 FR 39426 (July 3, 2012).

<sup>128</sup> 82 FR 3078 (January 10, 2017).

<sup>129</sup> Email from William Bumpers to EPA (Sept. 18, 2017), EPA Docket ID No. EPA-R06-OAR-2017-0129-0041.

<sup>130</sup> See EPA, BART Modeling and Cost Information Technical Assistance Document at 15 (attached as App'x F to Louisiana SIP).

coal, the sulfur content can vary greatly since its current contract limits the sulfur coal delivered to 1.2 lbs/MMBtu. Entergy further stated that it does not have the equipment necessary to blend fuel which limits its ability to manage variable fuel supplies. Thus, it would not be able to consistently meet the 0.6 lbs/MMBtu emission limit that has been determined to be BART prior to the expiration of its current contracts. BART is required to be installed and operational as expeditiously as practicable, but in no event later than five years after the approval of the SIP. The State took the circumstances at Entergy into account and determined that a compliance period of three years met this requirement. Under the company's current contract, the company could potentially receive coal that violates the limit. Therefore, it is reasonable for company to have time to enter into new contracts with new specifications. Further, the commenter raises the possibility of an annual limit that would be in place sooner. Annual limits, however, are generally not considered appropriate for BART which targets improvements on the days of maximum impact from the source. EPA has reviewed all the information in the SIP submittal and finds that the state has made a reasoned determination that meets the applicable requirements and therefore is approvable.

#### IV. Final Action

We are approving revisions to the Louisiana SIP submitted on June 13, 2008, August 11, 2016, February 10, 2017, and October 26, 2017, as supplemented October 9, 2017, as meeting the regional haze requirements for the first planning period. This action includes the finding that the submittals meet the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and 40 CFR 51.300–308. The EPA is approving the SIP submittals with the supplemental information as meeting the following: The core requirements for regional haze SIPs found in 40 CFR 51.308(d) such as the requirement to establish reasonable progress goals, the requirement to determine the baseline and natural visibility conditions, and the requirement to submit a long-term strategy; the BART requirements for regional haze visibility impairment with respect to emissions of visibility impairing pollutants from non-EGUs and EGUs in 40 CFR 51.308(e); and the requirement for coordination with state and Federal Land Managers in § 51.308(i). For the BART requirements, we are approving LDEQ's determination that the BART-eligible sources at the

following facilities do not cause or contribute to visibility impairment and are not subject to BART: Terrebonne Parish Consolidated Government Houma Generating Station (Houma), Louisiana Energy and Power Authority Plaquemine Steam Plant (Plaquemine), Lafayette Utilities System Louis "Doc" Bonin Generating Station, Cleco Teche, Entergy Sterlington, NRG Big Cajun I, and NRG Big Cajun II. We are also approving LDEQ's reliance on CSAPR to meet the NO<sub>x</sub> BART requirement for EGUs. We are approving the following Agreed Orders on Consent that make the source-specific BART emission limits enforceable for the subject to BART units at the following facilities:

- Phillips 66 Administrative Order on Consent (AOC) No. AE-AOC-14-00211A
- Mosaic AOC No. AE-AOC-14-00274A
- EcoServices AOC No. AE-14-00957 and through the applicability of the New Source Performance Standards for Sulfuric Acid Plants (40 CFR part 60, subpart H)
- Entergy Willow Glen AOC—February 2017 LDEQ submittal, Appendix D
- Cleco Brame Energy Center AOC—February 2017 LDEQ submittal, Appendix B
- Entergy Little Gypsy AOC—February 2017 LDEQ submittal, Appendix D
- Entergy Ninemile Point AOC—February 2017 LDEQ submittal, Appendix D
- Entergy Waterford AOC—February 2017 LDEQ submittal, Appendix D
- Entergy Nelson AOC—October 2017 LDEQ submittal, Appendix D

We are approving the following AOC that limits the emissions such that the units at the facility are not subject to BART:

- NRG Big Cajun II AOC—February 2017 LDEQ submittal, Appendix C

Our approval addresses all of the deficiencies identified in our previous actions on the 2008 SIP revision.

#### V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Louisiana regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 6 Office (please contact Ms. Jennifer Huser 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 (62 FR 27968, May 22, 1997).

#### VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, Interstate transport of pollution, Regional haze, Best available retrofit technology.

Dated: December 14, 2017.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart T—Louisiana**

■ 2. In § 52.970:

- a. Paragraph (d) is amended by revising the heading for “Permit number” to “Permit or order number” in the table titled “EPA-Approved Louisiana Source-Specific Requirements” and by adding new entries at the end of the table; and
- b. Paragraph (e) is amended by adding a new entry for “Louisiana Regional Haze” at the end of the second table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures”.

The amendments read as follows:

**§ 52.970 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

**EPA-APPROVED LOUISIANA SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit or order number	State approval/ effective date	EPA approval date	Comments
* Phillips 66 Alliance Refinery.	* Administrative Order on Consent No. AE–AOC–14–00211A .....	* 4/29/2016	* 12/21/2017, [Insert <b>Federal Register</b> citation].	*
EcoServices LLC. ....	EcoServices AOC No. AE–14–00957 and through the applicability of the New Source Performance Standards for Sulfuric Acid Plants (40 CFR part 60, subpart H).	8/8/2016	12/21/2017, [Insert <b>Federal Register</b> citation].	
Mosaic .....	Mosaic AOC No. AE–AOC–14–00274A .....	6/6/2016	12/21/2017, [Insert <b>Federal Register</b> citation].	
NRG Big Cajun II .....	In the Matter of Louisiana Generating LLC, Point Coupee Parish, Big Cajun II Power Plant.	2/9/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Units 1 and 2.
Cleco Power, LLC Brame Energy Center.	In the Matter of Cleco Power, LLC, Rapides Parish, Brame Energy Center.	2/9/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Unit 1 (Nesbitt 1) and Unit 2 (Rodemacher 2).
Entergy Louisiana, LLC, Little Gypsy Generating Plant.	In the Matter of Entergy Louisiana, LLC, Little Gypsy Generating Plant, St. Charles Parish.	2/13/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Units 2, 3, and the Auxiliary Boiler.
Entergy Louisiana, LLC, Ninemile Point Electric Generating Plant.	In the Matter of Entergy Louisiana, LLC, Ninemile Point Electric Generating Plant, Jefferson Parish.	2/9/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Units 4 and 5.

EPA-APPROVED LOUISIANA SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Permit or order number	State approval/ effective date	EPA approval date	Comments
Entergy Louisiana, LLC, Waterford.	In the Matter of Entergy Louisiana, LLC, Waterford 1 & 2 Electrical Generating Plant, St. Charles Parish.	2/9/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Units 1 and 2.
Entergy Louisiana, LLC, Willow Glen Generating Plant.	In the Matter of Entergy Louisiana, LLC, Willow Glen Generating Plant, Iberville Parish.	2/9/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Units 2, 3, 4, 5, and the Auxiliary Boiler.
Entergy Louisiana, LLC, R. S. Nelson Generating Plant.	In the Matter of Entergy Louisiana, LLC, R. S. Nelson Generating Plant, Calcasieu Parish.	10/26/2017	12/21/2017, [Insert <b>Federal Register</b> citation].	Units 4, 6, and the Unit 4 Auxiliary Boiler.

(e) \* \* \*

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanation
* Louisiana Regional Haze.	* Statewide .....	* 6/13/2008 8/11/2016 2/10/2017 10/26/2017	* 12/21/2017, [Insert <b>Federal Register</b> citation].	* Supplemental information provided 10/9/2017 regarding Entergy Louisiana, LLC, Michoud Electric Generating Plant, Units 1, 2, and 3, Permit no. 2140-00014-V4, effective 4/28/15.

■ 3. Section 52.985 is revised to read as follows:

**§ 52.985 Visibility protection.**

(a) *Measures addressing best available retrofit technology (BART) for electric generating unit (EGU) emissions of nitrogen oxides (NO<sub>x</sub>).* The BART requirements for EGU NO<sub>x</sub> emissions are satisfied by § 52.984.

(b) *Other measures addressing BART.* The BART requirements for emissions other than EGU NO<sub>x</sub> emissions are satisfied by the Louisiana Regional Haze SIP approved December 21, 2017.

[FR Doc. 2017-27452 Filed 12-20-17; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2016-0185; FRL-9972-34-Region 5]

**Air Plan Approval; Ohio; Regional Haze Five-Year Progress Report State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the state of Ohio on March 11, 2016. Ohio's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress toward reasonable progress

goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing regional haze SIP. Ohio's progress report notes that Ohio has implemented the measures in the regional haze SIP due to be in place by the date of the progress report and that Federal Class I areas affected by emissions from Ohio are meeting or exceeding the RPGs for 2018. Ohio also determined that the state's regional haze SIP is adequate to meet these reasonable progress goals for the first implementation period and requires no substantive revision at this time.

**DATES:** This final rule is effective on January 22, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2016-0185. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website.

Although listed in the index, some information is not publicly available, *i.e.*, 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 through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michelle Becker, Life Scientist, at (312) 886-3901 before visiting the Region 5 office.

**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](mailto: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
- II. What action is EPA taking?
- III. Statutory and Executive Order Reviews

### I. Background

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

On October 16, 2017 (82 FR 48030), EPA published a notice of proposed rulemaking (NPR) proposing approval of Ohio's March 11, 2016 Regional Haze Five-Year Progress Report SIP revision on the basis that it satisfies the requirements of 40 CFR 51.308(g) and (h).

The specific details of Ohio's March 11, 2016 SIP revision and the rationale for EPA's approval are discussed in the NPR and will not be restated here. EPA

received one comment agreeing with EPA's assessment of Ohio's March 11, 2016 Regional Haze Five-Year Progress Report.

### II. What action is EPA taking?

EPA is approving Ohio's March 11, 2016 Regional Haze Five-Year Progress Report SIP submittal as meeting the requirements of 40 CFR 51.308(g) and (h).

### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 8, 2017.

**Robert A. Kaplan,**  
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 1. The authority citation for part 52 continues to read as follows:  
**Authority:** 42 U.S.C. 7401 *et seq.*
- 2. In § 52.1870, the table in paragraph (e) is amended by adding a subheading

at the end of the table entitled “Visibility Protection” and the entries “Regional Haze Plan” and “Regional Haze Five-Year Progress Report” under the subheading to read as follows:

**§ 52.1870 Identification of plan.**  
\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
Visibility Protection:				
Regional Haze Plan .....	Statewide .....	March 11, 2011 .....	8/1/2012 .....	Limited approval.
Regional Haze Five-Year Progress Report.	Statewide .....	March 11, 2016 .....	12/21/2017, [insert <b>Federal Register</b> citation].	

[FR Doc. 2017–27521 Filed 12–20–17; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R05–OAR–2017–0323; FRL–9972–33–Region 5]

**Air Plan Approval; Illinois; Volatile Organic Compounds Definition; Withdrawal of Direct Final Rule**

**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 November 7, 2017, direct final rule approving changes to the Illinois Administrative Code definition of volatile organic material, otherwise known as volatile organic compound (VOC). The revision would remove recordkeeping and reporting requirements related to the use of t-butyl acetate as a VOC, and is in response to an EPA rulemaking that occurred in 2016.

**DATES:** The direct final rule published at 82 FR 50811 on November 2, 2017, is withdrawn effective December 21, 2017.

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

**SUPPLEMENTARY INFORMATION:** In the direct final rule, EPA stated that if

adverse comments were submitted by December 4, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on November 2, 2017 (82 FR 50853). EPA will not institute a second comment period on this action.

**List of Subjects in 40 CFR Part 52**

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

**Authority:** 42 U.S.C. 7401 *et seq.*  
Dated: December 11, 2017.  
**Robert A. Kaplan,**  
Acting Regional Administrator, Region 5.

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- Accordingly, the amendment to 40 CFR 52.720 published in the **Federal Register** on November 2, 2017 (82 FR 50811) is withdrawn effective December 21, 2017.

[FR Doc. 2017–27426 Filed 12–20–17; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R05–OAR–2017–0280; FRL–9972–32–Region 5]

**Air Plan Approval; Wisconsin; 2017 Revisions to NR 400 and 406; Withdrawal of Direct Final Rule**

**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 November 7, 2017, direct final rule approving a revision to the Wisconsin State Implementation Plan (SIP). The revision replaces the definition of “emergency electric generator” with a broader definition of “restricted internal combustion engine”, makes amendments to procedures for revoking construction permits as well as language changes and other administrative updates, and lastly, removing from the SIP two Wisconsin Administrative Code provisions that affect eligibility of coverage under general and construction permits.

**DATES:** The direct final rule published at 82 FR 51575 on November 7, 2017, is withdrawn effective December 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Radhica Kanniganti, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–8097, *kanniganti.radhica@epa.gov*.

**SUPPLEMENTARY INFORMATION:** In the direct final rule, EPA stated that if



adverse comments were submitted by December 7, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on November 7, 2017 (82 FR 51594). EPA will not institute a second comment period on this action.

#### List of Subjects in 40 CFR Part 52

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

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

Dated: December 8, 2017.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.2570 published in the **Federal Register** on November 7, 2017 (82 FR 51575) is withdrawn effective December 21, 2017.

[FR Doc. 2017–27425 Filed 12–20–17; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA–R06–OAR–2015–0832; FRL–9972–00–Region 6]

#### Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for Volatile Organic Compound Emissions in the Dallas-Fort Worth Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) submitted by the State of Texas. The Texas SIP submission revises rules for control of volatile organic compounds (VOC) to assist the Dallas-Fort Worth (DFW) moderate nonattainment area (NAA) in attaining the 2008 8-hour ozone (O<sub>3</sub>) National Ambient Air Quality Standards (NAAQS) and demonstrates that Reasonably Available Control

Technology (RACT) requirements are met for the DFW NAA. The submission includes Wise County, a county added as part of the DFW moderate NAA. We are approving the submitted rules and RACT demonstration as part of the DFW moderate NAA SIP and as meeting RACT requirements.

**DATES:** This rule is effective on January 22, 2018.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2015–0832. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

**FOR FURTHER INFORMATION CONTACT:** Robert Todd, 214–665–2156, [todd.robert@epa.gov](mailto:todd.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

#### I. Background

On July 10, 2015 the Texas Commission on Environmental Quality (TCEQ) submitted rule revisions to their 30 TAC, Chapter 115 “Control of Air Pollution from Volatile Organic Compounds” and a demonstration that RACT requirements are met in the DFW NAA for inclusion into the Texas SIP. The background for this action is discussed in detail in our October 5, 2017 proposal, 82 FR 46450. In that document we proposed to approve the submitted TAC Chapter 115 SIP revisions into the SIP because these revisions will assist the DFW area reach attainment under the 2008 8-Hour O<sub>3</sub> NAAQS by reducing VOC emissions for affected sources in the DFW area. We also proposed approval of all revisions for the amended, repealed, and new sections of Chapter 115 that were submitted for inclusion into the SIP. Additionally, the EPA proposed determining the TCEQ rules included in these revisions would meet the CAA § 182(b) RACT requirements for the 2008 O<sub>3</sub> NAAQS in the DFW NAA. We also proposed approval of the RACT demonstration, including the negative declarations for certain RACT categories of emission sources provided by the

TCEQ. We did not receive any comments regarding our proposal.

#### II. Final Action

We are approving the revisions to 30 TAC Chapter 115 submitted to the EPA on July 10, 2015, for inclusion into the Texas SIP. We are also approving the DFW RACT demonstration submitted by the TCEQ. For complete details of the SIP revisions we are approving please see the proposal to this action and the accompanying Technical Support Document included in the public docket for this rule. This action is being taken under section 110 of the Act.

#### III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 6 Office (please contact Robert Todd 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 (62 FR 27968, May 22, 1997).

#### IV. Statutory and Executive Order Reviews

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory

action because SIP approvals are exempted under Executive Order 12866;

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action 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: December 15, 2017.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart SS—Texas**

- 2. In § 52.2270:
  - a. In paragraph (c), the table titled “EPA Approved Regulations In The Texas SIP” is amended:
    - i. By revising the entries for sections 115.10, 115.110–115.115, 115.117–115.119, 115.121 and 115.122, 115.125–115.127, 115.129, 115.139, 115.215, 115.219, 115.229, 115.239, and 115.359;
    - ii. By adding entries for 115.410 and 115.411;
    - iii. By revising the entries for 115.415 and 115.416;
    - iv. By removing the entry for 115.417;
    - v. By revising the entries for 115.419–115.423, 115.425–115.427, 115.429, 115.440–115.442, 115.446, 115.449–115.451, 115.453, 115.459–115.461, 115.469, 115.471, 115.473, 115.479, and 115.519;
    - b. In paragraph (e), the second table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding an entry for “DFW VOC RACT Demonstration” at the end.

The revisions and additions read as follows:

**§ 52.2270 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 115 (Reg 5)—Control of Air Pollution from Volatile Organic Compounds</b>				
<b>Subchapter A—Definitions</b>				
115.10 .....	Covered Attainment Counties .....	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Subchapter B—General Volatile Organic Compounds</b>				
<b>Division 1: Storage of Volatile Organic Compounds</b>				
115.110 .....	Applicability and Definitions .....	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.111 .....	Exemptions .....	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
115.112	Control Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.114	Inspection Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.115	Monitoring Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.117	Approved Test Methods	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.118	Recordkeeping Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.119	Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 2: Vent Gas Control</b>				
115.121	Emissions Specifications	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.122	Control Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.125	Testing Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.126	Monitoring and Recordkeeping Requirements.	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.127	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.129	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 3: Water Separation</b>				
115.139	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Subchapter C—Volatile Organic Compound Transfer Operations</b>				
<b>Division 1: Loading and Unloading of Volatile Organic Compounds</b>				
115.215	Approved Test Methods	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.219	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 2: Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities</b>				
115.229	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 3: Control of Volatile Organic Compound Leaks from Transport Vessels</b>				
115.239	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Subchapter D—Petroleum Refining, Natural Gas Processing, And Petrochemical Processes</b>				
<b>Division 3: Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in O<sub>3</sub> Nonattainment Areas</b>				
115.359	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
<b>Subchapter E—Solvent-Using Processes</b>				
<b>Division 1: Degreasing Processes</b>				
§ 115.410	Applicability	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
§ 115.411	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
	* * *	* * *	* * *	* * *
115.415	Testing	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.416	Recordkeeping Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.417	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.419	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 2: Surface Coating Processes</b>				
115.420	Applicability and Definitions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.421	Emissions Specifications	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.422	Control Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.423	Alternate Control Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
	* * *	* * *	* * *	* * *
115.425	Testing Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.426	Monitoring and Recordkeeping Requirements.	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.427	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.429	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
	* * *	* * *	* * *	* * *
<b>Division 4: Offset Lithographic Printing</b>				
115.440	Applicability and Definitions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.441	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.442	Control Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
	* * *	* * *	* * *	* * *
115.446	Monitoring and Recordkeeping Requirements.	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.449	Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 5: Control Requirements for Surface Coating Processes</b>				
115.450	Applicability and Definitions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.451	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.453	Control Requirements	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
	* * *	* * *	* * *	* * *
15.459	Counties and Compliance Schedules	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
<b>Division 6: Industrial Cleaning Solvents</b>				
115.460	Applicability and Definitions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	
115.461	Exemptions	6/15/2015	12/21/2017 [Insert <b>Federal Register</b> citation].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
115.469	Compliance Schedules	6/15/2015	12/21/2017 [Insert Federal Register citation].	
<b>Division 7: Miscellaneous Industrial Adhesives</b>				
115.471	Exemptions	6/15/2015	12/21/2017 [Insert Federal Register citation].	
115.473	Control Requirements	6/15/2015	12/21/2017 [Insert Federal Register citation].	
115.479	Compliance Schedules	6/15/2015	12/21/2017 [Insert Federal Register citation].	
<b>Subchapter F—Miscellaneous Industrial Sources</b>				
<b>Division 1: Cutback Asphalt</b>				
115.519	Compliance Schedules	6/15/2015	12/21/2017 [Insert Federal Register citation].	

\* \* \* \* \* (e) \* \* \*

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Comments
DFW VOC RACT Demonstration.	DFW 2008 Ozone NAAQS non-attainment area.	7/10/2015	12/21/2017 [Insert Federal Register citation].	

[FR Doc. 2017–27453 Filed 12–20–17; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA–R09–RCRA–2017–0523; FRL–9972–09–Region 9]

**Arizona: Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** Arizona applied to the EPA for final authorization of changes corresponding to certain federal hazardous waste rules promulgated between May 26, 1998, and July 28, 2006 (also known as RCRA Cluster VIII (checklist 167D) and Clusters IX through XVII) to its hazardous waste program under the Resource Conservation and

Recovery Act (RCRA). On October 5, 2017, EPA proposed to authorize the State’s changes. During the 30-day comment period no adverse comments were received.

**DATES:** The final authorization is effective January 22, 2018.

**FOR FURTHER INFORMATION CONTACT:** Laurie Amaro, U.S. Environmental Protection Agency, Region 9, Land Division, 75 Hawthorne Street (LND–1–1), San Francisco, CA 94105, phone number: 415–972–3364, email: [amaro.laurie@epa.gov](mailto:amaro.laurie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. What decisions has EPA made in this rule?**

On July 14, 2017, Arizona applied to EPA for final authorization of changes to the State hazardous waste program. EPA concludes that Arizona’s application to revise its authorized program meets all statutory and regulatory requirements established by RCRA, as set forth in RCRA sec. 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA

grants Arizona final authorization to operate as part of its hazardous waste program the changes listed below in Section E of this document, as further described in the authorization application.

Arizona has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA).

**B. What is the effect of today’s authorization decision?**

The effect of this decision is that the changes described in Arizona’s authorization application will become part of the authorized State hazardous waste program, and therefore will be federally enforceable. Arizona will continue to have primary enforcement authority and responsibility for its State hazardous waste program. EPA retains its authorities under RCRA secs. 3007,

3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements, including authorized state program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the state has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Arizona is being authorized by today's action are already effective, and are not changed by today's action.

**C. What were the comments on EPA's proposal and what is EPA's response?**

A single comment in support of the action and no adverse comments were received during the public comment period.

**D. For what has Arizona previously been authorized?**

Arizona initially received final authorization on November 20, 1985, to implement its base hazardous waste

management program. Arizona received authorization for revisions to its program on August 6, 1991 (56 FR 37290 effective October 7, 1991), July 13, 1992 (57 FR 30905 effective September 11, 1992), November 23, 1992 (57 FR 54932 effective January 22, 1993), October 27, 1993 (58 FR 57745 effective December 27, 1993), July 18, 1995 (60 FR 36731 effective June 12, 1995), March 7, 1997 (62 FR 10464 effective May 6, 1997), October 28, 1998 (63 FR 57605–57608 effective December 28, 1998), and March 17, 2004 (69 FR 12544 effective March 17, 2004), originally published on October 27, 2000 (65 FR 64369).

**E. What changes is EPA authorizing with today's action?**

Arizona submitted a final complete program revision application to EPA dated July 14, 2017, seeking authorization of changes to its hazardous waste program that correspond to certain federal rules promulgated between May 26, 1998, and July 28, 2006 (also known as RCRA Cluster VIII (Checklist 167D only), Cluster IX (Checklists 169 and 173–180) and Clusters X through XVII). EPA has

determined that Arizona's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the federal program, and therefore satisfy all the requirements necessary to qualify for final authorization. Accordingly, EPA grants Arizona final authorization for the following program changes:

*Program Revision Changes for Federal Rules*

Arizona adopts by reference the federal RCRA regulations in effect January 29, 2007, at Arizona Administrative Code (AAC) Title 18, Chapter 8, Article 2 (AAC R18–8–260 through 280 effective September 30, 2016). The federal requirements for which the State is being authorized are listed in the table below, noting the Arizona Administrative Register (AAR) volume and page and the AAC implementing rule sections. EPA is excluding Checklist 204 Performance Track from authorization because the program has been discontinued. An asterisk (\*) after a checklist number indicates a rule that is optional for state adoption.

STATE ANALOGUES TO THE FEDERAL PROGRAM

Description of Federal Requirement and Checklist number (* Indicates Optional)	Federal Register Volume, Page and Date	Analogous Arizona Register (Volume/Page) and Administrative Code
Mineral Processing Secondary Materials Exclusion Rule. (Checklist 167 D*).	63 FR 28556, May 26, 1998 .....	6 AAR 3093, AAC R18–8–261(A), R18–8–268 July 24, 2000.
Petroleum Refining Process Wastes Rule. (Checklist 169) ...	63 FR 42110, August 6, 1998 .....	6 AAR 3093, AAC R18–8–261, 266, 268 July 24, 2000.
Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction Rule (K088). (Checklist 173).	63 FR 51254, September 24, 1998.	6 AAR 3093, AAC R18–8–268 July 24, 2000.
Post-Closure Permit Requirement and Closure Process Rule (Checklist 174*).	63 FR 56710, October 22, 1998 ...	6 AAR 3093, AAC R18–8–264, 265, 270 July 24, 2000.
HWIR-Media Rule. (Checklist 175*) .....	63 FR 65874, November 30, 1998	6 AAR 3093, AAC R18–8–260, 261, 264, 265, 268, 270(A), (T) and (U) July 24, 2000.
Universal Waste Rule—Technical Amendments. (Checklist 176*).	63 FR 71225, December 24, 1998	6 AAR 3093, AAC R18–8–266, 273 July 24, 2000.
Organic Air Emission Standards: Clarification and Technical Amendments Rule. (Checklist 177).	64 FR 3381, January 21, 1999 .....	6 AAR 3093, AAC R18–8–262, 264, 265 July 24, 2000.
Petroleum Refining Process Wastes—Leachate Exemption Rule. (Checklist 178*).	64 FR 6806, February 11, 1999 ...	6 AAR 3093, AAC R18–8–261 July 24, 2000.
Land Disposal Restrictions Phase IV: Treatment Standards for Wood Preserving Wastes, and Treatment Standards for Metal Wastes, and Zinc Micronutrient Fertilizers, and Carbamate Treatment Standards, and K088 Treatment Standards Rule. (Checklist 179).	64 FR 25408, May 11, 1999 .....	6 AAR 3093, AAC R18–8–261, 262, 268, July 24, 2000.
Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Rule. (Checklist 180).	64 FR 26315, May 14, 1999 .....	6 AAR 3093, AAC R18–8–260 July 24, 2000.
Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps Rule. (Checklist 181).	64 FR 36466, July 6, 1999 .....	9 AAR 816, AAC R18–8–260, 261,, 264, 265, 268, 270, and 273 April 15, 2003.
Hazardous Air Pollutant Standards for Hazardous Waste Combustors Rule. (Checklist 182).	64 FR 52828, September 30, 1999.	9 AAR 816, AAC R18–8–260, 261, 264, 265, 266,, and 270 April 15, 2003.
Hazardous Air Pollutant Standards for Hazardous Waste Combustors, Technical Correction Rule. (Checklist 182.1).	64 FR 63209, November 19, 1999	9 AAR 816, AAC R18–8–261 and 266 April 15, 2003.
Land Disposal Restrictions Phase IV—Technical Corrections Rule. (Checklist 183).	64 FR 56469, October 20, 1999 ...	9 AAR 816, AAC R18–8–261, 262, and 268 April 15, 2003.
Accumulation Time for Waste Water Treatment Sludges Rule. (Checklist 184*).	65 FR 12378, March 8, 2000 .....	9 AAR 816, AAC R18–8–262 April 15, 2003.

## STATE ANALOGUES TO THE FEDERAL PROGRAM—Continued

Description of Federal Requirement and Checklist number (* Indicates Optional)	Federal Register Volume, Page and Date	Analogous Arizona Register (Volume/Page) and Administrative Code
Organobromine Production Wastes Vacatur (Checklist 185 *)	65 FR 14472, March 17, 2000 .....	9 AAR 816, AAC R18–8–261 and 268 April 15, 2003.
Amendments to Streamline the NPDES Program Regulations; Round Two Rule. (Checklist 186).	65 FR 30886, May 15, 2000 .....	10 AAR 4364, AAC R18–8–270 and 271 December 4, 2004.
Petroleum Refining Process Wastes—Clarification (Checklist 187).	65 FR 36365, June 8, 2000 .....	9 AAR 816, AAC R18–8–261 and 268 April 15, 2003.
Hazardous Air Pollutant Standards—Technical Corrections. (Checklist 188 *).	65 FR 42292, July 10, 2000, 66 FR 24270, May 14, 2001, 66 FR 35087, July 3, 2001.	10 AAR, AAC 4364 R18–8–261, 264 and 270 December 4, 2004.
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes. (Checklist 189).	65 FR 67068, November 8, 2000	10 AAR, AAC 4364 R18–8–261 and 268 December 4, 2004.
Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil. (Checklist 190).	65 FR 81373, December 26, 2000	10 AAR 4364, AAC R18–8–268 December 4, 2004.
Mixed Waste Rule. (Checklist 191 *) .....	66 FR 27218, May 16, 2001 .....	10 AAR 4364, AAC R18–8–266 December 4, 2004.
Mixture and Derived-From Rules Revisions. (Checklist 192 A *).	66 FR 27266, May 16, 2001 .....	10 AAR 4364, AAC R18–8–261 and 268 December 4, 2004.
Land Disposal Restrictions Correction. (Checklist 192 B) .....	66 FR 27266, May 16, 2001 .....	10 AAR 4364, AAC R18–8–268 December 4, 2004.
Change of Official EPA Mailing Address. (Checklist 193) .....	66 FR 34374, June 28, 2001 .....	10 AAR 4364, AAC R18–8–260, 261, 265 December 4, 2004.
Mixture and Derived-From Rules Revision II. (Checklist 194 *).	66 FR 50332, October 3, 2001 .....	10 AAR 4364, AAC R18–8–261 December 4, 2004.
Inorganic Chemical Manufacturing Wastes Identification and Listing. (Checklist 195).	66 FR 58258, November 20, 2001, 67 FR 17119, April 9, 2002.	10 AAR 4364, AAC R18–8–261 and 268 December 4, 2004.
CAMU Amendments. (Checklist 196 *) .....	67 FR 2962, January 22, 2002 .....	10 AAR 4364, AAC R18–8–260 and 264 December 4, 2004.
Hazardous Air Pollutant Standards for Combustors: Interim Standards. (Checklist 197 *).	67 FR 6792, February 13, 2002 ...	10 AAR 4364, AAC R18–8–264, 265, 266 and 270 December 4, 2004.
Hazardous Air Pollutant Standards for Combustors: Corrections. (Checklist 198).	67 FR 6968, February 14, 2002 ...	10 AAR 4364, AAC R18–8–266 and 270 December 4, 2004.
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste. (Checklist 199).	67 FR 11251, March 13, 2002 .....	10 AAR 4364, AAC R18–8–261, December 4, 2004.
Zinc Fertilizer Rule. (Checklist 200) .....	67 FR 48393, July 24, 2002 .....	11 AAR 5523, AAC R18–8–261, 266 and 268, February 4, 2006.
Treatment Variance for Radioactively Contaminated Batteries. (Checklist 201 *).	67 FR 62618, October 7, 2002 .....	11 AAR 5523, AAC R18–8–268 February 4, 2006.
Hazardous Air Pollutant Standards for Hazardous Waste Combustors: Corrections 2. (Checklist 202 *).	67 FR 77687, December 19, 2002	11 AAR 5523, AAC R18–8–270 February 4, 2006.
Recycled Used Oil Management Standards; Clarification (§ 261.5(j) correction only). (Checklist 203 *).	68 FR 44659, July 30, 2003 .....	11 AAR 5523, AAC R18–8–261(H) February 4, 2006.
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks. (Checklist 205 *).	69 FR 22601 April 26, 2004 .....	11 AAR 5523, AAC R18–8–264 and 265 February 4, 2006.
Nonwastewaters from Dyes and Pigments. (Checklist 206) ..	70 FR 9138, February 24, 2005, 70 FR 35032 June 13, 2005.	12 AAR 3061, AAC R18–8–261 and 268 October 1, 2006.
Uniform Hazardous Waste Manifest Rule. (Checklist 207) ....	70 FR 10776, March 4, 2005, 70 FR 35034, June 16, 2005.	12 AAR 3061, AAC R18–8–260, 261, 262, 263, 264 and, 265 October 1, 2006.
Methods Innovation Rule and SW–846 Final Update IIIB (partial; no clarifications incorporated by reference from 40 CFR part 279). (Checklist 208 *).	70 FR 34538, March 4, 2005, 70 FR 44150, June 16, 2005.	12 AAR 3061, AAC R18–8–260, 261, 264, 265, 266, 268 and 270 October 1, 2006.
Universal Waste Rule: Specific Provisions for Mercury Containing Equipment. (Checklist 209 *).	70 FR 45508, August 5, 2005 .....	12 AAR 3061, AAC R18–8–260, 261, 264, 265, 266, 268, 270 and 273 October 1, 2006.
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks exemptions”). (Checklist 211 *).	70 FR 57769, October 4, 2005 .....	14 AAR 409, AAC R18–8–261 March 3, 2008.
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). (Checklist 212 *).	70 FR 59402, October 12, 2005 ...	14 AAR 409, AAC R18–8–260, 264, 265, 266 and 270 March 3, 2008.
Burden Reduction Initiative. (Checklist 213 *) .....	71 FR 16862, April 4, 2006 .....	14 AAR 409, AAC R18–8–260, 261, 264, 265, 266, 268, and 270 March 3, 2008.
Corrections to Errors in the Code of Federal Regulations (partial; no corrections incorporated from Parts 267 or 279). (Checklist 214).	71 FR 40254, July 14, 2006 .....	14 AAR 409, AAC R18–8–260, 261, 262, 264, 265, 266, 267, 268, 270, 271 and 273 March 3, 2008.
Cathode Ray Tubes Rule. (Checklist 215 *) .....	71 FR 42928, July 28, 2006 .....	14 AAR 409, AAC R18–8–260 and 261 March 3, 2008.



#### **F. Where are the revised state rules different from the federal rules?**

Since 1984, Arizona hazardous waste rules have contained several procedural requirements that are more stringent than EPA's. These more stringent procedural requirements are authorized by Arizona Revised Statutes (ARS) section 49-922, which in directing Arizona to adopt hazardous waste rules, prohibits only nonprocedural standards that are more stringent than EPA:

1. Hazardous Waste Manifests. Arizona requires hazardous waste generators; transporters; and treatment, storage, and disposal facilities (TSDFs) to provide a copy of all hazardous waste manifests to Arizona monthly. [See AAC R18-8-262(I) and (J); R18-8-263(C), R18-8-264(J) and R18-8-265(J).] Federal regulations governing distribution of copies of the manifest do not require manifests to be provided to the state.

2. Annual Reports. Hazardous waste large quantity generators (LQGs) and TSDFs must submit reports to Arizona annually rather than every two years as the federal regulations require. [See AAC R18-8-260(E)(3); R18-8-262(H), R18-8-264(I) and R18-8-265(I).] Small quantity generators (SQGs) must also submit annual rather than biennial reports under R18-8-262(H).

3. Recyclers are required to submit annual reports to Arizona rather than no reports at all [AAC R18-8-261(J)].

EPA cannot delegate the federal requirements in 40 CFR 261.39(a)(5) and 261.41 contained in the Cathode Ray Tubes Rule set forth in 71 FR 42928, July 28, 2006. While Arizona adopted these requirements by reference in 14 AAR 409, AAC R18-8-260 and 261, EPA will continue to implement these requirements.

EPA gave notice at 80 FR 18777 of the removal of the provisions at 40 CFR 261.4(a)(16) and 40 CFR 261.38 related to comparable fuels due to the DC Circuit's vacatur of the "Hazardous Waste Combustors Revised Standards" Final Rule (63 FR 33782, June 19, 1998) in *Natural Res. Def. Council v. EPA*, 755 F.3d 1010 (DC Cir. 2014). This rule was previously adopted and approved as part of Arizona's authorized program, but in light of the vacatur, EPA no longer considers these provisions to be part of Arizona's federally authorized program. On May 14, 2009, EPA gave notice at 74 FR 22741 of the termination of the National Environmental Performance Track Program; therefore, EPA is excluding provisions in Arizona's program implementing Performance Track, Checklist 204 (11

AAR 5523, AAC R18-8-262, February 4, 2006).

Other than the differences discussed above, Arizona incorporates by reference the remaining federal rules listed in Section E; therefore, there are no significant differences between the remaining federal rules and the revised State rules being authorized today.

#### **G. Who handles permits after the authorization takes effect?**

Arizona will issue permits for all the provisions for which it is authorized and will administer the permits it issues. Section 3006(g)(1) of RCRA, 42 U.S.C. 6926(g)(1), gives EPA the authority to issue or deny permits or parts of permits for requirements for which the State is not authorized. Therefore, whenever EPA adopts standards under HSWA for activities or wastes not currently covered by the authorized program, EPA may process RCRA permits in Arizona for the new or revised HSWA standards until Arizona has received final authorization for such new or revised HSWA standards. EPA and Arizona have agreed to a joint permitting process for facilities covered by both the authorized program and standards under HSWA for which the State is not yet authorized, and for handling existing EPA permits after the State receives authorization.

#### **H. How does today's action affect Indian country (18 U.S.C. 1151) in Arizona?**

Arizona is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Cocopah Tribe of Arizona; Fort Mojave Indian Tribe of Arizona, California & Nevada; Gila River Indian Community of the Gila River Indian Reservation; Havasupai Tribe of the Havasupai Reservation; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation; Navajo Nation; Quechan Tribe of the Fort Yuma Indian Reservation; Salt River Pima-Maricopa Indian Community of the Salt River Reservation; San Carlos Apache Tribe of the San Carlos Reservation; San Juan Southern Paiute Tribe of Arizona; Tohono O'odham Nation; Yavapai-Apache Nation of the Camp Verde Indian Reservation; and the Yavapai-Prescott Indian Tribe. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

#### **I. What is codification and is EPA codifying Arizona's hazardous waste program as authorized in this rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Arizona's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart D for this authorization of Arizona's program changes until a later date.

#### **J. Administrative Requirements**

The Office of Management and Budget (OMB) has exempted this action (RCRA State authorization) from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA sec. 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as today's proposed authorization of Arizona's revised hazardous waste program under RCRA are exempted under Executive Order 12866. This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to

Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA sec. 3006(b), the EPA grants a state’s application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and impose no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule

is not subject to Executive Order 12898. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document 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 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). This action will be effective 30 days after the final approval is published in the **Federal Register**.

#### List of Subjects in 40 CFR Part 271

Environmental protection, administrative practice and procedure, confidential business information, hazardous waste, hazardous waste transportation, Indian lands, intergovernmental relations, penalties, reporting and record keeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: December 5, 2017.

**Alexis Strauss,**

*Acting Regional Administrator, Region 9.*

[FR Doc. 2017-27524 Filed 12-20-17; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 1600

[Docket ID: BLM-2016-0002; LLWO210000.17X.L16100000.PN0000]

RIN 1004-AE39

#### Effectuating Congressional Nullification of the Resource Management Planning Rule Under the Congressional Review Act

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule; CRA revocation.

**SUMMARY:** By operation of the Congressional Review Act (CRA), the Resource Management Planning Rule (Planning 2.0 Rule) shall be treated as if

it had never taken effect. The BLM issues this document to effect the removal of any amendments, deletions or other modifications made by the nullified rule, and the reversion to the text of the regulations in effect immediately prior to the effective date of the Planning 2.0 Rule.

**DATES:** This rule is effective on December 21, 2017.

**ADDRESSES:** Previous documents related to the Resource Management Planning Rule (Planning 2.0 Rule), published at 81 FR 89580 (December 12, 2016), are available at [www.regulations.gov](http://www.regulations.gov) in Docket No. BLM-2016-0002.

**FOR FURTHER INFORMATION CONTACT:** Leah Baker, Division Chief for Decision Support, Planning and NEPA, at 202-912-7282, for information relating to the BLM’s national planning program or the substance of this final rule. For information on procedural matters or the rulemaking process, you may contact Charles Yudson, Management Analyst for the Office of Regulatory Affairs, at 202-912-7437. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1-800-877-8339, to contact these individuals. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM published the Resource Management Planning Rule (Planning 2.0 Rule) on December 12, 2016 (81 FR 89580). The rule became effective on January 11, 2017. On February 7, 2017, the United States House of Representatives passed a resolution of disapproval (H.J. Res. 44) of the Planning 2.0 Rule under the CRA, 5 U.S.C. 801 *et seq.* The Senate then passed a resolution of disapproval (S.J. Res. 15) on March 7, 2017 (Cong. Rec. p. S1686-S1687). President Trump then signed the resolution into law as Public Law Number 115-12 on March 27, 2017. Therefore, under the terms of the CRA, the BLM Planning 2.0 Rule shall be “treated as though such rule had never taken effect.” 5 U.S.C. 801(f).

However, because the CRA does not include direction regarding the removal, by the Office of the Federal Register or otherwise, of the voided language from the Code of Federal Regulations (CFR) the BLM must publish this document to effect the removal of the voided text. This document will enable the Office of the Federal Register to effectuate congressional intent to remove the voided text of the Planning 2.0 Rule as if it had never taken effect, and restore the previous language and prior state of the CFR.

This action is not an exercise of the Department’s rulemaking authority under the Administrative Procedure

Act, because the Department is not “formulating, amending, or repealing a rule” under 5 U.S.C. 551(5). Rather, the Department is effectuating changes to the CFR to reflect what congressional action has already accomplished—namely, the nullification of any changes purported to have been made to the CFR by the Planning 2.0 Rule and the reversion to the regulatory text in effect immediately prior to January 11, 2017, the effective date of the Planning 2.0 Rule. Accordingly, the Department is not soliciting comments on this action. Moreover, this action is not a final agency action subject to judicial review.

#### List of Subjects in 43 CFR Part 1600

Administrative practice and procedure, Coal, Environmental impact statements, Environmental protection, Intergovernmental relations, Public lands, State and local governments.

#### 43 CFR Chapter II

■ For the reasons set out in the preamble, and under the authority of the Congressional Review Act (5 U.S.C. 801 *et seq.*) and Public Law 115–12 (March 27, 2017), the Bureau of Land Management amends 43 CFR chapter II by revising part 1600 to read as follows:

### PART 1600—PLANNING, PROGRAMMING, BUDGETING

#### Subpart 1601—Planning

- Sec.
- 1601.0–1 Purpose.
  - 1601.0–2 Objective.
  - 1601.0–3 Authority.
  - 1601.0–4 Responsibilities.
  - 1601.0–5 Definitions.
  - 1601.0–6 Environmental impact statement policy.
  - 1601.0–7 Scope.
  - 1601.0–8 Principles.

#### Subpart 1610—Resource Management Planning

- 1610.01 Resource management planning guidance.
- 1610.2 Public participation.
- 1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.
- 1610.3–1 Coordination of planning efforts.
- 1610.3–2 Consistency requirements.
- 1610.4 Resource management planning process.
- 1610.4–1 Identification of issues.
- 1610.4–2 Development of planning criteria.
- 1610.4–3 Inventory data and information collection.
- 1610.4–4 Analysis of the management situation.
- 1610.4–5 Formulation of alternatives.
- 1610.4–6 Estimation of effects of alternatives.
- 1610.4–7 Selection of preferred alternatives.
- 1610.4–8 Selection of resource management plan.

- 1610.4–9 Monitoring and evaluation.
- 1610.5 Resource management plan approval, use and modification.
- 1610.5–1 Resource management plan approval and administrative review.
- 1610.5–2 Protest procedures.
- 1610.5–3 Conformity and implementation.
- 1610.5–4 Maintenance.
- 1610.5–5 Amendment.
- 1610.5–6 Revision.
- 1610.5–7 Situations where action can be taken based on another agency’s plan, or a land use analysis.
- 1610.6 Management decision review by Congress.
- 1610.7 Designation of areas.
- 1610.7–1 Designation of areas unsuitable for surface mining.
- 1610.7–2 Designation of areas of critical environmental concern.
- 1610.8 Transition period.

Authority: 43 U.S.C. 1711–1712.

#### Subpart 1601—Planning

##### § 1601.0–1 Purpose.

The purpose of this subpart is to establish in regulations a process for the development, approval, maintenance, amendment and revision of resource management plans, and the use of existing plans for public lands administered by the Bureau of Land Management.

##### § 1601.0–2 Objective.

The objective of resource management planning by the Bureau of Land Management is to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management and ensure participation by the public, state and local governments, Indian tribes and appropriate Federal agencies. Resource management plans are designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses.

##### § 1601.0–3 Authority.

These regulations are issued under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711–1712); the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901); section 3 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(a)); sections 522, 601, and 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

##### § 1601.0–4 Responsibilities.

(a) National level policy and procedure guidance for planning shall

be provided by the Secretary and the Director.

(b) State Directors will provide quality control and supervisory review, including plan approval, for plans and related environmental impact statements and provide additional guidance, as necessary, for use by Field Managers. State Directors will file draft and final environmental impact statements associated with resource management plans and amendments.

(c) Field Managers will prepare resource management plans, amendments, revisions and related environmental impact statements. State Directors must approve these documents.

##### § 1601.0–5 Definitions.

As used in this part, the term:

(a) *Areas of Critical Environmental Concern or ACEC* means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. The identification of a potential ACEC shall not, of itself, change or prevent change of the management or use of public lands.

(b) *Conformity or conformance* means that a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or plan amendment.

(c) *Consistent* means that the Bureau of Land Management plans will adhere to the terms, conditions, and decisions of officially approved and adopted resource related plans, or in their absence, with policies and programs, subject to the qualifications in § 1615.2 of this title.

(d) *Eligible cooperating agency* means:

(1) A Federal agency other than a lead agency that is qualified to participate in the development of environmental impact statements as provided in 40 CFR 1501.6 and 1508.5 or, as necessary, other environmental documents that BLM prepares, by virtue of its jurisdiction by law as defined in 40 CFR 1508.15, or special expertise as defined in 40 CFR 1508.26; or

(2) A federally recognized Indian tribe, a state agency, or a local government agency with similar qualifications.

(e) *Cooperating agency* means an eligible governmental entity that has entered into a written agreement with

the BLM establishing cooperating agency status in the planning and NEPA processes. BLM and the cooperating agency will work together under the terms of the agreement. Cooperating agencies will participate in the various steps of BLM's planning process as feasible, given the constraints of their resources and expertise.

(f) *Field Manager* means a BLM employee with the title "Field Manager" or "District Manager."

(g) *Guidance* means any type of written communication or instruction that transmits objectives, goals, constraints, or any other direction that helps the Field Managers and staff know how to prepare a specific resource management plan.

(h) *Local government* means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulation authority.

(i) *Multiple use* means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the lands for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some lands for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the lands and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(j) *Officially approved and adopted resource related plans* means plans, policies, programs and processes prepared and approved pursuant to and in accordance with authorization provided by Federal, State or local constitutions, legislation, or charters which have the force and effect of State law.

(k) *Public* means affected or interested individuals, including consumer organizations, public land resource

users, corporations and other business entities, environmental organizations and other special interest groups and officials of State, local, and Indian tribal governments.

(l) *Public lands* means any lands or interest in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

(m) *Resource area or field office* means a geographic portion of a Bureau of Land Management district. It is the administrative subdivision whose manager has primary responsibility for day-to-day resource management activities and resource use allocations and is, in most instances, the area for which resource management plans are prepared and maintained.

(n) *Resource management plan* means a land use plan as described by the Federal Land Policy and Management Act. The resource management plan generally establishes in a written document:

(1) Land areas for limited, restricted or exclusive use; designation, including ACEC designation; and transfer from Bureau of Land Management Administration;

(2) Allowable resource uses (either singly or in combination) and related levels of production or use to be maintained;

(3) Resource condition goals and objectives to be attained;

(4) Program constraints and general management practices needed to achieve the above items;

(5) Need for an area to be covered by more detailed and specific plans;

(6) Support action, including such measures as resource protection, access development, realty action, cadastral survey, etc., as necessary to achieve the above;

(7) General implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action; and

(8) Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

It is not a final implementation decision on actions which require further specific plans, process steps, or decisions under specific provisions of law and regulations.

#### **§ 1601.0-6 Environmental impact statement policy.**

Approval of a resource management plan is considered a major Federal

action significantly affecting the quality of the human environment. The environmental analysis of alternatives and the proposed plan shall be accomplished as part of the resource management planning process and, wherever possible, the proposed plan and related environmental impact statement shall be published in a single document.

#### **§ 1601.0-7 Scope.**

(a) These regulations apply to all public lands.

(b) These regulations also govern the preparation of resource management plans when the only public land interest is the mineral estate.

#### **§ 1601.0-8 Principles.**

The development, approval, maintenance, amendment and revision of resource management plans will provide for public involvement and shall be consistent with the principles described in section 202 of the Federal Land Policy and Management Act of 1976. Additionally, the impact on local economies and uses of adjacent or nearby non-Federal lands and on non-public land surface over federally-owned mineral interests shall be considered.

### **Subpart 1610—Resource Management Planning**

#### **§ 1610.1 Resource management planning guidance.**

(a) Guidance for preparation and amendment of resource management plans may be provided by the Director and State Director, as needed, to help the Field Manager and staff prepare a specific plan. Such guidance may include the following:

(1) National level policy which has been established through legislation, regulations, executive orders or other Presidential, Secretarial or Director approved documents. This policy may include appropriately developed resource management commitments, such as a right-of-way corridor crossing several resource or field office areas, which are not required to be reexamined as part of the planning process.

(2) Analysis requirements, planning procedures and other written information and instructions required to be considered in the planning process.

(3) Guidance developed at the State Director level, with necessary and appropriate governmental coordination as prescribed by § 1610.3 of this title. Such guidance shall be reconsidered by the State Director at any time during the planning process that the State Director level guidance is found, through public involvement or other means, to be

inappropriate when applied to a specific area being planned.

(b) A resource management plan shall be prepared and maintained on a resource or field office area basis, unless the State Director authorizes a more appropriate area.

(c) An interdisciplinary approach shall be used in the preparation, amendment and revision of resource management plans as provided in 40 CFR 1502.6. The disciplines of the preparers shall be appropriate to the values involved and the issues identified during the issue identification and environmental impact statement scoping stage of the planning process. The Field Manager may use any necessary combination of Bureau of Land Management staff, consultants, contractors, other governmental personnel, and advisors to achieve an interdisciplinary approach.

#### **§ 1610.2 Public participation.**

(a) The public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities. Public involvement in the resource management planning process shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations.

(b) The Director shall, early in each fiscal year, publish a planning schedule advising the public of the status of each plan in process of preparation or to be started during that fiscal year, the major action on each plan during that fiscal year and projected new planning starts for the 3 succeeding fiscal years. The notice shall call for public comments on projected new planning starts so that such comments can be considered in refining priorities for those years.

(c) When BLM starts to prepare, amend, or revise resource management plans, we will begin the process by publishing a notice in the **Federal Register** and appropriate local media, including newspapers of general circulation in the state and field office area. The Field Manager may also decide if it is appropriate to publish a notice in media in adjoining States. This notice may also constitute the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7). This notice shall include the following:

- (1) Description of the proposed planning action;
- (2) Identification of the geographic area for which the plan is to be prepared;

(3) The general types of issues anticipated;

(4) The disciplines to be represented and used to prepare the plan;

(5) The kind and extent of public participation opportunities to be provided;

(6) The times, dates and locations scheduled or anticipated for any public meetings, hearings, conferences or other gatherings, as known at the time;

(7) The name, title, address and telephone number of the Bureau of Land Management official who may be contacted for further information; and

(8) The location and availability of documents relevant to the planning process.

(d) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the Field Manager and those on the list shall be notified of public participation activities. Individuals or groups may ask to be placed on this list. Public participation activities conducted by the Bureau of Land Management shall be documented by a record or summary of the principal issues discussed and comments made.

The documentation together with a list of attendees shall be available to the public and open for 30 days to any participant who wishes to clarify the views he/she expressed.

(e) At least 15 days' public notice shall be given for public participation activities where the public is invited to attend. Any notice requesting written comments shall provide for at least 30 calendar days for response. Ninety days shall be provided for review of the draft plan and draft environmental impact statement. The 90-day period shall begin when the Environmental Protection Agency publishes a notice of the filing of the draft environmental impact statement in the **Federal Register**.

(f) Public notice and opportunity for participation in resource management plan preparation shall be appropriate to the areas and people involved and shall be provided at the following specific points in the planning process:

(1) General notice at the outset of the process inviting participation in the identification of issues (See §§ 1610.2(c) and 1610.4-1);

(2) Review of the proposed planning criteria (§§ 1610.4-2);

(3) Publication of the draft resource management plan and draft environmental impact statement (See § 1610.4-7);

(4) Publication of the proposed resource management plan and final environmental impact statement which

triggers the opportunity for protest (See §§ 1610.4-8 and 1610.5-1(b)); and

(5) Public notice and comment on any significant change made to the plan as a result of action on a protest (See § 1610.5-1(b)).

(g) BLM will make copies of an approved resource management plan and amendments reasonably available for public review. Upon request, we will make single copies available to the public during the public participation process. After BLM approves a plan, amendment, or revision we may charge a fee for additional copies. We will also have copies available for public review at the:

(1) State Office that has jurisdiction over the lands,

(2) Field Office that prepared the plan; and

(3) District Office, if any, having jurisdiction over the Field Office that prepared the plan.

(h) Supporting documents to a resource management plan shall be available for public review at the office where the plan was prepared.

(i) Fees for reproducing requested documents beyond those used as part of the public participation activities and other than single copies of the printed plan amendment or revision may be charged according to the Department of the Interior schedule for Freedom of Information Act requests in 43 CFR part 2.

(j) When resource management plans involve areas of potential mining for coal by means other than underground mining, and the surface is privately owned, the Bureau of Land Management shall consult with all surface owners who meet the criteria in § 3400.0-5 of this title. Contact shall be made in accordance with subpart 3427 of this title and shall provide time to fully consider surface owner views. This contact may be made by mail or in person by the Field Manager or his/her appropriate representative. A period of at least 30 days from the time of contact shall be provided for surface owners to convey their preference to the Field Manager.

(k) If the plan involves potential for coal leasing, a public hearing shall be provided prior to the approval of the plan, if requested by any person having an interest which is, or may be, adversely affected by implementation of such plan. The hearing shall be conducted as prescribed in § 3420.1-5 of this title and may be combined with a regularly scheduled public meeting. The authorized officer conducting the hearing shall:

(1) Publish a notice of the hearing in a newspaper of general circulation in

the affected geographical area at least once a week for 2 consecutive weeks;

(2) Provide an opportunity for testimony by anyone who so desires; and

(3) Prepare a record of the proceedings of the hearing.

**§ 1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.**

**§ 1610.3–1 Coordination of planning efforts.**

(a) In addition to the public involvement prescribed by § 1610.2, the following coordination is to be accomplished with other Federal agencies, state and local governments, and federally recognized Indian tribes. The objectives of the coordination are for the State Directors and Field Managers to:

(1) Keep apprised of non-Bureau of Land Management plans;

(2) Assure that BLM considers those plans that are germane in the development of resource management plans for public lands;

(3) Assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans;

(4) Provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and federally recognized Indian tribes, in the development of resource management plans, including early public notice of final decisions that may have a significant impact on non-Federal lands; and

(5) Where possible and appropriate, develop resource management plans collaboratively with cooperating agencies.

(b) When developing or revising resource management plans, BLM State Directors and Field Managers will invite eligible Federal agencies, state and local governments, and federally recognized Indian tribes to participate as cooperating agencies. The same requirement applies when BLM amends resource management plans through an environmental impact statement. State Directors and Field Managers will consider any requests of other Federal agencies, state and local governments, and federally recognized Indian tribes for cooperating agency status. Field Managers who deny such requests will inform the State Director of the denial. The State Director will determine if the denial is appropriate.

(c) State Directors and Field Managers shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice,

and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use opportunities and constraints on public lands. State Directors may seek written agreements with Governors or their designated representatives on processes and procedural topics such as exchanging information, providing advice and participation, and timeframes for receiving State government participation and review in a timely fashion. If an agreement is not reached, the State Director shall provide opportunity for Governor and State agency review, advice and suggestions on issues and topics that the State Director has reason to believe could affect or influence State government programs.

(d) In developing guidance to Field Manager, in compliance with section 1611 of this title, the State Director shall:

(1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected, as prescribed by § 1610.3–2 of this title;

(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and

(3) Notify the other Federal agencies, State agencies, Indian tribes or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies.

(e) A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards, other local government units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment. These notices shall be issued simultaneously with the

public notices required under § 1610.2(b) of this title.

(f) Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under § 1610.2 of this title for review and comment on resource management plan proposals. Should they notify the Field Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.

(g) When an advisory council has been formed under section 309 of the Federal Land Policy and Management Act of 1976 for the area addressed in a resource management plan or plan amendment, BLM will inform that council, seek its views, and consider them throughout the planning process.

**§ 1610.3–2 Consistency requirements.**

(a) Guidance and resource management plans and amendments to management framework plans shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other Federal agencies, State and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands, including Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise, and other pollution standards or implementation plans.

(b) In the absence of officially approved or adopted resource-related plans of other Federal agencies, State and local governments and Indian tribes, guidance and resource management plans shall, to the maximum extent practical, be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, State and local governments and Indian tribes. Such consistency will be accomplished so long as the guidance and resource management plans are consistent with the policies, programs and provisions of Federal laws and regulations applicable to public lands, including, but not limited to, Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise and other pollution standards or implementation plans.

(c) State Directors and Field Managers shall, to the extent practicable, keep apprised of State and local governmental and Indian tribal policies, plans, and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.

(d) Where State and local government policies, plans, and programs differ, those of the higher authority will normally be followed.

(e) Prior to the approval of a proposed resource management plan, or amendment to a management framework plan or resource management plan, the State Director shall submit to the Governor of the State(s) involved, the proposed plan or amendment and shall identify any known inconsistencies with State or local plans, policies or programs. The Governor(s) shall have 60 days in which to identify inconsistencies and provide recommendations in writing to the State Director. If the Governor(s) does not respond within the 60-day period, the plan or amendment shall be presumed to be consistent. If the written recommendation(s) of the Governor(s) recommend changes in the proposed plan or amendment which were not raised during the public participation process on that plan or amendment, the State Director shall provide the public with an opportunity to comment on the recommendation(s). If the State Director does not accept the recommendations of the Governor(s), the State Director shall notify the Governor(s) and the Governor(s) shall have 30 days in which to submit a written appeal to the Director of the Bureau of Land Management. The Director shall accept the recommendations of the Governor(s) if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Director shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his/her determination to accept or reject such Governor's recommendations.

#### **§ 1610.4 Resource management planning process.**

##### **§ 1610.4-1 Identification of issues.**

At the outset of the planning process, the public, other Federal agencies, State and local governments and Indian tribes shall be given an opportunity to suggest concerns, needs, and resource use, development and protection opportunities for consideration in the preparation of the resource management plan. The Field Manager, in

collaboration with any cooperating agencies, will analyze those suggestions and other available data, such as records of resource conditions, trends, needs, and problems, and select topics and determine the issues to be addressed during the planning process. Issues may be modified during the planning process to incorporate new information. The identification of issues shall also comply with the scoping process required by regulations implementing the National Environmental Policy Act (40 CFR 1501.7).

##### **§ 1610.4-2 Development of planning criteria.**

(a) The Field Manager will prepare criteria to guide development of the resource management plan or revision, to ensure:

(1) It is tailored to the issues previously identified; and  
(2) That BLM avoids unnecessary data collection and analyses.

(b) Planning criteria will generally be based upon applicable law, Director and State Director guidance, the results of public participation, and coordination with any cooperating agencies and other Federal agencies, State and local governments, and federally recognized Indian tribes.

(c) BLM will make proposed planning criteria, including any significant changes, available for public comment prior to being approved by the Field Manager for use in the planning process.

(d) BLM may change planning criteria as planning proceeds if we determine that public suggestions or study and assessment findings make such changes desirable.

##### **§ 1610.4-3 Inventory data and information collection.**

The Field Manager, in collaboration with any cooperating agencies, will arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available. New information and inventory data collection will emphasize significant issues and decisions with the greatest potential impact. Inventory data and information shall be collected in a manner that aids application in the planning process, including subsequent monitoring requirements.

##### **§ 1610.4-4 Analysis of the management situation.**

The Field Manager, in collaboration with any cooperating agencies, will analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities. The analysis of the management situation

shall provide, consistent with multiple use principles, the basis for formulating reasonable alternatives, including the types of resources for development or protection. Factors to be considered may include, but are not limited to:

(a) The types of resource use and protection authorized by the Federal Land Policy and Management Act and other relevant legislation;

(b) Opportunities to meet goals and objectives defined in national and State Director guidance;

(c) Resource demand forecasts and analyses relevant to the resource area;

(d) The estimated sustained levels of the various goods, services and uses that may be attained under existing biological and physical conditions and under differing management practices and degrees of management intensity which are economically viable under benefit cost or cost effectiveness standards prescribed in national or State Director guidance;

(e) Specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local government agencies and Indian tribes;

(f) Opportunities to resolve public issues and management concerns;

(g) Degree of local dependence on resources from public lands;

(h) The extent of coal lands which may be further considered under provisions of § 3420.2-3(a) of this title; and

(i) Critical threshold levels which should be considered in the formulation of planned alternatives.

##### **§ 1610.4-5 Formulation of alternatives.**

At the direction of the Field Manager, in collaboration with any cooperating agencies, BLM will consider all reasonable resource management alternatives and develop several complete alternatives for detailed study. Nonetheless, the decision to designate alternatives for further development and analysis remains the exclusive responsibility of the BLM. The alternatives developed shall reflect the variety of issues and guidance applicable to the resource uses. In order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, all reasonable variations shall be treated as sub-alternatives. One alternative shall be for no action, which means continuation of present level or systems of resource use. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.



**§ 1610.4-6 Estimation of effects of alternatives.**

The Field Manager, in collaboration with any cooperating agencies, will estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail. The estimation of effects shall be guided by the planning criteria and procedures implementing the National Environmental Policy Act. The estimate may be stated in terms of probable ranges where effects cannot be precisely determined.

**§ 1610.4-7 Selection of preferred alternatives.**

The Field Manager, in collaboration with any cooperating agencies, will evaluate the alternatives, estimate their effects according to the planning criteria, and identify a preferred alternative that best meets Director and State Director guidance. Nonetheless, the decision to select a preferred alternative remains the exclusive responsibility of the BLM. The resulting draft resource management plan and draft environmental impact statement shall be forwarded to the State Director for approval, publication, and filing with the Environmental Protection Agency. This draft plan and environmental impact statement shall be provided for comment to the Governor of the State involved, and to officials of other Federal agencies, State and local governments and Indian tribes that the State Director has reason to believe would be concerned. This action shall constitute compliance with the requirements of § 3420.1-7 of this title.

**§ 1610.4-8 Selection of resource management plan.**

After publication of the draft resource management plan and draft environmental impact statement, the Field Manager shall evaluate the comments received and select and recommend to the State Director, for supervisory review and publication, a proposed resource management plan and final environmental impact statement. After supervisory review of the proposed resource management plan, the State Director shall publish the plan and file the related environmental impact statement.

**§ 1610.4-9 Monitoring and evaluation.**

The proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan. Such intervals and standards shall be based on the sensitivity of the resource to the decisions involved and shall provide for evaluation to determine whether mitigation measures

are satisfactory, whether there has been significant change in the related plans of other Federal agencies, State or local governments, or Indian tribes, or whether there is new data of significance to the plan. The Field Manager shall be responsible for monitoring and evaluating the plan in accordance with the established intervals and standards and at other times as appropriate to determine whether there is sufficient cause to warrant amendment or revision of the plan.

**§ 1610.5 Resource management plan approval, use and modification.****§ 1610.5-1 Resource management plan approval and administrative review.**

(a) The proposed resource management plan or revision shall be submitted by the Field Manager to the State Director for supervisory review and approval. When the review is completed the State Director shall either publish the proposed plan and file the related environmental impact statement or return the plan to the Field Manager with a written statement of the problems to be resolved before the proposed plan can be published.

(b) No earlier than 30 days after the Environmental Protection Agency publishes a notice of the filing of the final environmental impact statement in the **Federal Register**, and pending final action on any protest that may be filed, the State Director shall approve the plan. Approval shall be withheld on any portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision, meeting the requirements of regulations for the National Environmental Policy Act of 1969 (40 CFR 1505.2).

**§ 1610.5-2 Protest procedures.**

(a) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record during the planning process.

(1) The protest shall be in writing and shall be filed with the Director. The protest shall be filed within 30 days of the date the Environmental Protection Agency published the notice of receipt of the final environmental impact statement containing the plan or

amendment in the **Federal Register**. For an amendment not requiring the preparation of an environmental impact statement, the protest shall be filed within 30 days of the publication of the notice of its effective date.

(2) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested;

(iii) A statement of the part or parts of the plan or amendment being protested;

(iv) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(v) A concise statement explaining why the State Director's decision is believed to be wrong.

(3) The Director shall promptly render a decision on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(b) The decision of the Director shall be the final decision of the Department of the Interior.

**§ 1610.5-3 Conformity and implementation.**

(a) All future resource management authorizations and actions, as well as budget or other action proposals to higher levels in the Bureau of Land Management and Department, and subsequent more detailed or specific planning, shall conform to the approved plan.

(b) After a plan is approved or amended, and if otherwise authorized by law, regulation, contract, permit, cooperative agreement or other instrument of occupancy and use, the Field Manager shall take appropriate measures, subject to valid existing rights, to make operations and activities under existing permits, contracts, cooperative agreements or other instruments for occupancy and use, conform to the approved plan or amendment within a reasonable period of time. Any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or amendment may appeal such action pursuant to 43 CFR 4.400 at the time the action is proposed for implementation.

(c) If a proposed action is not in conformance, and warrants further consideration before a plan revision is scheduled, such consideration shall be through a plan amendment in

accordance with the provisions of § 1610.5–5 of this title.

(d) More detailed and site specific plans for coal, oil shale and tar sand resources shall be prepared in accordance with specific regulations for those resources: Group 3400 of this title for coal; Group 3900 of this title for oil shale; and part 3140 of this title for tar sand. These activity plans shall be in conformance with land use plans prepared and approved under the provisions of this part.

#### **§ 1610.5–4 Maintenance.**

Resource management plans and supporting components shall be maintained as necessary to reflect minor changes in data. Such maintenance is limited to further refining or documenting a previously approved decision incorporated in the plan. Maintenance shall not result in expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan. Maintenance is not considered a plan amendment and shall not require the formal public involvement and interagency coordination process described under §§ 1610.2 and 1610.3 of this title or the preparation of an environmental assessment or environmental impact statement. Maintenance shall be documented in plans and supporting records.

#### **§ 1610.5–5 Amendment.**

A resource management plan may be changed through amendment. An amendment shall be initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan. An amendment shall be made through an environmental assessment of the proposed change, or an environmental impact statement, if necessary, public involvement as prescribed in § 1610.2 of this title, interagency coordination and consistency determination as prescribed in § 1610.3 of this title and any other data or analysis that may be appropriate. In all cases, the effect of the amendment on the plan shall be evaluated. If the amendment is being considered in response to a specific proposal, the analysis required for the proposal and for the amendment may occur simultaneously.

(a) If the environmental assessment does not disclose significant impact, a finding of no significant impact may be

made by the Field Manager. The Field Manager shall then make a recommendation on the amendment to the State Director for approval, and upon approval, the Field Manager shall issue a public notice of the action taken on the amendment. If the amendment is approved, it may be implemented 30 days after such notice.

(b) If a decision is made to prepare an environmental impact statement, the amending process shall follow the same procedure required for the preparation and approval of the plan, but consideration shall be limited to that portion of the plan being considered for amendment. If several plans are being amended simultaneously, a single environmental impact statement may be prepared to cover all amendments.

#### **§ 1610.5–6 Revision.**

A resource management plan shall be revised as necessary, based on monitoring and evaluation findings (§ 1610.4–9), new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan. Revisions shall comply with all of the requirements of these regulations for preparing and approving an original resource management plan.

#### **§ 1610.5–7 Situations where action can be taken based on another agency's plan, or a land use analysis.**

These regulations authorize the preparation of a resource management plan for whatever public land interests exist in a given land area. There are situations of mixed ownership where the public land estate is under non-Federal surface, or administration of the land is shared by the Bureau of Land Management with another Federal agency. The Field Manager may use the plans or the land use analysis of other agencies when split or shared estate conditions exist in any of the following situations:

(a) Another agency's plan (Federal, State, or local) may be used as a basis for an action only if it is comprehensive and has considered the public land interest involved in a way comparable to the manner in which it would have been considered in a resource management plan, including the opportunity for public participation.

(b) After evaluation and review, the Bureau of Land Management may adopt another agency's plan for continued use as a resource management plan if an agreement is reached between the Bureau of Land Management and the other agency to provide for maintenance and amendment of the plan, as

necessary, to comply with law and policy applicable to public lands.

(c) A land use analysis may be used to consider a coal lease when there is no Federal ownership interest in the surface or when coal resources are insufficient to justify plan preparation costs. The land use analysis process, as authorized by the Federal Coal Leasing Amendments Act, consists of an environmental assessment or impact statement, public participation as required by § 1610.2 of this title, the consultation and consistency determinations required by § 1610.3 of this title, the protest procedure prescribed by § 1610.5–2 of this title and a decision on the coal lease proposal. A land use analysis meets the planning requirements of section 202 of the Federal Land Policy and Management Act. The decision to approve the land use analysis and to lease coal is made by the Departmental official who has been delegated the authority to issue coal leases.

#### **§ 1610.6 Management decision review by Congress.**

The Federal Land Policy and Management Act requires that any Bureau of Land Management management decision or action pursuant to a management decision which totally eliminates one or more principal or major uses for 2 or more years with respect to a tract of 100,000 acres or more, shall be reported by the Secretary to Congress before it can be implemented. This report shall not be required prior to approval of a resource management plan which, if fully or partially implemented, would result in such an elimination. The required report shall be submitted as the first action step in implementing that portion of a resource management plan which would require elimination of such a use.

#### **§ 1610.7 Designation of areas.**

##### **§ 1610.7–1 Designation of areas unsuitable for surface mining.**

(a)(1) The planning process is the chief process by which public land is reviewed to assess whether there are areas unsuitable for all or certain types of surface coal mining operations under section 522(b) of the Surface Mining Control and Reclamation Act. The unsuitability criteria to be applied during the planning process are found in § 3461.1 of this title.

(2) When petitions to designate land unsuitable under section 522(c) of the Surface Mining Control and Reclamation Act are referred to the Bureau of Land Management for comment, the resource management

plan, or plan amendment if available, shall be the basis for review.

(3) After a resource management plan or plan amendment is approved in which lands are assessed as unsuitable, the Field Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to all or certain types of coal mining.

(b)(1) The resource management planning process is the chief process by which public lands are reviewed for designation as unsuitable for entry or leasing for mining operations for minerals and materials other than coal under section 601 of the Surface Mining Control and Reclamation Act.

(2) When petitions to designate lands unsuitable under section 601 of the Surface Mining Control and Reclamation Act are received by the Bureau of Land Management, the resource management plan, if available, shall be the basis for determinations for designation.

(3) After a resource management plan or plan amendment in which lands are designated unsuitable is approved, the Field Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to minerals or materials other than coal.

#### **§ 1610.7–2 Designation of areas of critical environmental concern.**

Areas having potential for Areas of Critical Environmental Concern (ACEC) designation and protection management shall be identified and considered throughout the resource management planning process (see §§ 1610.4–1 through 1610.4–9).

(a) The inventory data shall be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards eligible for further consideration for designation as an ACEC. In order to be a potential ACEC, both of the following criteria shall be met:

(1) Relevance. There shall be present a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.

(2) Importance. The above described value, resource, system, process, or hazard shall have substantial significance and values. This generally requires qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern. A natural hazard can be important if it is a significant threat to human life or property.

(b) The State Director, upon approval of a draft resource management plan, plan revision, or plan amendment involving ACECs, shall publish a notice

in the **Federal Register** listing each ACEC proposed and specifying the resource use limitations, if any, which would occur if it were formally designated. The notice shall provide a 60-day period for public comment on the proposed ACEC designation. The approval of a resource management plan, plan revision, or plan amendment constitutes formal designation of any ACEC involved. The approved plan shall include the general management practices and uses, including mitigating measures, identified to protect designated ACEC.

#### **§ 1610.8 Transition period.**

(a) Until superseded by resource management plans, management framework plans may be the basis for considering proposed actions as follows:

(1) The management framework plan shall be in compliance with the principle of multiple use and sustained yield and shall have been developed with public participation and governmental coordination, but not necessarily precisely as prescribed in §§ 1610.2 and 1610.3 of this title.

(2) No sooner than 30 days after the Environmental Protection Agency publishes a notice of the filing of a final court-ordered environmental impact statement—which is based on a management framework plan—proposed actions may be initiated without any further analysis or processes included in this subpart.

(3) For proposed actions other than those described in paragraph (a)(2) of this section, determination shall be made by the Field Manager whether the proposed action is in conformance with the management framework plan. Such determination shall be in writing and shall explain the reasons for the determination.

(i) If the proposed action is in conformance, it may be further considered for decision under procedures applicable to that type of action, including requirements of regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR parts 1500–1508.

(ii) If the proposed action is not in conformance with the management framework plan, and if the proposed action warrants further favorable consideration before a resource management plan is scheduled for preparation, such consideration shall be through a management framework plan amendment using the provisions of § 1610.5–5 of this title.

(b)(1) If an action is proposed where public lands are not covered by a management framework plan or a

resource management plan, an environmental assessment and an environmental impact statement, if necessary, plus any other data and analysis necessary to make an informed decision, shall be used to assess the impacts of the proposal and to provide a basis for a decision on the proposal.

(2) A land disposal action may be considered before a resource management plan is scheduled for preparation, through a planning analysis, using the process described in § 1610.5–5 of this title for amending a plan.

**Katharine S. MacGregor,**

*Deputy Assistant Secretary—Land and Minerals Management, Exercising the Authority of the Assistant Secretary—Lands and Minerals Management.*

[FR Doc. 2017–27509 Filed 12–20–17; 8:45 am]

**BILLING CODE 4310–84–P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 6, 7, 14, 20, 64, and 67**

**[CG Docket No. 16–145 and GN Docket No. 15–178; FCC 16–169]**

#### **Transition From TTY to Real-Time Text Technology**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of OMB approval.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with requirements adopted in the Commission's document *Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology*, Report and Order (*Report and Order*). This document is consistent with the *Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing the approval date of those information collect requirements.

**DATES:** The real-time text (RTT) outreach guidelines, TTY waiver notice conditions, and a requirement for waiver recipients to file reports every six months were approved by OMB on December 4, 2017.

**FOR FURTHER INFORMATION CONTACT:** Michael Scott, Disability Rights Office,

Consumer and Governmental Affairs Bureau, at (202) 418-1264, or email: [Michael.Scott@fcc.gov](mailto:Michael.Scott@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document announces that, on December 4, 2017, OMB approved, for a period of three years, the information collection requirements contained in the Commission's *Report and Order*, FCC 16-169, published at 82 FR 7699, January 23, 2017. The OMB Control Number is 3060-1248. The Commission publishes this notification as an announcement of the approval date of those requirements. 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 Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060-1248, in your correspondence. The Commission will also accept your comments via the internet if you send them to [PRA@fcc.gov](mailto: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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (844) 432-2275 (videophone), or (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 OMB approval on December 4, 2017, for the information collection requirements concerning real-time text (RTT) outreach guidelines, TTY waiver notice conditions, and a requirement for waiver recipients to file reports every six months that are contained in the Commission's *Report and Order*, FCC 16-169, published at 82 FR 7699, January 23, 2017.

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 3060-1248.

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:* 3060-1248.

*OMB Approval Date:* December 4, 2017.

*OMB Expiration Date:* December 31, 2020.

*Title:* Transition from TTY to Real-Time Text Technology, CG Docket No. 16-145 and GN Docket No. 15-178.

*Form Number:* N/A.

*Type of Review:* New collection.

*Respondents:* Business or other for-profit.

*Number of Respondents and Responses:* 967 respondents; 5,557 responses.

*Estimated Time per Response:* 0.2 hours (12 minutes) to 60 hours.

*Frequency of Response:* Annual, ongoing, one-time, and semiannual reporting requirements; Recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefit. The statutory authority can be found at sections 4(i), 225, 255, 301, 303(r), 316, 403, 715, and 716 of the Communications Act of 1934, as amended, and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, 47 U.S.C. 154(i), 225, 255, 301, 303(r), 316, 403, 615c, 616, 617; Public Law 111-260, § 106, 124 Stat. 2751, 2763 (2010).

*Total Annual Burden:* 127,360 hours.

*Total Annual Cost:* No cost.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Impact Assessment:* This information collection does not affect individuals or households; therefore, the Privacy Act is not impacted.

*Needs and Uses:* TTY technology provides the primary means for people with disabilities to send and receive text communications over the public switched telephone network (PSTN). Changes to communications networks, particularly ongoing technology transitions from circuit switched to IP-based networks and from copper to wireless and fiber infrastructure, have affected the quality and utility of TTY technology, prompting discussions on transitioning to an alternative advanced communications technology for text communications. Accordingly, on December 16, 2016, the Commission released the *Report and Order*, amending its rules that govern the obligations of wireless service providers and manufacturers to support TTY technology to permit such providers and manufacturers to provide support for RTT over wireless IP-based networks to facilitate an effective and seamless transition to RTT in lieu of continuing to support TTY technology.

In the *Report and Order*, the Commission adopted measures requiring the following:

(a) *RTT outreach guidelines.* Each wireless provider and manufacturer that voluntarily transitions from TTY technology to RTT over wireless IP-based networks and services is encouraged to develop consumer and education efforts that include (1) the development and dissemination of educational materials that contain information pertinent to the nature, purpose, and timelines of the RTT transition; (2) internet postings, in an accessible format, of information about the TTY to RTT transition on the websites of covered entities; (3) the creation of a telephone hotline and an online interactive and accessible service that can answer consumer questions about RTT; and (4) appropriate training of staff to effectively respond to consumer questions. All consumer outreach and education should be provided in accessible formats including, but not limited to, large print, Braille, videos in American Sign Language that are captioned and video described, emails to consumers who have opted to receive notices in this manner, and printed materials. Service providers and manufacturers are also encouraged to coordinate with consumer, public safety, and industry stakeholders to develop and distribute education and outreach materials. The information will inform consumers of alternative accessible technology available to replace TTY technology that may no longer be available to consumers through their provider or on their devices.

(b) *TTY waiver notice conditions.* Each wireless provider that receives a waiver of the requirement to support TTY technology over wireless IP-based networks and services must apprise its customers, through effective and accessible channels of communication, that (1) until TTY is sunset, TTY technology will not be supported for calls to 911 services over IP-based wireless services, and (2) there are alternative PSTN-based and IP-based accessibility solutions for people with disabilities to reach 911 services. These notices must be developed in coordination with PSAPs and national consumer organizations, and include a listing of text-based alternatives to 911, including, but not limited to, TTY capability over the PSTN, various forms of PSTN-based and IP-based TRS, and text-to-911 (where available). The notices will inform consumers of the loss of the use of TTY for completing 911 calls over the provider's network and alternative services that may be used.

(c) *Six-month reports.* Once every six months, each wireless provider that

requests and receives a waiver of the requirement to support TTY technology must file a report with the Commission and inform its customers regarding its progress toward and the status of the availability of new IP-based accessibility solutions. Such reports must include (1) information on the interoperability of the provider's selected accessibility solution with the technologies deployed or to be deployed by other carriers and service providers, (2) the backward compatibility of such solution with TTYs, (3) a showing of the provider's efforts to ensure delivery of 911 calls to the appropriate PSAP, (4) a description of any obstacles incurred towards achieving interoperability and steps taken to overcome such obstacles, and (5) an estimated timetable for the deployment of accessibility solutions. The information will inform consumers of the progress towards the availability of alternative accessible means to replace TTY. The Commission will evaluate the reports to determine whether any changes to the waivers are warranted and whether there are any impediments to progress that the Commission may be in a position to resolve.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2017-27434 Filed 12-20-17; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 170823802-7999-02]

RIN 0648-BG82

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 17B

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 17B to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico U.S. Waters, (FMP), as prepared and submitted by the Gulf of Mexico (Gulf) Fishery Management Council (Council). This final rule allows for the creation of a Federal Gulf shrimp reserve pool

permit when certain conditions are met, and allows non-federally permitted Gulf shrimp vessels to transit through the Gulf exclusive economic zone (EEZ). Amendment 17B also defines the aggregate maximum sustainable yield (MSY) and aggregate optimum yield (OY), and determines a minimum number of commercial vessel moratorium permits in the fishery. This final rule also makes technical corrections to the regulations that revise the coordinates for the Tortugas shrimp sanctuary in the Gulf, and corrects the provisions regarding the harvest and possession of wild live rock in Gulf Federal waters. The purpose of this final rule and Amendment 17B is to protect federally managed Gulf shrimp stocks while maintaining catch efficiency, economic efficiency, and stability in the fishery.

**DATES:** This final rule is effective January 22, 2018.

**ADDRESSES:** Electronic copies of Amendment 17B, which includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/shrimp/2017/am17b/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/2017/am17b/index.html).

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, telephone: 727-824-5305, or email: [Frank.Helies@noaa.gov](mailto:Frank.Helies@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The shrimp fishery in the Gulf is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

This document also designates the unidentified tables in § 622.55 to bring the section into compliance with the requirements of 1 CFR 8.1 and 8.2 and with the Office of the Federal Register's Document Drafting Handbook (<https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf>) section 7.4. On August 22, 2017, NMFS published a notice of availability for Amendment 17B and requested public comment (82 FR 39733). On October 4, 2017, NMFS published a proposed rule for Amendment 17B and requested public comment (82 FR 46205). The proposed rule and Amendment 17B outline the rationale for the action contained in this final rule. A summary of the management measures described in Amendment 17B and implemented by this final rule is provided below.

From 2003 to 2006, the Gulf shrimp fishery experienced significant economic losses, primarily as a result of high fuel costs and reduced prices caused by competition with imports. These economic losses contributed to a reduction in the number of vessels in the fishery, and consequently, a reduction of commercial effort. During that time, commercial vessels in the Gulf shrimp fishery were required to have an open-access permit. In 2006, to prevent overcapitalizing the fishery when it became profitable again, the Council established a 10-year freeze on the issuance of new shrimp permits and created a limited access Federal Gulf shrimp moratorium permit (moratorium permit)(71 FR 56039, September 26, 2006). In 2016, the Council extended the duration of the Gulf shrimp moratorium permit program for another 10 years through Amendment 17A to the FMP (81 FR 47733, July 22, 2016).

During the development of Amendment 17A, the Council identified several other issues with the Gulf shrimp fishery that it wanted addressed. First, MSY and OY are defined individually for the three penaeid shrimp species and for royal red shrimp. Second, the number of moratorium permits has continued to decline, and the Council is concerned that the decline in total permits will continue indefinitely. Finally, transit through Federal waters (Gulf EEZ) with shrimp on board currently requires a Federal moratorium permit, which limits the ability of a state-registered vessel to navigate in certain areas of the Gulf while engaged in shrimping. Amendment 17B was developed to address these issues through revisions to management reference points and the Gulf shrimp permit program, while maintaining catch efficiency, economic efficiency, and stability in the fishery.

#### Management Measures Codified in This Final Rule

This final rule allows for the creation of a Federal Gulf shrimp reserve pool permit when certain conditions are met, and allows non-federally permitted Gulf shrimp vessels to transit through the Gulf EEZ.

##### *Federal Gulf Shrimp Reserve Pool Permit*

Currently, moratorium permits are valid for 1 year and are required to be renewed annually. If the permit is not renewed within 1 year of its expiration date, the permit is no longer renewable and is terminated. A terminated permit cannot be reissued by NMFS and is lost to the fishery.

As of December 31, 2016, 1,441 moratorium permits were valid or renewable. Since the start of the permit moratorium, a total of 493 moratorium permits have been terminated. As described in Amendment 17B, when the number of valid or renewable moratorium permits reaches 1,072, then any moratorium permits that are not renewed within 1 year of expiration would be converted to Gulf shrimp reserve pool permits. This number is based on the predicted number of active permitted vessels needed to attain aggregate OY in the offshore fishery. As explained further below, the aggregate OY accounts for relatively high catch per unit effort (CPUE) and landings, while reducing the risk of exceeding sea turtle and juvenile red snapper bycatch. Any Gulf shrimp reserve pool permit that is created would not be issued until eligibility requirements are developed by the Council and implemented through subsequent rulemaking.

#### *Transit Provisions for Shrimp Vessels Without a Federal Permit*

Currently, to possess Gulf shrimp in the Gulf EEZ, a vessel must have been issued a moratorium permit. In the Gulf, there are some areas where state-only licensed shrimpers would like to transit with shrimp on board from state waters through Federal waters to return to state waters and port. However, because these state-licensed shrimping vessels do not possess a Federal moratorium permit, they cannot legally transit through the Gulf EEZ while possessing shrimp. This results in some of these vessels spending increased time at sea and incurring additional fuel costs because of longer transit times.

This final rule allows a vessel possessing Gulf shrimp to transit the Gulf EEZ without a valid moratorium permit if fishing gear is appropriately stowed. Transit is defined as non-stop progression through the area; fishing gear appropriately stowed means trawl doors and nets must be out of the water and the bag straps must be removed from the net. This transit exemption is expected to reduce the time at sea required for some shrimpers, while allowing enforcement to easily determine that the gear is not being used for fishing.

#### **Measures Contained in Amendment 17B But Not Codified Through This Final Rule**

Amendment 17B specifies the aggregate MSY and aggregate OY for the Federal Gulf shrimp fishery, and determines a minimum number of moratorium permits in the fishery.

#### *Aggregate MSY and OY*

After extending the duration of the Gulf shrimp moratorium permit program for another 10 years, and recognizing that the moratorium results in a passive loss of permits from the fishery, the Council decided to determine an appropriate minimum number of moratorium permits. Although the Council previously specified species specific MSYs and OYs for penaeid shrimp, the shrimp permit is not species specific. Therefore, the Council established an aggregate MSY and OY for the Federal Gulf shrimp fishery to facilitate the decision on the minimum number of moratorium permits.

Amendment 17B establishes aggregate MSY for the Federal Gulf shrimp fishery at 112,531,374 lb (51,043,373 kg), tail weight. Amendment 17B also establishes aggregate OY for the Gulf shrimp fishery equal to 85,761,596 lb (38,900,806 kg), tail weight, which is the aggregate MSY reduced for the ecological, social, and economic factors described above.

#### *Minimum Threshold Number of Gulf Shrimp Moratorium Permits*

As noted above, as of December 31, 2016, 1,441 moratorium permits were valid or renewable, and, at the current rate of termination, the minimum threshold number of permits selected by the Council, 1,072 permits, will be reached in 24 years. This minimum threshold number of valid or renewable moratorium permits is based on the predicted number of active permitted vessels needed to achieve aggregate OY in the offshore fishery. Neither this final rule nor Amendment 17B actively removes any moratorium permits. The minimum threshold is only for purposes of monitoring changes in fishery participation and determining whether additional management measures should be established.

As specified in Amendment 17B, when the number of moratorium permits declines to 1,175, the Council will form a panel to review details of the reserve permit pool and other options for management. The panel will consist of the Council's Shrimp Advisory Panel (AP) members, Science and Statistical Committee (SSC) members, NMFS, and Council staff. This panel could make recommendations about how to utilize a Gulf shrimp vessel permit reserve pool. The development of additional details for the pool permits will occur through a plan amendment or framework action, as appropriate, at a later date, when additional available information about

the status of the Gulf shrimp fishery may be available.

#### **Measures in This Final Rule Not Contained in Amendment 17B**

In addition to the measures described in Amendment 17B, this final rule revises the coordinates for the Tortugas shrimp sanctuary in the Gulf that were established in the original Shrimp FMP; and clarifies the regulations for the harvest and possession of wild live rock in Gulf Federal waters, as established in the FMP for Coral and Coral Reefs of the Gulf of Mexico (Coral FMP).

The original FMP established the Tortugas shrimp sanctuary on May 20, 1981, which was implemented with cooperation from the state of Florida (46 FR 27489, May 20, 1981), and which is currently defined at 50 CFR 622.55(c)(1). Since that time, there have been numerous advances in geographical positioning systems that describe the physical locations (such as lights) used to define the boundary of the Tortugas shrimp sanctuary. NMFS and the state of Florida have determined that several positions for the points defining the boundary of the sanctuary are no longer consistent with the most recent published coordinates in Federal navigation references and current positioning systems, such as Global Positioning Systems. For example, Point N (Coon Key Light) is currently described as being located at 25°52'9" north latitude and 81°37'9" west longitude. However, using current technology that is reflected in recent U.S. navigational publications, NMFS and the state of Florida have noted that this point is actually located at 25°52'54" north latitude and 81°37'56" west longitude. Therefore, this final rule revises the positions for Points N, F, G, H, and P to reflect current technology, for consistency with the current U.S. Coast Guard Light List, the U.S. Coast Pilot, and the state of Florida regulations, and for consistency in units of position. For consistency, Florida is also updating these positions. Only these technical corrections for the coordinates are being made to the language of the regulations; this final rule does not make any substantive changes in the regulations specific to the management measures for the Tortugas shrimp sanctuary.

This final rule also revises the prohibited species regulations for wild live rock, as established in the Coral FMP. In 1994, the final rule implementing Amendment 2 to the Coral FMP established a prohibition on the harvest and possession of wild live rock in the Gulf EEZ to begin on January 1, 1997 (59 FR 66776, December 28,

1994). The following year, the final rule implementing Amendment 3 to the Coral FMP established an annual quota for wild live rock from the Gulf EEZ to apply before the prohibition would take effect (60 FR 56533, November 9, 1995). The prohibition on harvest beginning in 1997 and the quota were originally codified at 50 CFR 638.26(c) and (d), and the quota provision included prohibitions on harvest and possession and on sale and purchase when a quota closure occurs. When NMFS reorganized the 50 CFR part 622 regulations in 1996, the prohibition on harvest and possession and the quota provisions were moved to 50 CFR 622.42(b)(2) and 622.43(a)(2)(ii) (61 FR 34930, July 3, 1996). In 1999, NMFS issued a final rule for a Technical Amendment to its regulations in 50 CFR part 622 in order to revise a variety of regulations for clarity, consistency in terms, and the removal of outdated regulations (64 FR 59125, November 2, 1999). Because the harvest of wild live rock in the Gulf was discontinued at the end of 1996, the final rule for the Technical Amendment removed several provisions related to harvest, including the quota and the associated prohibitions on harvest and possession and on sale and purchase, when a quota closure occurs. That final rule also added a general restriction on sale and purchase of wild live rock from the Gulf EEZ, which remains in effect today. However, NMFS recently became aware that the rule inadvertently failed to also add the general restriction on the harvest and possession of wild live rock in or from the Gulf EEZ. In this final rule, NMFS corrects this error by adding the Gulf EEZ wild live rock prohibition at § 622.73(c).

#### Changes to Codified Text in This Final Rule

This final rule revises several table designations that are revised through Amendatory instruction 3 in the codified text. These table designations have been updated in this final rule based on updated formatting guidance provided by the Office of the Federal Register. No changes to the content in the referenced tables themselves was made in this final rule different from that in the proposed rule. In § 622.55, the table designations for paragraphs (d) and (e) use different numbers than those that were included in the proposed rule; specifically, this final rule uses numbers 1, 2 and 3 instead of numbers 3, 4 and 5, respectively, in the paragraph (d) table names, and the number 4 instead of the number 6 in the paragraph (e) table name.

#### Comments and Responses

NMFS received seven comments on the notice of availability and proposed rule for Amendment 17B from the public and a Federal agency. Several commenters supported the transit provision for shrimp vessels not possessing a Federal moratorium permit. A Federal agency submitted a comment stating it had no comment on Amendment 17B or the proposed rule. NMFS' responses to comments that specifically relate to the actions contained in Amendment 17B and the proposed rule are summarized below.

*Comment 1:* A minimum threshold number of moratorium permits should not be established because there is no need to keep unused permits available to the fishery.

*Response:* NMFS disagrees. The Council established the minimum threshold to provide a clear benchmark for monitoring changes in fishery participation. Since the implementation of the Federal Gulf shrimp permit moratorium in Amendment 13 to the FMP in 2006, (71 FR 56039, September 26, 2006), the fishery has experienced a passive decline in valid and renewable moratorium permits. While the permit moratorium has been successful in reducing overcapitalization and increasing CPUE in the fishery, the Council is concerned the decline in permits could continue indefinitely.

National Standard 1 of the Magnuson-Stevens Act requires that fishery management plans prevent overfishing while achieving, on a continuing basis, the OY from each fishery. In March 2016, the Council convened a working group to recommend an appropriate aggregate MSY and aggregate OY for the Gulf shrimp fishery in Federal waters. The working group recommended an aggregate MSY and also determined that there were four important factors to consider when establishing aggregate OY: Landings, CPUE, sea turtle bycatch threshold, and juvenile red snapper bycatch. The working group concluded that the predicted effort and associated landings in 2009 balanced all of these criteria relative to observed levels in other years. The minimum threshold is based on the predicted number of active permitted vessels needed to attain this aggregate OY. Evaluating changes in fishery participation using this threshold will help the Council determine whether additional management measures are necessary in the future to continue to achieve OY on a continuing basis, consistent with National Standard 1.

*Comment 2:* If the Council and NMFS have determined that the Gulf shrimp

fishery needs more effort to achieve OY, and therefore more available moratorium vessel permits, NMFS should distribute any reserve pool permits through an auction or drawing, or sell them at the current market price.

*Response:* The Council and NMFS have not decided that additional moratorium vessels permits are necessary. Amendment 17B requires only that the Council form a review panel when the number of valid or renewable shrimp moratorium permits reaches 1,175, and that when the number of valid or renewable moratorium permits reaches 1,072, any moratorium permits that are not renewed within 1 year of expiration be converted to Gulf shrimp reserve pool permits. The panel would consist of the Council's Shrimp AP members, SSC members, NMFS, and Council staff. The panel would review the details of a permit pool and other management options, and provide recommendations to the Council on issuance of any reserve pool permits or how else to utilize reserve pool permits. The Council would then decide the specific details of any future actions with respect to reserve pool permits, after the opportunity for public comment consistent with both the Magnuson-Stevens Act and Administrative Procedure Act.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is consistent with Amendment 17B, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this rule. Accordingly, the Paperwork Reduction Act does not apply to this rule. A description of this rule, why it is being implemented, and the purposes of this rule are contained in the preamble and in the **SUMMARY** section of the preamble. The objectives of this rule are to establish the appropriate metrics to manage the shrimp fishery, maintain increases in catch efficiency, maintain landings at or near aggregate OY, promote economic efficiency and stability in the fishery, provide flexibility for state registered shrimp vessels, protect federally managed Gulf shrimp stocks, correct coordinates for the Tortugas sanctuary in the Federal



regulations so they are consistent with published coordinates in Federal navigation references and current positioning systems, and correct the regulations to clarify that harvest and possession of wild live rock in or from the Gulf EEZ is prohibited.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS did not receive any comments from SBA's Office of Advocacy or the public regarding the economic analysis of Amendment 17B or the certification in the proposed rule. No changes to this rule were made in response to public comments. The factual basis for the certification was published in the proposed rule and is not repeated here. Because this final rule is not expected to have a significant economic impact on a substantial number of small entities, a final regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 622**

Commercial, Fisheries, Fishing, Gulf, Permits, Shrimp.

Dated: December 15, 2017.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

■ 1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.50, revise paragraph (b)(3)(ii) and add paragraphs (b)(3)(iii) and (e) to read as follows:

**§ 622.50 Permits, permit moratorium, and endorsements.**

\* \* \* \* \*

- (b) \* \* \*
- (3) \* \* \*

(ii) Except as provided for in paragraph (b)(3)(iii) of this section, a commercial vessel moratorium permit for Gulf shrimp that is not renewed will be terminated and will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is

not received by the RA within 1 year of the expiration date of the permit.

(iii) When NMFS has determined that the number of commercial vessel moratorium permits for Gulf shrimp has reached the threshold number of permits as described in the FMP, then a commercial vessel moratorium permit for Gulf shrimp that is not renewed will be converted to a Gulf shrimp reserve pool permit and held by NMFS for possible reissuance. Gulf shrimp reserve pool permits will not be issued until eligibility requirements are developed and implemented through subsequent rulemaking.

\* \* \* \* \*

(e) *Gulf shrimp transit provision.* A vessel that does not have a valid Gulf shrimp moratorium permit, as described in paragraphs (a) and (b) of this section, may possess Gulf shrimp when in transit in the Gulf EEZ provided that the shrimp fishing gear is appropriately stowed. For the purposes of this paragraph, transit means non-stop progression through the Gulf EEZ. Fishing gear appropriately stowed means trawl doors and nets must be out of the water and the bag straps must be removed from the net.

- 3. Amend § 622.55 by:
  - a. Designating the table in paragraph (b) as Table 1 to paragraph (b);
  - b. Revising paragraph (c)(1);
  - c. Designating the table after paragraph (d)(2) as Table 1 to paragraph (d), the table after paragraph (d)(3) as Table 2 to paragraph (d), and the table after paragraph (d)(4) as Table 3 to paragraph (d); and
  - d. In paragraph (e) designating the table as Table 1 to paragraph (e).

The revision reads as follows:

**§ 622.55 Closed area.**

\* \* \* \* \*

(c) \* \* \*

(1) The Tortugas shrimp sanctuary is closed to trawling. The Tortugas shrimp sanctuary is that part of the EEZ off Florida shoreward of rhumb lines connecting, in order, the following points:

TABLE 1 TO PARAGRAPH (C)(1)

Point	North lat.	West long.
N <sup>1</sup> .....	25°52'54"	81°37'56"
F .....	24°50'42"	81°51'18"
G <sup>2</sup> .....	24°40'00"	82°26'39"
H <sup>3</sup> .....	24°34'44"	82°35'27"
P <sup>4</sup> .....	24°35'00"	82°08'00"

<sup>1</sup> Coon Key Light.  
<sup>2</sup> New Ground Shoals Light.  
<sup>3</sup> Rebecca Shoals Light.  
<sup>4</sup> Marquesas Keys.

\* \* \* \* \*

■ 4. In § 622.73, add paragraph (c) to read as follows:

**§ 622.73 Prohibited species.**

\* \* \* \* \*

(c) Wild live rock may not be harvested or possessed in or from the Gulf EEZ.

[FR Doc. 2017-27449 Filed 12-20-17; 8:45 am]

BILLING CODE 3510-22-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 160808696-799-03]

RIN 0648-BG17

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017-18 Biennial Specifications and Management Measures; Amendment 27; Correction**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This action corrects the 2017-18 harvest specifications and management measures final rule that published on February 7, 2017. That rule established 2017-18 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), including harvest specifications consistent with default harvest control rules in the PCGFMP. That action also included regulations to implement Amendment 27 to the PCGFMP, which added deacon rockfish to the PCGFMP, reclassified big skate as an actively managed stock, added a new inseason management process for commercial and recreational groundfish fisheries in waters off California, and made several clarifications to existing regulations. This action fixes errors in 2017-18 harvest specifications and management measures final rule by correcting the definition of ecosystem component species to remove big skates, making three corrections related to the recreational groundfish retention

regulations in effect in waters off California, making a correction to the groundfish retention regulations in the limited entry fixed gear and in the open access fisheries, and correcting the unit of weight used to set the sablefish cumulative limit for Tier 2 of the limited entry fixed gear sablefish fishery.

**DATES:** Effective December 21, 2017.

**ADDRESSES:** Information relevant to the February 7, 2017, final rule (82 FR 9634) and Amendment 27, which includes an Environmental Assessment (EA), the Finding of No Significant Impact (FONSI), a regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), and amended PCGFMP, are available from Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070. Electronic copies of this final rule are also available at the NMFS West Coast Region website: <http://www.westcoast.fisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Keeley Kent, 206-526-4655, fax: 206-526-6736, or email: [keeley.kent@noaa.gov](mailto:keeley.kent@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The February 7, 2017, final rule (82 FR 9634) set groundfish harvest specifications for 2017-18 (overfishing limits, acceptable biological catches, and annual catch limits (ACLs)) and established management measures designed to keep catch within the ACLs. As part of that final rule, consistent with the Council's recommendations and described in the preamble to that rule, NMFS implemented Amendment 27 to the PCGFMP. This action makes corrections to the implementing regulations for two components of Amendment 27: (1) Reclassification of big skate from an ecosystem component species to "in the fishery" and (2) the update of several sections of the PCGFMP to reflect that canary rockfish and petrale sole were declared rebuilt. This action makes corrections in certain provisions of the recreational groundfish retention regulations in effect in waters off California and the groundfish retention regulations in the limited entry fixed gear and open access fisheries, as amended in the February 7, 2017, final rule to reflect the rebuilt status of canary rockfish and petrale sole. In addition, this action makes two minor, technical corrections to the regulations implementing the 2017-18 harvest specifications by correcting the unit of weight used to set the sablefish

cumulative limit for Tier 2 of the limited entry fixed gear sablefish fishery, and by correcting a typographical error in the season dates for the Mendocino Management Area recreational fisheries.

**Need for Correction**

*Reclassification of Big Skate*

The February 7, 2017, final rule made several changes necessary to reclassify big skate from an ecosystem component species to "in the fishery," however, one necessary change was mistakenly omitted. In 50 CFR 660.11, the definition of "groundfish" includes a separate listing of the species included in the ecosystem component. Big skate was mistakenly not removed from that ecosystem component definition. Big skate was correctly listed in the definition under the skates category within the definition of "groundfish," at 50 CFR 660.11, Groundfish (2) Skates. This rule will remove big skate from the ecosystem component category under the definition of "groundfish," at 50 CFR 660.11, Groundfish (10) Ecosystem component species.

*California Recreational Fishery Management Measures*

NMFS is making three corrections to groundfish recreational fishery regulations in effect off of California. As noted above, one of the components of Amendment 27 was to amend the PCGFMP to reflect that canary rockfish and petrale sole were declared rebuilt. As a result of the rebuilt status of the canary rockfish and petrale sole fisheries, the State of California relaxed some of its restrictions on retention in the recreational fisheries. As noted in the proposed rule and the February 7, 2017, final rule, NMFS intended the federal regulations to be consistent with the changes in the California state restrictions. However, while the February 7, 2017, final rule correctly updated the federal regulations to remove the prohibition on retention of canary rockfish for the Washington state recreational fisheries, the final rule mistakenly did not remove the prohibition on retention of canary rockfish for recreational fisheries off of California and the Cowcod Conservation Area (50 CFR 660.360(c)(3)(i)(B)). This inadvertent omission is inconsistent with the Council's intent in making its recommendation for the 2017-18 harvest specifications and management measures. Therefore, this correcting action will update § 660.360(c)(3)(i)(B) to reflect the rebuilt status of canary rockfish.

Additionally, in the preamble to the proposed rule (81 FR 75266, 75282; Oct. 28, 2016), NMFS noted that the rule would remove petrale sole and starry flounder from the California recreational season and depth restrictions, which are management measures to reduce regulatory discards. This change allows anglers to retain petrale sole and starry flounder year round without depth constraint. The February 7, 2017, final rule correctly revised § 660.360(c)(3) to note the exception for petrale sole and starry flounder. However, paragraphs (c)(3)(i)(B), (c)(3)(i)(C), and (c)(3)(iv) of § 660.360 were not similarly revised. Consistent with the revisions already made to paragraph (c)(3), this correcting action revises paragraphs, (c)(3)(i)(B), (c)(3)(i)(C), and (c)(3)(iv) of § 660.360 to exempt petrale sole and starry flounder from the season and depth restrictions for recreational fisheries off of California.

Finally, NMFS is correcting the season dates for the Mendocino Management Area under § 660.360(c)(3)(ii)(A)(2). The final rule incorrectly stated that the season is open "May 1 through October December 31," but correctly stated that the season is closed January 1 through April 30. This rule will correct the mistake by deleting the extra word "October" so that the correct open season is reflected in the language, "May 1 through December 31."

*Fixed Gear Limited Entry and Open Access Fishery Management Measures*

As a result of canary rockfish being rebuilt, NMFS relaxed some of the restrictions on retention in the limited entry fixed gear and open access fisheries. However, the February 7, 2017, final rule, as it pertained to the groundfish limited entry fixed gear fishery ((50 CFR 660.230(a)) and to the open access fishery (50 CFR 660.330(a)), mistakenly did not update the federal regulations to remove the prohibition on retention of canary rockfish, even though NMFS set trip limits for canary rockfish in the limited entry fixed gear fishery in Table 2 to Part 660, Subpart E, and in the open access fishery in Table 3 to Part 660, Subpart F. This was inconsistent with the Council's intent in its recommendation of the 2017-18 harvest specifications and management measures. This rule will update both § 660.230(a) and § 660.330(a) to reflect the rebuilt status of canary rockfish.

*Limited Entry Fixed Gear Sablefish Cumulative Limit*

The February 7, 2017, final rule included the cumulative limits for each of the three tiers of the limited entry

fixed gear sablefish primary fishery for both 2017 and 2018. Inadvertently, the cumulative limit for Tier 2 in 2017 was expressed in metric tons instead of in pounds. The final rule read “20,509 mt” (9,303 kg) instead of “20,509 lbs”, which is the true equivalent of 9,303 kg. This rule corrects this error by stating that the Tier 2 cumulative limit for 2017 is “20,509 lbs (9,303 kg)” in 50 CFR 660.231(b)(3)(i).

**Classification**

The Assistant Administrator (AA) for Fisheries, NOAA, finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and would be contrary to the public interest. This correcting action is consistent with harvest specification and management measures recommended by the Council and described in the preambles to the proposed rule (81 FR 75266; Oct. 28, 2016) and final rule (81 FR 9634; Feb. 7, 2017) implementing Amendment 27 to the PCGFMP. Because the corrections included in this rule are consistent with actions on which NMFS has already requested and considered public comments, further notice and opportunity for public comment on this action is unnecessary. It would be contrary to the public interest to delay implementation of the minor corrections in this rule, because this correcting action will reduce confusion caused by unintentional technical errors, some of which also appear to create inconsistency between state and federal regulations. For the reasons above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and makes this rule effective immediately upon publication. This rule is exempt from the procedures of the Regulatory Flexibility Act (RFA) because the rule is issued without opportunity for prior notice and opportunity for public comment. Therefore, RFA analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 15, 2017.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is corrected by making the following correcting amendments:

**PART 660—FISHERIES OFF WEST COAST STATES**

■ 1. The authority citation for 50 CFR part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.11, revise paragraph (10) of the definition for “Groundfish” to read as follows:

**§ 660.11 General definitions.**

\* \* \* \* \*  
Groundfish \* \* \*  
\* \* \* \* \*

(10) “Ecosystem component species” means species that are included in the PCGFMP but are not “in the fishery” and therefore not actively managed and do not require harvest specifications. Ecosystem component species are not targeted in any fishery, not generally retained for sale or personal use, and are not determined to be subject to overfishing, approaching an overfished condition, or overfished, nor are they likely to become subject to overfishing or overfished in the absence of conservation and management measures. Ecosystem component species include: All skates listed here in paragraph (2), except longnose skate and big skate; all grenadiers listed here in paragraph (5); soupfin shark; ratfish; and finscale codling.

\* \* \* \* \*

■ 3. In § 660.230, revise paragraph (a) to read as follows:

**§ 660.230 Fixed gear fishery—management measures.**

(a) General. Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 2 (North) and 2 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in Tables 2 (North) and 2 (South) of this subpart and sablefish primary season details in § 660.231), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(10) of this section and § 660.70). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing and tier limits for the limited entry, fixed gear sablefish primary season north of 36° N lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to daily or weekly sablefish limits in addition to

cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.230(e). The trip limits in Table 2 (North) and Table 2 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

\* \* \* \* \*

■ 4. In § 660.231, revise paragraph (b)(3)(i) to read as follows:

**§ 660.231 Limited entry fixed gear sablefish primary fishery.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (*i.e.*, stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232. In 2017, the following annual limits are in effect: Tier 1 at 45,120 lb (20,466 kg), Tier 2 at 20,509 lb (9,303 kg), and Tier 3 at 11,720 lb (5,316 kg). In 2018 and beyond, the following annual limits are in effect: Tier 1 at 47,050 lb (21,342 kg),

Tier 2 21,386 lb (9,701 kg), and Tier 3 12,221 lb (5,543 kg).

\* \* \* \* \*

■ 5. In § 660.330, revise paragraph (a) to read as follows:

**§ 660.330 Open access fishery—management measures.**

(a) *General.* Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see seasons in Tables 3 (North) and 3 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(11) of this section and § 660.70). Retention of yelloweye rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.332 of this subpart and the trip limits in Tables 3 (North) and 3 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see paragraph (e) of this section. Open access vessels that fish with non-groundfish trawl gear or in the salmon troll fishery north of 40°10' N lat. are subject the cumulative limits and closed areas (except the pink shrimp fishery which is not subject to RCA restrictions) listed in Tables 3

(North) and 3 (South) of this subpart. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

■ 6. In § 660.360, revise paragraphs (c)(3)(i)(B) and (C), (c)(3)(ii)(A)(2), and (c)(3)(iv) to read as follows:

**§ 660.360 Recreational fishery—management measures.**

- (c) \* \* \*
- (3) \* \* \*
- (i) \* \* \*

(B) *Cowcod conservation areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.70. In general, recreational fishing for all groundfish is prohibited within the CCAs, except that fishing for petrale sole, starry flounder, and “other flatfish” is permitted within the CCAs as specified in paragraph (c)(3)(iv) of this section. However, recreational fishing for the following species is permitted shoreward of the 20 fm (37 m) depth contour when the season for those species is open south of 34°27' N lat.: Minor nearshore rockfish, cabezon, kelp greenling, lingcod, California scorpionfish, shelf rockfish, petrale sole, starry flounder, and “other flatfish” (subject to gear requirements at paragraph (c)(3)(iv) of this section during January–February). Retention of yelloweye rockfish, bronzespotted rockfish and cowcod is prohibited within the CCA. [Note: California state regulations also permit recreational fishing for California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* shoreward of the 20 fm (37 m) depth contour in the CCAs when the season for the RCG complex is open south of 34°27' N lat.] It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this section.

(C) *Cordell Banks.* Recreational fishing for groundfish is prohibited in

waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.70, subpart C, except that recreational fishing for petrale sole, starry flounder, and “other flatfish” is permitted around Cordell Banks as specified in paragraph (c)(3)(iv) of this section. [Note: California state regulations also prohibit fishing for all greenlings of the genus *Hexagrammos*, California sheephead and ocean whitefish.]

\* \* \* \* \*

(ii) \* \* \*

(A) \* \* \*

(2) Between 40°10' N lat. and 38°57.50' N lat. (Mendocino Management Area), recreational fishing for the RCG Complex is open from May 1 through December 31 (*i.e.*, it's closed from January 1 through April 30).

\* \* \* \* \*

(iv) “*Other flatfish*,” *petrale sole*, and *starry flounder*. Coastwide off California, recreational fishing for “other flatfish,” petrale sole, and starry flounder, is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. “Other flatfish” are defined at § 660.11, subpart C, and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. Recreational fishing for “other flatfish,” petrale sole, and starry flounder, is permitted within the closed areas. “Other flatfish,” except for Pacific sanddab, petrale sole, and starry flounder, are subject to the overall 20-fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species. There is no season restriction or size limit for “other flatfish,” petrale sole, and starry flounder however, it is prohibited to filet “other flatfish,” petrale sole, and starry flounder, at sea.

\* \* \* \* \*

[FR Doc. 2017–27450 Filed 12–20–17; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register

Vol. 82, No. 244

Thursday, December 21, 2017

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

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Chapter I

[Docket No. FHWA–2016–0002]

RIN 2125–AF70

#### Tribal Transportation Self-Governance Program; Negotiated Rulemaking Committee Meeting

**AGENCY:** Federal Highway Administration, DOT.

**ACTION:** Notice of negotiated rulemaking committee meeting.

**SUMMARY:** As required by the Negotiated Rulemaking Act, the Secretary of Transportation announces a meeting of the Tribal Transportation Self-Governance (TTSGP) Negotiated Rulemaking Committee. The meeting is open to the public.

**DATES:** The meeting will be held January 8–12, 2018, from 8 a.m. to 5 p.m., CDT.

**ADDRESSES:** The meeting will be held at the Eastern Federal Lands Highway Division, Loudoun Tech Center, 21400 Ridgetop Circle, Sterling, VA 20166–6511. Attendance is open to the public up to the room's capacity. Copies of the TTSGP Committee materials and an agenda will be made available in advance of the meeting at <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/>.

Send comments to Erin Kenley, Designated Federal Official, Federal Highway Administration, 1200 New Jersey Ave. SE, Washington, DC 20590; or Vivian Philbin, Assistant Chief Counsel, 12300 West Dakota Avenue, Lakewood, CO 80228. Or email to: [FHWA-TTSGP@dot.gov](mailto:FHWA-TTSGP@dot.gov).

Comments received by FHWA will be available for inspection at the address listed above from 9:00 a.m. to 4:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Erin Kenley, Designated Federal Official, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366–1567 or at [erin.kenley@dot.gov](mailto:erin.kenley@dot.gov)

*dot.gov*. Vivian Philbin, Assistant Chief Counsel, 12300 West Dakota Avenue, Lakewood, CO 80228. Telephone: (720) 963–3445 or at [vivian.philbin@dot.gov](mailto:vivian.philbin@dot.gov). Additional information may be posted on the FHWA Tribal Transportation Self-Governance Program website at <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/> as it comes available.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 1121 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (Dec. 4, 2015), directs the Secretary to develop a Notice of Proposed Rulemaking (NPRM) that contains the regulations required to carry out the TTSGP at the United States Department of Transportation (Department). Section 1121 also requires the Secretary to establish a committee to carry out this work and apply the procedures of negotiated rulemaking under subchapter III of chapter 5 of title 5 (the Negotiated Rulemaking Act) in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States. On July 27, 2016, the Secretary published a document in the **Federal Register** (81 FR 49193) “Negotiated Rulemaking Proposed Committee Membership and First Meeting,” and the TTSGP Committee held its first meeting from August 16 to 18, 2016, in Sterling, Virginia. The TTSGP Committee organized itself into work groups to assist in the negotiation and development of proposed regulatory text. Between September 2016 and December 2016, the full Committee met three additional times at the following locations: Sterling, Virginia; Shawnee, Oklahoma; and Bloomington, Minnesota. An additional meeting of the full committee was scheduled for Atmore, Alabama in December 2016. However, due to severe inclement weather and subsequent air travel flight cancellations, a quorum of representatives needed to conduct an official Committee meeting (in accordance with the Committee's protocols) was not obtained. Notwithstanding, the committee representatives that were present used the scheduled time to carry out business in work groups. A significant amount of the proposed language for the NPRM was developed during the meetings that were held. Due to a change in

Administration, the committee's work was put on hold in January 2017 to allow the new Administration to be briefed on the rulemaking and determine its future direction.

Section 1121 of the FAST Act allows a 180-day extension to the deadlines identified within it for completing this work. After receiving a consensus approval from the tribal committee members, the Secretary sent letters to the required members of Congress on September 1, 2017, informing them of the implementation of this provision.

In an effort to publish the NPRM within the time frames identified by statute, this will be the last meeting of the Committee until after the comment period is complete. At that time, the Committee may reconvene to address the comments received and work together to develop the proposed language for the Final Rule.

The Secretary acknowledges and appreciates the Committee's work and effort to date and looks forward to working together to complete this task. Several of the Committee members who were designated as Alternates have now been placed on the Committee as Primary members due to numerous circumstances. These include:

- Connie Thompson, Transportation Director, Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana [*replacing John Smith, Transportation Director, Eastern Shoshone and Northern Arapaho Tribes' Joint Business Council on the Wind River Indian Reservation, Arapahoe, WY*]
- Dean Branchaud, Red Lake Band of Chippewa, Red Lake, MN [*replacing David Conner, Self-Governance Coordinator, Red Lake Band of Chippewa Indians, Red Lake, MN*]
- Mary Beth Frank-Clark, Transportation Planner, Nez Pierce Tribe, Lewiston, ID [*replacing Timothy Ballew II, Tribal Chairman, Lummi Nation, Bellingham, WA*]; and
- Clyde M. Romero, Jr., Executive Director of Self-Governance, Taos Pueblo, Taos, NM [*replacing Mickey Percy, Executive Director of Self-Governance, Choctaw Nation of Oklahoma, Tishomingo, OK*].

Requests for additional nominees to backfill the alternate positions made available through these moves will not be accepted at this time.

The Secretary also designates the following individuals to replace Federal representatives of the Committee as Primary members:

- Anthony Bedell, Deputy Assistant Secretary for Intergovernmental Affairs, Office of the Secretary, USDOT, Washington, DC [*replacing Kenneth Martin, Deputy Assistant Secretary for Tribal Government Affairs, Office of the Secretary, USDOT, Washington, DC*]
- Colleen Vaughn, Environmental Policy Analyst/Historic Preservation Officer, Office of Policy Development, USDOT, Washington, DC [*replacing Katherine Andrus, Environmental Protection Specialist and Federal Preservation Officer, FAA, Washington, DC*]
- Erin Kenley, Director, Office of Tribal Transportation, FHWA, USDOT, Washington, DC as the Designated Federal Official [*replacing Robert W. Sparrow, Supervisory Program Manager, Office of Tribal Transportation, FHWA, Washington, DC*].

## II. Meeting Participation

The meeting will be open to the public. Time has been set aside during each day of the meeting for members of the public to contribute to the discussion and provide oral comments.

The committee will dedicate a substantial amount of time at this meeting to reviewing and finalizing the proposed regulatory language and preamble to the NPRM.

## III. Potential Future Committee Meetings and Rulemaking Calendar

Potential future meetings and the committee's responsibilities, as well as locations of consultation sessions/ outreach during the NPRM comment period, will be discussed during this meeting. Notifications of any future meetings will be shown on the TTSGP website at <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/> at least 15 calendar days prior to a meeting. Dates and locations of consultation sessions/ outreach during the comment period will be shown on the site as well as be included in a **Federal Register** document and in the preamble to the proposed NPRM. The Department intends to complete the negotiated rulemaking process for the proposed rule and publish a Final Rule in 2018.

Issued on: December 13, 2017.

### Brandye L. Hendrickson,

*Acting Administrator, Federal Highway Administration.*

[FR Doc. 2017-27439 Filed 12-20-17; 8:45 am]

BILLING CODE 4910-22-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2017-0699; FRL-9971-87-Region 6]

### Approval and Promulgation of Implementation Plans; Arkansas; Revisions to the Definitions for Arkansas Plan of Implementation for Air Pollution Control: Volatile Organic Compounds

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a portion of the revision to the Arkansas State Implementation Plan (SIP) submitted by Arkansas Department of Environmental Quality (ADEQ) on March 24, 2017. The revision modifies the definition of volatile organic compounds (VOC). Specifically, the submitted revision will incorporate the EPA's latest definition of VOC on the basis that these compounds make negligible contribution to tropospheric ozone formation. This action is being taken pursuant to the Clean Air Act.

**DATES:** Written comments should be received on or before January 22, 2018.

**ADDRESSES:** Submit your comments, identified by EPA-R06-OAR-2017-0699, at <http://www.regulations.gov> or via email to Ms. Nevine Salem. For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nevine Salem, (214) 665-7222, [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this issue of the **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this issue of the **Federal Register**.

Dated: December 15, 2017.

Samuel Coleman,

*Acting Regional Administrator, Region 6.*

[FR Doc. 2017-27459 Filed 12-20-17; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2016-0759; FRL-9972-35-Region 5]

### Air Plan Approval; Ohio; Regional Haze Plan and Prong 4 (Visibility) for the 2012 and 2006 PM<sub>2.5</sub>, 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2008 Ozone NAAQS

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to take action under the Clean Air Act (CAA) on an Ohio State Implementation Plan (SIP) submittal addressing regional haze. This proposed action is based on a final determination by EPA that a state's participation in the Cross-State Air Pollution Rule (CSAPR) program continues to meet the Regional Haze Rule (RHR)'s criteria to qualify as an alternative to the application of Best Available Retrofit Technology (BART). EPA is proposing the following five actions: Approve the portion of Ohio's November 30, 2016 SIP submittal seeking to change reliance from the Clean Air Interstate Rule (CAIR) to CSAPR for certain regional haze requirements; convert EPA's limited approval/limited disapproval of Ohio's March 11, 2011 regional haze SIP to a full approval; withdraw the Federal Implementation Plan (FIP) provisions that address the limited disapproval; approve the visibility prong of Ohio's infrastructure SIP submittals for the 2012 annual and 2006 24-hour fine particulate matter (PM<sub>2.5</sub>), 2010 nitrogen dioxide (NO<sub>2</sub>), and 2010 sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS); and convert EPA's disapproval of the visibility portion of Ohio's infrastructure SIP submittal for the 2008 ozone NAAQS to an approval.

**DATES:** Comments must be received on or before January 22, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0759 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-18), 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.

## I. Background

### A. Regional Haze SIPs and Their Relationship With CAIR and CSAPR

Section 169A(b)(2)(A) of the CAA requires states to submit regional haze SIPs that contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate BART as determined by the state. Under the RHR, states are directed to conduct BART determinations for such “BART-eligible” sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater

reasonable progress towards improving visibility than BART. See 40 CFR 51.308(e)(2). EPA provided states with this flexibility in the RHR, adopted in 1999, and further refined the criteria for assessing whether an alternative program provides for greater reasonable progress in two subsequent rulemakings. See 64 FR 35714 (July 1, 1999); 70 FR 39104 (July 6, 2005); 71 FR 60612 (October 13, 2006).

In revisions to the regional haze program made in 2005, EPA demonstrated that CAIR would achieve greater reasonable progress than BART.<sup>1</sup> See 70 FR 39104. In those revisions, EPA amended its regulations to provide that states participating in the CAIR cap-and-trade programs pursuant to an EPA-approved CAIR SIP, or states that remain subject to a CAIR FIP need not require affected BART-eligible electric generating units (EGUs) to install, operate, and maintain BART for emissions of SO<sub>2</sub> and nitrogen oxides (NO<sub>x</sub>).

As a result of EPA’s determination that CAIR was “better-than-BART,” a number of states in which CAIR applies, including Ohio, relied on the CAIR cap-and-trade programs as an alternative to BART for EGU emissions of SO<sub>2</sub> and NO<sub>x</sub> in designing their regional haze SIPs. These states also relied on CAIR as an element of a long-term strategy (LTS) for achieving reasonable progress goals (RPGs) for their regional haze programs. However, in 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA without vacatur (preserving the environmental benefits provided by CAIR). *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit’s remand, EPA promulgated CSAPR to replace CAIR and issued FIPs to implement the rule in CSAPR-subject states.<sup>2</sup> Implementation of CSAPR was

<sup>1</sup> CAIR created regional cap-and-trade programs to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions in 27 eastern states (and the District of Columbia), including Ohio, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS or the 1997 PM<sub>2.5</sub> NAAQS.

<sup>2</sup> CSAPR requires 28 eastern states to limit their statewide emissions of SO<sub>2</sub> and/or NO<sub>x</sub> in order to mitigate transported air pollution unlawfully impacting other states’ ability to attain or maintain four NAAQS: The 1997 ozone NAAQS, the 1997 annual PM<sub>2.5</sub> NAAQS, the 2006 24-hour PM<sub>2.5</sub> NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide “budgets” for emissions of annual SO<sub>2</sub>, annual NO<sub>x</sub>, and/or ozone-season NO<sub>x</sub> by each covered state’s large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 budgets applying to emissions in 2017 and later years.

scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program.

Due to the D.C. Circuit’s 2008 ruling that CAIR was “fatally flawed,” and its resulting status as a temporary measure following that ruling, EPA could not fully approve regional haze SIPs to the extent that they relied on CAIR to satisfy the BART requirement and the requirement for a LTS sufficient to achieve the state-adopted RPGs. On these grounds, EPA finalized a limited disapproval of Ohio’s regional haze SIP on June 7, 2012 (77 FR 33642), triggering the requirement for EPA to promulgate a FIP unless Ohio submitted and EPA approved a SIP revision that corrected the deficiency. EPA finalized a limited approval of Ohio’s regional haze SIP on July 2, 2012 (77 FR 39177), as meeting the remaining applicable regional haze requirements set forth in the CAA and the RHR.

In the June 7, 2012 limited disapproval action, EPA also amended the RHR to provide that participation by a state’s EGUs in a CSAPR trading program for a given pollutant—either a CSAPR Federal trading program implemented through a CSAPR FIP or an integrated CSAPR state trading program implemented through an approved CSAPR SIP revision—qualifies as a BART alternative for those EGUs for that pollutant.<sup>3</sup> See 40 CFR 51.308(e)(4). Since EPA promulgated this amendment, numerous states covered by CSAPR, including Ohio, have utilized the provision through either SIPs or FIPs.<sup>4</sup>

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on August 21, 2012, the court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit’s vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance

<sup>3</sup> Legal challenges to the CSAPR-Better-than-BART rule from state, industry, and other petitioners are pending. *Utility Air Regulatory Group v. EPA*, No. 12–1342 (D.C. Cir. filed August 6, 2012).

<sup>4</sup> EPA has promulgated FIPs relying on CSAPR participation for BART purposes for Georgia, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, 77 FR at 33654, and Nebraska, 77 FR 40150, 40151 (July 6, 2012), and Texas 82 FR 48324 (October 17, 2017). EPA has approved Minnesota’s, Wisconsin’s, and Alabama’s SIPs relying on CSAPR participation for BART purposes. See 77 FR 34801 (June 12, 2012) for Minnesota, 77 FR 46952 (August 7, 2012) for Wisconsin, and 82 FR 47393 (October 12, 2017) for Alabama.



with the high court's ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015).

The remanded budgets include the Phase 2 SO<sub>2</sub> emissions budgets for four states and the Phase 2 ozone-season NO<sub>x</sub> budgets for Ohio, and 10 other states. This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets that were originally scheduled to begin on January 1, 2014, began on January 1, 2017.

On September 29, 2017 (82 FR 45481), EPA published a final rule affirming the continued validity of the Agency's 2012 determination that participation in CSAPR meets the RHR's criteria for an alternative to the application of source specific BART. In the rulemaking, EPA explained that the limited changes to the scope of CSAPR coverage did not alter EPA's conclusion that CSAPR remains "better-than-BART;" that is, that participation in CSAPR remains available as an alternative to BART for EGUs covered by the trading program.

Ohio's November 30, 2016 SIP submittal seeks to correct the deficiencies identified in the June 7, 2012 limited disapproval of its regional haze SIP by replacing reliance on CAIR with reliance on CSAPR. Specifically, Ohio requests that EPA approve the State's regional haze SIP revision that replaces reliance on CAIR with CSAPR to satisfy SO<sub>2</sub> and NO<sub>x</sub> BART requirements and SO<sub>2</sub> reasonable progress requirements for EGUs formerly subject to CAIR,<sup>5</sup> and as part of the LTS for Ohio in the first planning period of the RHR.

#### B. Infrastructure SIPs

The "infrastructure SIP" requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. The requirement for states to make an infrastructure SIP submission is under CAA section 110(a)(1). SIPs meeting the requirements of sections 110(a)(1) and

(2) of the CAA are required to be submitted by states within three years (or less, if the Administrator so prescribes) 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 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), 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), prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4).

#### Prong 4 Requirements

Section 110(a)(2)(D)(i)(II) requires a state's implementation plan to contain provisions prohibiting sources in that state from emitting pollutants in amounts that interfere with any other state's efforts to protect visibility under part C of the CAA (which includes sections 169A and 169B). The 2013

Guidance<sup>6</sup> states that these prong 4 requirements can be satisfied by approved SIP provisions that EPA has found to adequately address any contribution of that state's sources that impact the visibility program requirements in other states. The 2013 Guidance also states that EPA interprets this prong to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.

The 2013 Guidance lays out how a state's infrastructure SIP may satisfy prong 4. One way is via confirmation that the state has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. The regulations at 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. A fully approved regional haze SIP will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

Alternatively, in the absence of a fully approved regional haze SIP, a state may meet the requirements of prong 4 through a demonstration in its infrastructure SIP submission that emissions within its jurisdiction do not interfere with other air agencies' plans to protect visibility. Such an infrastructure SIP submission would need to include measures to limit visibility-impairing pollutants and ensure that the reductions conform with any mutually agreed upon regional haze RPGs for mandatory Class I areas in other states.

Through this action, EPA is proposing to approve the prong 4 portion of Ohio's infrastructure SIP submissions for the 2012 PM<sub>2.5</sub>, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> standards, and to convert EPA's disapproval of the prong 4 portion of Ohio's infrastructure SIP submission for the 2008 ozone NAAQS to an approval, as discussed in section IV of this action. All other applicable infrastructure SIP requirements for these SIP submissions have been or will be addressed in separate rulemakings. A brief background regarding the NAAQS

<sup>5</sup> In its regional haze SIP, Ohio concluded and EPA found acceptable, that no additional controls beyond CAIR are reasonable for SO<sub>2</sub> for affected Ohio EGUs for the first implementation period. See 77 FR 39177 (July 2, 2012).

<sup>6</sup> "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.



relevant to this proposal is provided below.

#### 1. 2012 and 2006 PM<sub>2.5</sub> NAAQS

On December 14, 2012, EPA revised the annual primary PM<sub>2.5</sub> NAAQS to 12 micrograms per cubic meter (µg/m<sup>3</sup>). See 78 FR 3086 (January 15, 2013). States were required to submit infrastructure SIP submissions for the 2012 PM<sub>2.5</sub> NAAQS to EPA no later than December 14, 2015. Ohio submitted an infrastructure SIP submission for the 2012 PM<sub>2.5</sub> NAAQS on December 4, 2015. This proposed action only addresses the prong 4 element of that submission. The other portions of Ohio's December 4, 2015 PM<sub>2.5</sub> infrastructure submission have been previously addressed (81 FR 64072, September 19, 2016) or will be addressed in a separate action.

On December 18, 2006, EPA revised the 24-hour average primary and secondary PM<sub>2.5</sub> NAAQS to 35 µg/m<sup>3</sup>. See 71 FR 61144 (October 17, 2006). States were required to submit infrastructure SIP submissions for the 2006 PM<sub>2.5</sub> NAAQS to EPA no later than September 21, 2009. Ohio submitted an infrastructure SIP submission for the 2006 PM<sub>2.5</sub> NAAQS on September 4, 2009, supplemented on June 3, 2011, and July 5, 2011. This proposed action only addresses the prong 4 element of that submission. The other portions of Ohio's September 4, 2009 PM<sub>2.5</sub> infrastructure submission have been previously addressed (76 FR 48208, August 8, 2011, 77 FR 65478, October 29, 2012, and 79 FR 18999, April 7, 2014).

#### 2. 2010 SO<sub>2</sub> NAAQS

On June 2, 2010, EPA revised the primary SO<sub>2</sub> NAAQS to an hourly standard of 75 parts per billion (ppb) based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. See 75 FR 35520 (June 22, 2010). States were required to submit infrastructure SIP submissions for the 2010 SO<sub>2</sub> NAAQS to EPA no later than June 2, 2013. Ohio submitted an infrastructure SIP submission for the 2010 1-hour SO<sub>2</sub> NAAQS on June 7, 2013. This proposed action only addresses the prong 4 element of that submission. The other portions of Ohio's June 7, 2013 SO<sub>2</sub> infrastructure submission have been addressed in a previous EPA action (80 FR 48733, August 14, 2015).

#### 3. 2010 NO<sub>2</sub> NAAQS

On January 22, 2010, EPA promulgated a new 1-hour primary NAAQS for NO<sub>2</sub> at a level of 100 ppb, 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). States were required to submit infrastructure SIP submissions for the 2010 NO<sub>2</sub> NAAQS to EPA no later than January 22, 2013. Ohio submitted infrastructure SIP submissions for the 2010 NO<sub>2</sub> NAAQS on February 8, 2013, and February 25, 2013. This proposed action only addresses the prong 4 element of those submissions. The other portions of Ohio's February 8, 2013, and February 25, 2013 NO<sub>2</sub> infrastructure submissions have been addressed in a previous EPA action (79 FR 60075, October 6, 2014).

#### 4. 2008 Ozone NAAQS

On March 12, 2008, EPA revised the ozone NAAQS to 0.075 parts per million. See 73 FR 16436 (March 27, 2008). States were required to submit infrastructure SIP submissions for the 2008 ozone NAAQS to EPA no later than March 12, 2011. Ohio submitted an infrastructure SIP for the 2008 ozone NAAQS on December 27, 2012. On August 12, 2016, EPA disapproved the prong 4 element of Ohio's 2008 ozone infrastructure submission. See 81 FR 53309. This proposed action addresses that disapproval and proposes to convert it to a full approval for prong 4. The other portions of Ohio's December 27, 2012 ozone infrastructure SIP submission have been addressed in a previous EPA action (79 FR 62019, October 16, 2014).

### II. What is EPA's analysis of how Ohio addressed regional haze and prong 4?

Ohio submitted infrastructure SIPs for the following NAAQS: 2012 annual PM<sub>2.5</sub> (December 4, 2015); 2010 NO<sub>2</sub> (February 8 and 25, 2013); 2010 SO<sub>2</sub> (June 7, 2013); and 2008 ozone (December 27, 2012) which relied on the State having a fully approved regional haze SIP to satisfy its prong 4 requirements. However, EPA had not previously fully approved Ohio's regional haze SIP. The Agency issued a limited disapproval of the State's original regional haze plan on June 7, 2012, due to its reliance on CAIR, which also triggered the requirement for EPA to promulgate a FIP in Ohio utilizing CSAPR. To correct the deficiencies in its regional haze SIP and obtain approval of the aforementioned infrastructure SIPs that rely on the regional haze SIP, the State submitted a SIP revision on November 30, 2016, to replace reliance on CAIR with reliance on CSAPR.

As noted above, EPA determined that CSAPR remains "better than BART," given the changes to CSAPR's scope in response to the D.C. Circuit's remand.

Because the Agency has finalized the "CSAPR remains better-than-BART" rulemaking EPA is proposing to approve the regional haze portion of the State's November 30, 2016 SIP revision and convert EPA's previous action on Ohio's regional haze SIP from a limited approval/limited disapproval to a full approval. Specifically, EPA's finds that this portion of Ohio's November 30, 2016 SIP revision satisfies the SO<sub>2</sub> and NO<sub>x</sub> BART requirements and SO<sub>2</sub> reasonable progress requirements for EGUs formerly subject to CAIR. Because a state may satisfy prong 4 requirements through a fully approved regional haze SIP, EPA is also proposing to approve the prong 4 portion of Ohio's 2012 and 2006 PM<sub>2.5</sub> submissions; 2010 NO<sub>2</sub> submissions; 2010 SO<sub>2</sub> submission; and to convert EPA's disapproval of the prong 4 portions of Ohio's 2008 ozone infrastructure submission to an approval.

### III. Proposed Action

EPA is proposing to take the following actions: (1) Approve the portion of Ohio's November 30, 2016 SIP submittal seeking to change from reliance on CAIR to reliance on CSAPR for certain regional haze requirements; (2) convert EPA's limited approval/limited disapproval of Ohio's March 11, 2011 regional haze SIP to a full approval; (3) withdraw the FIP provisions that address the limited disapproval; (4) approve the visibility prong of Ohio's infrastructure SIP submittals for the 2012 and 2006 PM<sub>2.5</sub>, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS; and (5) convert EPA's disapproval of the visibility portion of Ohio's infrastructure SIP submittal for the 2008 ozone NAAQS to an approval.

All other applicable infrastructure requirements for the infrastructure SIP submissions have been or will be addressed in separate rulemakings.

### 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);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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: December 8, 2017.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2017-27431 Filed 12-20-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 170

[EPA-HQ-OPP-2017-0543; FRL-9972-10]

RINs 2070-AK40 and 2070-AK43

### Pesticides; Agricultural Worker Protection Standard; Reconsideration of Several Requirements and Notice About Compliance Dates

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is providing notice to the public that it has initiated a rulemaking process to revise certain requirements in the Agricultural Worker Protection Standard. EPA expects to publish a Notice of Proposed Rulemaking in FY 2018 to solicit public input on proposed revisions to the WPS requirements for minimum age, designated representative, and application exclusion zone.

**DATES:** EPA is also announcing that the compliance dates in the revised WPS published on November 2, 2015 (80 FR 67496) (FRL-9931-81) remain in effect and that the Agency does not intend to extend them.

#### FOR FURTHER INFORMATION CONTACT:

Kevin Keaney, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 305-5557; email address: [keaney.kevin@epa.gov](mailto:keaney.kevin@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

You may be potentially affected by this action if you work in or employ persons working in crop production agriculture where pesticides are applied. 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:

- Agricultural Establishments (NAICS code 111000).
- Nursery and Tree Production (NAICS code 111421).

- Timber Tract Operations (NAICS code 113110).

- Forest Nurseries and Gathering of Forest Products (NAICS code 113210).

- Farm Workers (NAICS codes 11511, 115112, and 115114).

- Pesticide Handling on Farms (NAICS code 115112).

- Farm Labor Contractors and Crew Leaders (NAICS code 115115).

- Pesticide Handling in Forestry (NAICS code 115310).

- Pesticide Manufacturers (NAICS code 325320).

- Farm Worker Support Organizations (NAICS codes 813311, 813312, and 813319).

- Farm Worker Labor Organizations (NAICS code 813930).

- Crop Advisors (NAICS codes 115112, 541690, 541712).

##### II. What action is the Agency taking?

###### A. Potential Changes to Several WPS Requirements

In accordance with Executive Order 13777, titled *Enforcing the Regulatory Reform Agenda*, EPA solicited public comments on regulations that may be appropriate for repeal, replacement or modification as part of the President's Regulatory Reform Agenda efforts. The comments received can be viewed at <http://www.regulations.gov> under docket EPA-HQ-OA-2017-0190. EPA received comments on the Agricultural Worker Protection Standard (WPS) requirements for minimum age, designated representative, and application exclusion zone (AEZ). These three topics were discussed at the November 2, 2017, meeting of the Office of Pesticide Program's Federal Advisory Committee, the Pesticide Program Dialogue Committee (PPDC). A transcript of the meeting will be posted when available on EPA's website at <https://www.epa.gov/pesticide-advisory-committees-and-regulatory-partners/pesticide-program-dialogue-committee-meeting-5>. After considering these comments, revisiting the record, and reviewing the applicable statutory authority, EPA has determined that further consideration of the WPS requirements for minimum age, designated representative, and AEZ is warranted through the rulemaking process. A brief summary of the existing WPS requirements for minimum age, designated representative, and the AEZ is provided below.

1. *Minimum Age.* The 2015 WPS established a minimum age of 18 years for pesticide handlers and for early-entry workers, with an exemption for owners of agricultural establishments and their immediate family members.

2. *Designated Representative.* The 2015 WPS required agricultural employers to provide pesticide application information and safety data sheets to a designated representative of a worker or handler under certain circumstances. This requirement is in addition to the requirement for agricultural employers to provide that information to medical personnel, workers or handlers requesting it.

3. *Application Exclusion Zones (AEZs).* For outdoor production on farms, nurseries and forests, the 2015 WPS rule established AEZ requirements to reduce the number of incidents where workers or other persons are exposed to pesticides during agricultural pesticide applications. The 2015 WPS requires agricultural employers to keep workers and other persons out of certain areas around the pesticide application equipment (*i.e.*, AEZs) during ongoing pesticide applications, in addition to continuing the 1992 WPS requirement to keep workers and other persons out of the treated area. The 2015 WPS also requires pesticide applicators (handlers) to suspend a pesticide application if workers or other persons are in the AEZ.

EPA is providing notice to the public that the Agency has initiated a rulemaking process to reconsider the requirements in the 2015 revised WPS for minimum age at 40 CFR 170.309(c), 170.313(c) and 170.605(a); designated representative at 170.305 and 170.311(b)(9); and application exclusion zone at 170.305, 170.405 and 170.505(b). EPA expects to publish a Notice of Proposed Rulemaking in FY 2018 to solicit public input on the proposed revisions to the WPS.

#### B. WPS Compliance Dates

EPA is also announcing that the compliance dates in the revised WPS remain in effect and that the Agency does not intend to extend them. Therefore, compliance with the revised WPS requirements will be required as set forth in the November 2, 2015 (80 FR 67496) (FRL-9931-81) revised WPS at 40 CFR 170.2, 170.311, 170.401, 170.501 and 170.505. Compliance with most of the revised WPS requirements was required beginning January 2, 2017. Compliance will be required with two additional requirements starting January 2, 2018; specifically, the pesticide safety information display (poster) which will have to include the revised content, and pesticide handlers (applicators) will have to temporarily suspend applications if workers or other persons enter into the application exclusion zone during pesticide applications. EPA will work with States and Tribes to implement the revised WPS in 2018.

The only requirements in the revised WPS that will not be in effect as of January 2, 2018 are the requirements that the worker and handler pesticide safety training material cover the expanded content at 40 CFR 170.401(c)(3) and 170.501(c)(3). The 2015 revised WPS provided that compliance with the expanded pesticide safety content in these sections was not required until 180 days after EPA publishes in the **Federal Register** a notice of availability of certain training materials. While there are training materials available that meet the expanded content requirement, EPA has not yet published a **Federal Register**

notice announcing their availability and does not plan to issue such a notice until the rulemaking process on the minimum age, designated representative and application exclusion zone requirements is complete. If any of those requirements change as a result of the rulemaking process, all of the training materials covering the expanded pesticide safety content (including videos, presentations and flip charts) would have to be changed. EPA is delaying the publication of the training materials availability notice to prevent extra work and costs to developers of the training materials and EPA reviewers. Therefore, pesticide safety training for workers and handlers may continue to be conducted using EPA-approved “old” materials (covering the topics in the August 21, 1992 WPS (57 FR 38102) (FRL-3774-6)) or EPA-approved “new” materials (covering the topics in the 2015 WPS) after January 2, 2018, and until the rulemaking process is complete. Training on the expanded pesticide safety content will not be required until 180 days after EPA publishes a **Federal Register** notice announcing the availability of training materials that cover the expanded content in 40 CFR 170.401(c)(3) and 170.501(c)(3).

**Authority:** 7 U.S.C. 136–136y.

Dated: December 13, 2017.

**Charlotte Bertrand,**

*Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2017-27303 Filed 12-20-17; 8:45 am]

**BILLING CODE 6560-50-P**

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

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Sante Fe National Forest; New Mexico; Amendment of the Land Management Plan for the Santa Fe National Forest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** Santa Fe National Forest, located in New Mexico, prepared a nonsignificant, programmatic forest plan amendment to allow the use of herbicides in municipal watersheds and on soils with low revegetation potential to accompany its Supplemental Environmental Impact Statement (SEIS) and a Draft Record of Decision (ROD) for Invasive Plant Control. This notice is to inform the public that a 60-day period is being initiated where individuals or entities with specific concerns on Santa Fe's Forest Plan Amendment for Invasive Plant Control may file an objection for Forest Service review prior to the approval of the Record of Decision for Invasive Plant Control.

**DATES:** Santa Fe's Forest Plan Amendment for Invasive Plant Control, SEIS, Draft ROD, and other supporting information, will be available for review at <http://www.fs.usda.gov/projects/santafe/landmanagement/projects> starting December 21, 2017.

A legal notice of the initiation of the 60-day objection period is also being published in Santa Fe National Forest's newspaper of record, which is the *Albuquerque Journal*. The date of publication of the legal notice in the *Albuquerque Journal* will determine the actual date of initiation of the 60-day objection period. A copy of the legal notice that is published in the *Albuquerque Journal* will be posted on the website listed above.

**ADDRESSES:** Copies of the Santa Fe's Forest Plan Amendment for Invasive Plant Control on Santa Fe National Forest, the SEIS, and the Draft ROD can

be obtained online at: <http://www.fs.usda.gov/projects/santafe/landmanagement/projects>; or by visiting or mailing a request to the Forest Supervisor's Office at the following location:

- 11 Forest Lane, Santa Fe, NM 87508 (Telephone: 505-438-5443);

Objections must be submitted to the Reviewing Officer:

- Regional Forester, USDA-Forest Service, ATTN: Objection Reviewing Officer, 333 Broadway Blvd. SE, Albuquerque, NM 87102 (Fax: 505-842-3173).

Objections may be submitted electronically at [objections-southwestern-regional-office@fs.fed.us](mailto:objections-southwestern-regional-office@fs.fed.us).

Note that the office hours for submitting a hand-delivered objection are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding Federal holidays. Electronic objections must be submitted in a commonly used format such as an email message, plain text (.txt), rich text format (.rtf) or Microsoft Word® (.doc or .docx).

**FOR FURTHER INFORMATION CONTACT:**

Sandra Imler-Jacquez, Environmental Coordinator, Santa Fe National Forest at 505-438-5443. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m. (Eastern time), Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The Forest Service, Southwestern Region, Santa Fe National Forest, prepared a Forest Plan Amendment for Invasive Plant Control. This notice is to inform the public that a 60-day period is being initiated where individuals or entities with specific concerns on Santa Fe's Forest Plan Amendment for Invasive Plant Control may file an objection for Forest Service review prior to the approval of the ROD for the Supplemental Environmental Impact Statement for the Invasive Plant Control Project.

The publication date of the legal notice in Santa Fe National Forest's newspaper of record, the *Albuquerque Journal*, will initiate the 60-day objection period and is the exclusive means for calculating the time to file an objection (36 CFR 219.16 and 219.52). An electronic scan of the notice with the publication date will be posted on Santa Fe National Forest's website at: <http://www.fs.usda.gov/projects/santafe/landmanagement/projects>.

The objection process under 36 CFR 219 subpart B, provides an opportunity for members of the public who have participated in the planning process for the Forest Plan Amendment for Invasive Plant Control on Santa Fe National Forest to have any unresolved concerns reviewed by the Forest Service prior to a final decision by the Responsible Official. Only those who provided substantive formal comments during the public comment period during the planning process are eligible to file an objection. Regulations at 36 CFR 219.62 define substantive formal comments as:

Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process, and attributed to the individual or entity providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.

#### How To File an Objection

The Forest Service will accept mailed, emailed, faxed, and hand-delivered objections concerning Santa Fe's Forest Plan Amendment for Invasive Plant Control for 60 calendar days following the date of the publication of the legal notice of this objection period in the newspaper of record, the *Albuquerque Journal*. It is the responsibility of the objector to ensure that the Reviewing Officer receives the objection in a timely manner. The regulations prohibit extending the length of the objection filing period.

Objections must be submitted to the Reviewing Officer, who will be the Regional Forester for the Southwestern Region, at the address shown in the **ADDRESSES** section of this notice.

An objection must include the following (36 CFR 219.54(c)):

(1) The objector's name and address along with a telephone number or email address if available—in cases where no identifiable name is attached to an objection, the Forest Service will attempt to verify the identity of the objector to confirm objection eligibility;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) Identification of the lead objector, when multiple names are listed on an

objection. The Forest Service will communicate to all parties to an objection through the lead objector. Verification of the identity of the lead objector must also be provided if requested;

(4) The name of the forest plan amendment being objected to, and the name and title of the Responsible Official;

(5) A statement of the issues and/or parts of the forest plan amendment to which the objection applies;

(6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If the objector believes that the forest plan amendment is inconsistent with law, regulation, or policy, an explanation should be included;

(7) A statement that demonstrates the link between the objector's prior substantive formal comments and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment; and

(8) All documents referenced in the objection (a bibliography is not sufficient), except that the following need not be provided:

- a. All or any part of a Federal law or regulation,
- b. Forest Service Directive System documents and land management plans or other published Forest Service documents,
- c. Documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection, and
- d. Formal comments previously provided to the Forest Service by the objector during the plan amendment comment period.

#### Responsible Official

The responsible official for the Santa Fe's Forest Plan Amendment for Invasive Plant Control on Santa Fe National Forest is James Melonas, Forest Supervisor, Santa Fe National Forest, 11 Forest Lane, Santa Fe, NM 87508.

Dated: November 7, 2017.

**Glenn P. Casamassa,**

*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2017-27490 Filed 12-20-17; 8:45 am]

**BILLING CODE 3411-15-P**

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### Notice of Solicitation of Applications for Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program for Fiscal Year 2018

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Rural Housing Service (RHS or Agency), an agency within Rural Development, announces that it is soliciting competitive lender submissions (responses) regarding proposed projects for the Section 538 Guaranteed Rural Rental Housing Program (GRRHP). The amount of program dollars available for the GRRHP will be determined by the Appropriations Act for each fiscal year that this Notice is open.

**DATES:** Eligible responses to this Notice will be accepted until December 31, 2021, 12:00 p.m. Eastern Time. Funding for selected responses that develop into complete applications and meet all Federal eligibility requirements will be based on the Appropriations Act for each individual fiscal year that this NOSA is open. Selected responses to this Notice that are deemed eligible for further processing after each fiscal year ends, will be funded to the extent an Appropriations Act provides sufficient funding in the fiscal year the response is selected. Approved applications are subject to the fee structure in effect when the response was selected for further processing. For example, a response that was selected under the 2016 NOSA will be subject to all fees stated in the 2016 NOSA.

**ADDRESSES:** Responses to this Notice may be submitted either electronically using the Section 538 electronic response form found at: <http://www.rd.usda.gov/programs-services/multi-family-housing-loan-guarantees> under the Forms and Resources tab or in hard copy to the appropriate Rural Development State Office where the project will be located. USDA Rural Development State Offices, their addresses, and telephone numbers may be found at: <http://www.rd.usda.gov/contact-us/state-offices>. *Note:* Telephone numbers listed are not toll-free. Applicants are strongly encouraged, but not required, to submit the response electronically.

Eligible lenders mailing a response or application must provide sufficient time to permit delivery to the appropriate *submission address* below on or before the closing deadline and time. Acceptance by a U.S. Post Office or

private mailer does not constitute delivery. Postage due responses and applications will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Monica Cole, Financial and Loan Analyst, U.S. Department of Agriculture Rural Development, Guaranteed Rural Rental Housing Program, Multi-Family Housing Guaranteed Loan Division, 1400 Independence Avenue SW, Room 1263S-STOP 0781, Washington, DC 20250-0781 or email: [monica.cole@wdc.usda.gov](mailto:monica.cole@wdc.usda.gov). Telephone: (202) 720-1251. This number is not toll-free. Hearing or speech-impaired persons may access that number by calling the Federal Information Relay Service toll-free at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** The obligation of available funds, via the issuance of Conditional Commitments for loan guarantees, will be made in the following order: (1) To outstanding approved applications from prior years for which Conditional Commitments have not been issued; then (2) to applications approved under this Notice in the order by which the request for funding obligation is received by the USDA Rural Development National Office (National Office) from the State Offices. When funding is insufficient to serve all applications approved under this Notice, they will be funded according to the priority scoring set forth in Section V of this Notice.

Expenses incurred in developing applications will be at the applicant's risk. The following paragraphs outline the timeframes, eligibility requirements, lender responsibilities, and the overall response and application processes.

Any modifications to this Notice, including cancellation, will be published in the **Federal Register**.

Eligible lenders are invited to submit responses for new construction and acquisition with rehabilitation of affordable rural rental housing. The Agency will review responses submitted by eligible lenders, on the lender's letterhead, and signed by both the prospective borrower and lender. Although a complete application is not required in response to this Notice, eligible lenders may submit a complete application concurrently with the response. Submitting a complete application will not have any effect on the respondent's response score.

#### Overview

*Federal Agency:* Rural Housing Service.

*Solicitation Opportunity Title:* Guaranteed Multi-Family Housing Loans.

*Announcement Type:* Initial Solicitation Announcement.

*Catalog of Federal Domestic Assistance:* 10.438.

*Dates:* Response Deadline: December 31, 2021, 12:00 p.m. Eastern Time.

### I. Funding Opportunity Description

The GRRHP is authorized by Section 538 of the Housing Act of 1949, as amended (42 U.S.C. 1490p-2) and operates under 7 CFR part 3565. The purpose of the GRRHP is to increase the supply of affordable rural rental housing through the use of loan guarantees that encourage partnerships between the Agency, private lenders, and public agencies.

*Eligibility of Prior Year Selected Responses:* Prior fiscal year response selections that did not develop into complete applications within the time constraints stipulated by the corresponding State Office have been cancelled. Lenders and applicants have been notified of the cancellation by the State Office. A new response for the project may be submitted subject to the conditions of this Notice.

Prior years' responses that were selected by the Agency, with a complete application submitted by the lender within 90 days from the date of notification of response selection (unless an extension was granted by the Agency), will be eligible for review, approval and FY 2018 program dollars without having to complete a FY 2018 response. A complete application includes all Federal environmental documents required by 7 CFR part 1970, subpart G, and a Form RD 3565-1, "Application for Loan and Guarantee".

If approved, applications that accompanied a response submitted under a prior year's notice (outstanding prior years approved applications) will be obligated in the order by which the Agency's National Office received the request for obligation from the State Offices, to the extent of available funding.

Once the outstanding prior years approved applications have been funded, the Agency will fund applications approved pursuant to this Notice in the order by which the Agency's National Office received the request for obligation from the State Offices. If funding is insufficient to serve applications pursuant to this Notice, they will be funded according to the priority scoring set forth in Section V of this Notice.

The obligation of program funds is discussed further in Section VI of this Notice.

### II. Award Information

Anyone interested in submitting a response and application for funding

under this program is encouraged to consult the Rural Development website <http://www.rd.usda.gov/programs-services/multi-family-housing-loan-guarantees> periodically for updated information regarding the status of funding authorized for this program.

*Qualifying Properties:* Qualifying properties include new construction for multi-family housing units and the acquisition of existing structures with a minimum per unit rehabilitation expenditure requirement in accordance with 7 CFR 3565.252. The Agency does not finance acquisition only deals.

Also eligible is the revitalization, repair, and transfer (as stipulated in 7 CFR 3560.406) of existing direct Section 515 housing and Section 514/516 Farm Labor Housing (FLH) (transfer costs are subject to Agency approval and must be an eligible use of loan proceeds as listed in 7 CFR 3565.205), and properties involved in the Agency's Multifamily Preservation and Revitalization (MPR) Demonstration program. Equity payment, as stipulated in 7 CFR 3560.406, in the transfer of existing direct Section 515 and Section 514/516 FLH, is an eligible use of guaranteed loan proceeds. In order to be considered, the transfer of Section 515 and Section 514/516 FLH and MPR projects must need repairs and undergo revitalization of a minimum of \$6,500 per unit.

*Eligible Financing Sources:* Any form of Federal, State, and conventional sources of financing can be used in conjunction with the loan guarantee, including Home Investment Partnerships Program (HOME) grant funds, tax exempt bonds, and Low Income Housing Tax Credits (LIHTC).

*Types of Guarantees:* The Agency offers three types of guarantees which are set forth at 7 CFR 3565.52(c). The Agency's liability under any guarantee will decrease or increase, in proportion to any decrease or increase in the amount of the unpaid portion of the loan, up to the maximum amount specified in the Loan Note Guarantee. Penalties incurred as a result of default are not covered by any of the program's guarantees. The Agency may provide a lesser guarantee based upon its evaluation of the credit quality of the loan.

*Energy Conservation:* All new multi-family housing projects financed in whole or in part by USDA are encouraged to engage in sustainable building development that emphasizes energy-efficiency and conservation. In order to assist in the achievement of this goal, any GRRHP project that participates in one or all of the programs included in priority 7 under the

"Scoring of Priority Criteria for Selection of Projects" section of this Notice may receive a maximum of 25 additional points added to their project score. Participation in these nationwide initiatives is voluntary, but strongly encouraged.

*Interest Credit:* There will be no interest credit.

*Program Fees:* The following fees have been determined necessary to cover the projected cost of loan guarantees. These fees may be adjusted based on the 2018 Appropriation requirements and in future years to cover the projected costs of loan guarantees in those future years, or additional fees may be charged. The fees are as follows:

1. Initial guarantee fee. The Agency will charge an initial guarantee fee equal to one percent of the guarantee principal amount. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

2. Annual guarantee fee. An annual guarantee fee of 50 basis points (½ percent) of the outstanding principal amount of the loan as of December 31 will be charged each year or portion of a year that the guarantee is outstanding.

3. As permitted under 7 CFR 3565.302(b)(5), there is a non-refundable service fee of \$1,500 for the review of a lender's first request to extend the term of a guarantee commitment beyond its original expiration (the request must be received by the Agency prior to the commitment's expiration). For any subsequent extension request, the fee will be \$2,500.

4. As permitted under 7 CFR 3565.302(b)(5), there is a non-refundable service fee of \$3,500 for the review of a lender's first request to reopen an application when a commitment has expired. For any subsequent extension request to reopen an application after the commitment has expired, the fee will be \$3,500.

5. As permitted under 7 CFR 3565.302(b)(4), there is a non-refundable service fee of \$1,500 in connection with a lender's request to approve the transfer of property or a change in composition of the ownership entity.

6. There is no application fee.

7. There is no lender application fee for lender approval.

8. There is no surcharge for the guarantee of construction advances.

### III. Lender Eligibility Information

*Eligible Lenders:* An eligible lender for the Section 538 GRRHP as required by 7 CFR 3565.102 must be a licensed business entity or Housing Finance

Agency (HFA) in good standing in the State or States where it conducts business. Lender eligibility requirements are contained in 7 CFR 3565.102. Please review that section for a complete list of all of the criteria. The Agency will only consider responses from GRRHP eligible or approved lenders as described in 7 CFR 3565.102 and 3565.103 respectively.

Lenders who do not have GRRHP approved lender status and whose responses are selected will be notified by the Agency to submit a request for GRRHP lender approval within 30 days of notification. Alternately, lenders may submit a request for GRRHP approved lender status with the response. Lenders who request GRRHP approval must meet the standards in 7 CFR 3565.103.

Lenders that have received GRRHP lender approval that remain in good standing in accordance with 7 CFR 3565.105, do not need to reapply for GRRHP lender approval.

*Submission of Documentation for GRRHP Lender Approval:* All lenders that have not yet received GRRHP lender approval must submit a complete lender application to: Director, Multi-Family Housing Guaranteed Loan Division, U.S. Department of Agriculture Rural Development, 1400 Independence Avenue SW, Room 1263S—STOP 0781, Washington, DC 20250—0781. Lender applications must be identified as “Lender Application—Section 538 Guaranteed Rural Rental Housing Program” on the envelope.

**IV. Response Submission Information**

Responses to this Notice may be submitted either electronically using the Section 538 electronic response form found at: <http://www.rd.usda.gov/programs-services/multi-family-housing-loan-guarantees> under the Forms and Resources tab or in hard copy to the appropriate Rural Development State Office where the project will be located. USDA Rural Development State Offices, their addresses, and telephone numbers may be found at: <http://www.rd.usda.gov/contact-us/state-offices>. *Note:* Telephone numbers listed are not toll-free. Lenders are strongly encouraged, but not required, to submit their responses electronically.

The electronic form contains a button labeled “Send Form.” By clicking on the button, the applicant will see an email message window with an attachment that includes the electronic form the applicant filled out as a data file with an .fdf extension. In addition, an auto-reply acknowledgement will be sent to the applicant when the electronic response form is received by the Agency unless the sender has software that will block the receipt of the auto-reply email. The State Office will record responses received electronically by the actual date and time when all attachments are received at the State Office.

Submission of the response to this Notice does not constitute submission of the entire loan guarantee application

package, which requires additional forms and supporting documentation.

*Content of Responses:* All responses require lender information and project specific data as set out in this Notice. Incomplete responses will not be considered for funding. Lenders will be notified of incomplete responses no later than 30 calendar days from the date of receipt of the response by the Agency. Complete responses are to include a signed cover letter from the lender, on the lender’s letterhead. The lender must provide the requested information concerning the project, to establish the purpose of the proposed project, its location, and how it meets the established priorities for funding. In the case of insufficient funding for applications approved under this Notice, the Agency will fund those applications by highest ranked responses based on priority criteria.

(1) *Lender Certification:* The lender must certify that the lender will make a loan to the prospective borrower for the proposed project, under specified terms and conditions subject to the issuance of the GRRHP guarantee. Lender certification must be on the lender’s letterhead and signed by both the lender and the prospective borrower.

(2) *Project Specific Data:* The lender must submit the project specific data below on the lender’s letterhead, signed by both the lender and the prospective borrower:

Data element	Information that must be included
Lender Name .....	Insert the lender’s name.
Lender Tax ID # .....	Insert lender’s tax ID number.
Lender Contact Name .....	Name of the lender contact for loan.
Mailing Address .....	Lender’s complete mailing address.
Phone # .....	Phone number for lender contact.
Fax # .....	Insert lender’s fax number.
EMail Address .....	Insert lender contact email address.
Borrower Name and Organization Type .....	State whether borrower is a Limited Partnership, Corporation, Indian Tribe, etc.
Equal Opportunity Survey .....	Optional Completion.
Tax Classification Type .....	State whether borrower is for profit, not for profit, etc.
Borrower Tax ID # .....	Insert borrower’s tax ID number.
Borrower DUNS # .....	Insert DUNS number.
Borrower Address, including County .....	Borrower’s complete address and county.
Borrower Phone #, Fax # and EMail Address .....	Insert borrower’s phone number, fax number and email address.
Principal or Key Member for the Borrower .....	Insert name and title. List the general partners if a limited partnership, officers if a corporation or members of a Limited Liability Corporation.
Borrower Information and Statement of Housing Development Experience.	Attach relevant information.
New Construction, Acquisition With Rehabilitation .....	State whether the project is new construction or acquisition with rehabilitation.
Revitalization, Repair, and Transfer (as stipulated in 7 CFR 3560.406) of Existing Direct Section 515 and Section 514/516 FLH or MPR.	Yes or No (Transfer costs, including equity payments, are subject to Agency approval and must be an eligible use of loan proceeds in 7 CFR 3565.205).
Project Location Town or City .....	Town or city in which the project is located.
Project County .....	County in which the project is located.
Project State .....	State in which the project is located.
Project Zip Code .....	Insert zip code where the project is located.
Project Congressional District .....	Congressional District for project location.

Data element	Information that must be included
Project Name .....	Insert project name.
Project Type .....	Family, senior (all residents 55 years or older), or mixed.
Property Description and Proposed Development Schedule .....	Provide as an attachment.
Total Project Development Cost .....	Enter amount for total project.
# of Units .....	Insert the number of units in the project.
Ratio of 3–5 Bedroom Units to Total Units .....	Insert percentage of 3–5 bedroom units to total units.
Cost Per Unit .....	Total development cost divided by number of units.
Rent .....	Proposed rent structure.
Median Income for Community .....	Provide median income for the community.
Evidence of Site Control .....	Attach relevant information.
Description of Any Environmental Issues .....	Attach relevant information.
Loan Amount .....	Insert the loan amount.
Borrower’s Proposed Equity .....	Insert amount and source.
Low Income Housing Tax Credits .....	Have tax credits been awarded? If tax credits were awarded, submit a copy of the award/evidence of award with your response. If not, when do you anticipate an award will be made (announced)? What is the [estimated] value of the tax credits? Letters of application and commitment letters should be included, if available.
Other Sources of Funds .....	List all funding sources other than tax credits and amounts for each source, type, rates and terms of loans or grant funds.
Loan to Total Development Cost .....	Guaranteed loan divided by the total development costs of project.
Debt Coverage Ratio .....	Net Operating Income divided by debt service payments.
Percentage of Guarantee .....	Percentage guarantee requested.
Collateral .....	Attach relevant information.
Colonia, Tribal Lands, or State’s Consolidated Plan or State Needs Assessment.	Colonia, on an Indian Reservation, or in a place identified in the State’s Consolidated Plan or State Needs Assessment as a high need community for multi-family housing.
Is the Property Located in a Federally Declared Disaster Area? .....	If yes, please provide documentation (i.e., Presidential Declaration document).
Population .....	Provide the population of the county, city, or town where the project is or will be located.
What Type of Guarantee is Being Requested, Permanent Only (Option 1), Construction and Permanent (Option 2), or Continuous (Option 3).	Enter the type of guarantee.
Loan Term .....	Minimum 25-year term. Maximum 40-year term (includes construction period). May amortize up to 40 years. Balloon mortgages permitted after the 25th year.
Participation in Energy Efficient Programs .....	Initial checklist indicating prerequisites to register for participation in a particular energy efficient program. All checklists must be accompanied by a signed affidavit by the project architect stating that the goals are achievable. If property management is certified for green property management, the certification must be provided.

*(3) The Proposed Borrower Information:*

(a) Lender certification that the borrower and principals are not barred or suspended from participating in State or Federal loan programs and are not delinquent on any Federal debt.

(b) Borrower’s unaudited or audited financial statements.

(c) Statement of borrower’s housing development experience.

*(4) Lender Eligibility and Approval Status:* Evidence that the lender is either an approved lender for the purposes of the GRRHP or that the lender is eligible to apply for approved lender status. The lender’s application package requesting approved lender status can be submitted with the response. If a lender has not yet been approved by the Agency submits a response and receives a Notice to Proceed from the State Office, the lender approval application must be submitted to the National Office within 30 calendar days of the lender’s receipt of the Notice to Proceed letter. The Agency will not issue a loan note guarantee

until the lender is approved by the Agency.

*(5) Competitive Criteria:* Information that shows how the proposal is responsive to the priority scoring criteria specified in this Notice.

**V. Application Review Information**

*Scoring of Priority Criteria for Selection:* All responses received under this Notice will be scored based on the criteria set forth below to establish priority in the event there is insufficient funding. Per 7 CFR 3565.5(b), priority will be given to projects: in smaller rural communities, in the most needy communities having the highest percentage of leveraging, having the lowest interest rate, or having the highest ratio of 3–5 bedroom units to total units. In addition, as permitted in 7 CFR 3565.5(b), in order to meet important program goals, priority points will be given for projects that include LIHTC funding and projects that are participating in specified energy efficient programs.

The eight priority scoring criteria for projects are listed below.

*Priority 1—Projects located in eligible rural communities with the lowest populations will receive the highest points.*

Population size (people)	Points
0–5,000 .....	30
5,001–10,000 .....	15
10,001–15,000 .....	10
15,001–20,000 .....	5
20,001–35,000 .....	0

*Priority 2—The neediest communities as determined by the median income from the most recent census data published by the United States Department of Housing and Urban Development, will receive points. The Agency will allocate points to projects located in communities having the lowest median income. Points for median income will be awarded as follows:*



Median income (dollars)	Points
Less than \$45,000 .....	20
\$45,000–less than \$55,000 .....	15
\$55,000–less than \$65,000 .....	10
\$65,000–less than \$75,000 .....	5
\$75,000 or more .....	0

**Priority 3**—Projects that demonstrate partnering and leveraging in order to develop the maximum number of units and promote partnerships with State and local communities will also receive points. Points will be awarded as follows:

Loan to total development cost ratio (%)	Points
Less than 25 .....	60
Less than 50 to 25 .....	30
Less than 70 to 50 .....	10
70 or more .....	0

**Priority 4**—Responses that include equity from low income housing tax credits will receive an additional 50 points.

**Priority 5**—The USDA Rural Development will award points to projects with the highest ratio of 3–5 bedroom units to total units as follows:

Ratio of 3–5 bedroom units to total units	Points
More than 50% .....	10
21%–50% .....	5
Less than 21%–more than 0% .....	1

**Priority 6**—Responses for the revitalization, repair, and transfer (as stipulated in 7 CFR 3560.406) of existing direct Section 515 and Section 514/516 FLH and properties involved in the Agency’s MPR Demonstration program (transfer costs, including equity payments, are subject to Agency approval and must be an eligible use of loan proceeds listed in 7 CFR 3565.205) will receive an additional 10 points. If the transfer of existing Section 515 and Section 514/516 FLH properties includes equity payments, 0 points will be awarded.

**Priority 7—Energy Efficiency:**

(A) Projects that are energy-efficient and registered for participation in the following programs will receive points as indicated up to a maximum of 25 points. Each program has an initial checklist indicating prerequisites for participation. Each applicant must provide a checklist establishing that the prerequisites for each program’s participation will be met. Additional points will be awarded for checklists that achieve higher levels of energy efficiency certification as set forth

below. All checklists must be accompanied by a signed affidavit by the project architect stating that the goals are achievable. Points will be awarded for the listed programs as follows. Because Energy Star for Homes is a requirement within other programs such as LEED and Green Communities, points will only be awarded separately for Energy Star for Homes if it is the only program in which the project is enrolled, excluding local programs that do not require participation in Energy Star for Homes:

- *Energy Star for Homes*—5 points;
- *Green Communities* by the Enterprise Community Partners ([www.enterprisefoundation.org](http://www.enterprisefoundation.org))—10 points;
- *LEED for Homes* program by the U.S. Green Building Council ([www.usgbc.org](http://www.usgbc.org))—Certified (10 points), Silver (12 points), Gold (15 points), or Platinum (25 points);
- *Home Innovation’s National Green Building Standard™* certification program ([www.homeinnovation.com/green](http://www.homeinnovation.com/green))—Bronze (10 points), Silver (12 points), Gold (15 points), or Emerald (25 points); or
- A State or local green building program—2 points.

(B) Projects that will be managed by a property management company that are certified green property management companies will receive 5 points. Applicants must provide proof of certification. Certification may be achieved through one of the following programs:

- National Apartment Association, Credential for Green Property Management; [www.naahq.org/EDUCATION/DESIGNATION/PROGRAMS/OTHER/Pages/default.aspx](http://www.naahq.org/EDUCATION/DESIGNATION/PROGRAMS/OTHER/Pages/default.aspx);
- National Affordable Housing Management Association, Credential for Green Property Management; [www.nahma.org/content/greencred.html](http://www.nahma.org/content/greencred.html); or
- U.S. Green Building Council, Green Building Certification Institute LEED AP (any discipline) or LEED Green Associate; [www.gbci.org](http://www.gbci.org).

(C) *Energy Generation* (maximum 5 points). Responses for new construction or purchase and rehabilitation of non-program multi-family projects which participate in the Energy Star for Homes V3 Program, Green Communities, LEED for Homes, or *Home Innovation’s National Green Building Standard™* are eligible to earn additional points for installation of on-site renewable energy sources. In order to receive more than 1 point for this energy generation section, an accurate energy analysis prepared by an engineer will need to be submitted

with the response. Energy analysis of preliminary building plans using industry-recognized simulation software must document the projected total energy consumption of the building, the portion of the building consumption which will be satisfied through on-site generation and the building’s Home Energy Rating System (HERS) score.

Projects with an energy analysis of the preliminary or rehabilitation building plans that propose a 10 percent to 100 percent energy generation commitment (where generation is considered to be the total amount of energy needed to be generated on-site to make the building a net-zero consumer of energy) will be awarded points as follows:

- (a) 0 to 9 percent commitment to energy generation receives 0 points;
- (b) 10 to 29 percent commitment to energy generation receives 1 point;
- (c) 30 to 49 percent commitment to energy generation receives 2 points;
- (d) 50 to 69 percent commitment to energy generation receives 3 points;
- (e) 70 to 89 percent commitment to energy generation receives 4 points;
- (f) 90 percent or more commitment to energy generation receives 5 points.

**Priority 8—Promise Zones/Persistent Poverty Areas:**

Additional 10 points will be awarded to projects located in Promise Zones and/or Persistent Poverty Counties. A county is considered persistently poor if 20 percent or more of its population was living in poverty over the last 30 years (measured by the 1990, 2000, and 2010 decennial censuses and 2007–2011 American Community Survey 5-year estimates), as determined by the Agency.

**Notifications:** Responses will be reviewed for completeness and eligibility. The Agency will notify those lenders whose responses are selected via a “Notice to Proceed with Application Processing” letter. The Agency will request lenders without GRRHP lender approval to apply for GRRHP lender approval within 30 days upon receipt of notification of selection.

Lenders will also be invited to submit a complete application to the USDA Rural Development State Office where the project is located.

**Submission of GRRHP Applications:** The Agency will issue a “Notice to Proceed with Application Processing” (Notice to Proceed) to lenders whose responses have been selected. The Notice to Proceed instruct lenders to contact the USDA Rural Development State Office immediately following notification of selection to schedule required Agency reviews.

USDA Rural Development State Office staff will work with lenders in the

development of an application package. The deadline for the submission of a complete application is 90 calendar days from the date of notification of response selection. If the application is not received by the appropriate State Office within 90 calendar days from the date of notification, the selection is subject to cancellation, thereby allowing another response that is ready to proceed with processing to be selected. The Agency may extend this 90 day deadline for receipt of an application at its own discretion.

## VI. Award Administration Information

**Obligation of Program Funds:** The Agency will only obligate funds to projects that meet the requirements under 7 CFR part 3565 and this Notice, including having undergone a satisfactory environmental review in accordance with the National Environmental Protection Act (NEPA) and completed Form RD 3565-1, "Application for Loan and Guarantee".

The Agency will select the responses that meet eligibility criteria and invite lenders, via a Notice to Proceed, to submit complete applications to the Agency, as well as a request for GRRHP approved lender status if necessary. Once a complete application is received and approved (and any request for GRRHP approved lender status is granted), the Agency's State Office will submit a request to obligate funds to the Agency's National Office. Obligation requests submitted to the National Office will be accumulated and placed in a queue for funding based on the order by which the obligation request was received by the National Office. In the event that multiple obligation requests are received at the same time, first priority will be given to the request for the project that has the highest percentage of leveraging (lowest Loan to Cost). If there is still a tie, priority will be given to the project in the smaller rural community.

In the event there is insufficient funding for applications approved under this Notice, the Agency will fund applications based on priority score ranking described in Section V.

**Conditional Commitment:** Once the required documents for obligation are received and all applicable requirements have been met, including NEPA requirements, and to the extent funding is available, the USDA Rural Development State Office will issue a Conditional Commitment. The Conditional Commitment will stipulate the conditions that must be fulfilled before the issuance of a guarantee, in accordance with 7 CFR 3565.303.

**Issuance of Guarantee:** The USDA Rural Development State Office will issue a guarantee to the lender for a project in accordance with 7 CFR 3565.303. No guarantee can be issued without a complete application, review of appropriate certifications, satisfactory assessment of the appropriate level of environmental review, and the completion of any conditional requirements.

**Tracking of Average Rents:** After the loan closes, the lender will track the initial affordable rent at each property funded under this Notice and the average market rent in the area. The difference between these two rents will provide the lender with a measure of the impact the GRRHP has on affordable rents.

## Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992, submit your completed form or letter to USDA by:

**Mail:** U.S. Department of Agriculture, Director, Office of Adjudication, 1400

Independence Avenue SW, Washington, DC 20250-9410;

**Fax:** (202) 690-7442; or  
**Email:** [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

Dated: December 14, 2017.

**Richard A. Davis,**

*Acting Administrator, Rural Housing Service.*

[FR Doc. 2017-27527 Filed 12-20-17; 8:45 am]

**BILLING CODE 3410-XV-P**

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### Meetings

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of meetings.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) plans to hold its regular committee and Board meetings in Washington, DC, Monday, January 8, and Wednesday, January 10, 2018 at the times and location listed below.

**DATES:** The schedule of events is as follows:

Monday, January 8, 2018

10:00 a.m.–11:00 a.m. Ad Hoc  
Committee on Design Guidance  
11:00 a.m.–Noon Technical  
Programs

1:30 p.m.–2:30 p.m. Ad Hoc  
Committee on Frontier Issues

Wednesday, January 10, 2018

9:30 a.m.–10:00 a.m. Budget  
10:00 a.m.–11:00 a.m. Planning and  
Evaluation

11:00 a.m.–Noon Update on Access  
Board Rulemaking (Closed to  
Public)

1:30 p.m.–3:00 p.m. Board Meeting

**ADDRESSES:** Meetings will be held at the Access Board Conference Room, 1331 F Street NW, Suite 800, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding the meetings, please contact David Capozzi, Executive Director, (202) 272-0010 (voice); (202) 272-0054 (TTY).

**SUPPLEMENTARY INFORMATION:** At the Board meeting scheduled on the afternoon of Wednesday, January 10, 2018, the Access Board will consider the following agenda items:

- Approval of draft meeting minutes (vote): March 15, 2017; July 12, 2017; September 13, 2017; November 15, 2017
- Ad Hoc Committee Reports: Design Guidance; Frontier Issues

- Rulemaking Reports
- Technical Programs Committee
- Budget Committee
- Planning and Evaluation Committee
- Election Assistance Commission Report
- Executive Director's Report
- Public Comment (final 15 minutes of the meeting)

Members of the public can provide comments either in-person or over the telephone during the final 15 minutes of the Board meeting on Wednesday, January 10, 2018. Any individual interested in providing comment is asked to pre-register by sending an email to [bunales@access-board.gov](mailto:bunales@access-board.gov) with the subject line "Access Board meeting—Public Comment" with your name, organization, state, and topic of comment included in the body of your email. All emails to register for public comment must be received by Wednesday, January 3, 2018. Commenters will be provided with a call-in number and passcode before the meeting. Commenters will be called on in the order by which they are pre-registered. Due to time constraints, each commenter is limited to two minutes. Commenters on the telephone will be in a listen-only capacity until they are called on.

All meetings are accessible to persons with disabilities. An assistive listening system, Communication Access Realtime Translation (CART), and sign language interpreters will be available at the Board meeting and committee meetings.

Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see [www.access-board.gov/the-board/policies/fragrance-free-environment](http://www.access-board.gov/the-board/policies/fragrance-free-environment) for more information).

You may view the Wednesday, January 10, 2018 meeting through a live webcast from 1:30 p.m. to 3:00 p.m. at: [www.access-board.gov/webcast](http://www.access-board.gov/webcast).

**David M. Capozzi,**

*Executive Director.*

[FR Doc. 2017-27504 Filed 12-20-17; 8:45 am]

**BILLING CODE 8150-01-P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the West Virginia Advisory Committee

**AGENCY:** 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 (FACA) that a meeting of the West Virginia Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on Friday, January 5, 2018. The purpose of the meeting is to receive status reports from the Planning Workgroup on recommendations for examining the Committee's examination of the collateral consequences of felony convictions in WV and to make decisions, as needed.

**DATES:** Friday, January 5, 2018, at 12:00 p.m. EST.

**Public Call-In Information:**

Conference call-in number: 1-877-604-9665 and conference call 5788080.

**FOR FURTHER INFORMATION CONTACT:** Ivy Davis at [ero@usccr.gov](mailto:ero@usccr.gov) or by phone at 202-376-7533.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1-877-604-9665 and conference call 5788080. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1-800-977-8339 and providing the operator with the toll-free conference call-in number: 1-877-604-9665 and conference call 5788080.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376-7548, or emailed to Carolyn Allen at [ero@usccr.gov](mailto:ero@usccr.gov). Persons who desire additional information may contact the Eastern Regional Office at (202) 376-7533.

Records and documents discussed during the meeting will be available for public viewing as they become available

at <https://database.faca.gov/committee/meetings.aspx?cid=281>, click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, [www.usccr.gov](http://www.usccr.gov), or to contact the Eastern Regional Office at the above phone numbers, email or street address.

**Agenda:** Friday, January 5, 2018, 12:00 p.m. EST

- Rollcall
- Project Planning: Collateral Consequences
- Update from Committee Workgroups
- Next Steps
- Other Business
- Open Comment
- Adjourn

Dated: December 18, 2017.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017-27518 Filed 12-20-17; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Virginia Advisory Committee

**AGENCY:** 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 (FACA) that a meeting of the Virginia Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on Wednesday, January 17, 2018. The purpose of the meeting is to receive status reports from the Planning Workgroup suggesting plans for examining hate crimes in VA and to make decisions as necessary.

**DATES:** Wednesday, January 17, 2018, at 12:00 p.m. EST.

**Public Call-In Information:**

Conference call-in number: 1-800-474-8920 and conference call 8310490.

**FOR FURTHER INFORMATION CONTACT:** Ivy Davis at [ero@usccr.gov](mailto:ero@usccr.gov) or by phone at 202-376-7533.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1-800-474-8920 and conference call 8310490. Please be advised that before placing

them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1-800-977-8339 and providing the operator with the toll-free conference call-in number: 1-800-474-8920 and conference call 8310490.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376-7548, or emailed to Carolyn Allen at [ero@usccr.gov](mailto:ero@usccr.gov). Persons who desire additional information may contact the Eastern Regional Office at (202) 376-7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://database.faca.gov/committee/meetings.aspx?cid=279>, click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, [www.usccr.gov](http://www.usccr.gov), or to contact the Eastern Regional Office at the above phone numbers, email or street address.

*Agenda:* Wednesday, January 17, 2018, 12:00 p.m. EST

- Rollcall
- Project Planning: Collateral Consequences
- Update from Committee Workgroups
- Next Steps
- Other Business
- Open Comment
- Adjourn

Dated: December 18, 2017.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017-27517 Filed 12-20-17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-861]

#### **Certain Uncoated Groundwood Paper From Canada: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation**

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

**DATES:** Applicable December 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Maria Tatarska at 202-482-1562, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 29, 2017, the Department of Commerce (the Department) initiated a less-than-fair value (LTFV) investigation of imports of certain uncoated groundwood paper from Canada.<sup>1</sup> Currently, the preliminary determination is due no later than January 16, 2018.

##### **Postponement of the Preliminary Determination**

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a LTFV investigation within 140 days after the date on which the Department initiated the investigation. However, section 733(c)(1) of the Act permits the Department to postpone the preliminary determination until no later than 190 days after the date on which the Department initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or

<sup>1</sup> See *Certain Uncoated Groundwood Paper From Canada: Initiation of Less-Than-Fair-Value Investigation*, 82 FR 41599 (September 1, 2017).

more before the scheduled date of the preliminary determination and must state the reasons for the request. The Department will grant the request unless it finds compelling reasons to deny the request.

On December 5, 2017, North Pacific Paper Company (NORPAC or the petitioner) submitted a timely request that we postpone the preliminary determination in this LTFV investigation. In its request, the petitioner cited the need to collect from the respondents supplemental information to address the serious issues raised in the petitioner's deficiency comments.<sup>2</sup> In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and the Department finds no compelling reason to deny the request. Therefore, pursuant to section 733(c)(1)(A) of the Act, we are postponing the deadline for the preliminary determination by 50 days (*i.e.*, 190 days after the date on which the investigation was initiated). As a result, the Department will issue its preliminary determination no later than March 7, 2018. Pursuant to section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: December 15, 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. 2017-27501 Filed 12-20-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-836]

#### **Carbon and Alloy Steel Wire Rod from Italy: Amended Preliminary Determination of Sales at Less Than Fair Value**

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

<sup>2</sup> See Letter from the petitioner, "Antidumping Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Petitioners' Request for Postponement of Preliminary Determination," (December 5, 2017).

**SUMMARY:** On October 31, 2017, the Department published its preliminary determination in the antidumping duty investigation of carbon and alloy steel wire rod (wire rod) from Italy in the **Federal Register**. The Department is amending this preliminary determination to correct two significant ministerial errors.

**DATES:** Applicable December 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Victoria Cho, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5075.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 31, 2017, the Department published the *Preliminary Determination* in the antidumping duty investigation of wire rod from Italy.<sup>1</sup> On October 31, 2017, Ferriere Nord S.p.A. (Ferriere Nord), a producer and exporter of subject merchandise, timely filed ministerial error allegations concerning the *Preliminary Determination* and requested, pursuant to 19 CFR 351.224(c)(1), that the Department correct the alleged ministerial errors. No additional parties submitted comments.

**Scope of the Investigation**

The product covered by this investigation is wire rod from the Italy. For a complete description of the scope of this investigation, see the Appendix.

**Significant Ministerial Error**

A ministerial error is defined in 19 CFR 351.224(f) as “an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.” Further, 19 CFR 351.224(e) provides that the Department “will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination.” A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in: (1) A change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the

original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa.<sup>2</sup>

**Ministerial Error Allegation**

Ferriere Nord timely alleged that the Department made certain significant ministerial errors regarding the calculation of U.S. gross unit price and of general and administrative expenses.<sup>3</sup> No other party alleged errors in the Department’s *Preliminary Determination* or commented on Ferriere Nord’s allegations of error. After analyzing Ferriere Nord’s allegations of error regarding the U.S. gross unit price used to calculate its margin in the *Preliminary Determination*, we determine that we made certain significant ministerial errors in the *Preliminary Determination* with respect to our treatment of gross unit prices in both the U.S. and home markets.<sup>4</sup> However, after analyzing Ferriere Nord’s allegations of error regarding the general and administrative expenses used to calculate its margin in the *Preliminary Determination*, we determine that we did not make a ministerial error. Rather, our calculation of general and administrative expenses was methodological in nature. For a detailed discussion of Ferriere Nord’s ministerial error allegations, as well as the Department’s analysis of these alleged errors, see the Ministerial Error Memorandum.

Pursuant to 19 CFR 351.224(g)(1), the Department’s errors in the calculation of Ferriere Nord’s gross unit prices are significant because their correction results in a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original preliminary determination (*i.e.*, a change from a weighted-average dumping margin of 22.06 percent to 12.58 percent). Therefore, we are correcting these errors and amending our *Preliminary Determination* accordingly.<sup>5</sup>

**Amended Preliminary Determination**

We are amending the *Preliminary Determination* to reflect the correction of significant ministerial errors made in

the margin calculation for Ferriere Nord in accordance with 19 CFR 351.224(e). In the *Preliminary Determination*, the Department preliminarily assigned a rate based on entirely on facts available, with an adverse inference (AFA), to Ferriera Valsider, S.p.A. (Ferriera Valsider), the other respondent selected for individual examination. Specifically, in the *Preliminary Determination*, we applied Ferriere Nord’s calculated margin to Ferriera Valsider (*i.e.*, 22.06 percent). The preliminary assigned rate in the *Preliminary Determination* for Ferriere Nord is no longer the highest rate. As a result of the change in Ferriere Nord’s margin for these amended preliminary determination, we are amending the facts available rate for Ferriera Valsider and assigning the corroborated rate of 18.89 percent<sup>6</sup> to Ferriere Valsider, which is the sole rate identified in the petition.

As discussed in the *Preliminary Determination*, the Department assigned the rate calculated for Ferriere Nord to all-other producers and exporters.<sup>7</sup> Thus, we are also amending the “all-others” rate to account for the change in Ferriere Nord’s margin.

As a result of the correction of the ministerial error, the revised weighted-average dumping margins are as follows:

Exporter/ manufacturer	Weighted- average dumping margin (percent)
Ferriere Nord S.p.A./Acciaierie di Verona S.p.A. <sup>8</sup> .....	12.58
Ferriera Valsider S.p.A .....	18.89
All Others .....	12.58

**Amended Cash Deposits and Suspension of Liquidation**

The collection of cash deposits and suspension of liquidation will be revised according to the rates established in this amended preliminary determination, in accordance with section 733(d) of the Tariff Act of 1930, as amended (the Act). Because these amended rates result in reduced cash deposit rates, they will be effective retroactively to October 31, 2017, the date of publication of the *Preliminary Determination*.

<sup>6</sup> See Ministerial Error Memorandum; see also the Corroboration Memorandum dated concurrent with this notice; AD Investigation Initiation Checklist: Certain Carbon and Alloy Steel Wire Rod from Italy (April 17, 2017).

<sup>7</sup> See *Preliminary Determination*, 82 FR at 50382.

<sup>8</sup> For the purposes of the *Preliminary Determination*, we collapsed Ferriere Nord and Acciaierie di Verona S.p.A. as a single entity.

<sup>1</sup> See *Carbon and Alloy Steel Wire Rod from Italy: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 82 FR 50381 (October 31, 2017) (*Preliminary Determination*), and accompanying decision memorandum.

<sup>2</sup> See 19 CFR 351.224(g)(1) and (2).

<sup>3</sup> See Ferriere Nord’s October 31, 2017, Submission (Ferriere Nord’s Allegation).

<sup>4</sup> See Memorandum entitled, “Antidumping Duty Investigation on Carbon and Alloy Steel Wire Rod from Italy: Ministerial Error Memorandum,” dated concurrently with, and hereby adopted by, this notice (Ministerial Error Memorandum).

<sup>5</sup> See Ministerial Error Memorandum.

## International Trade Commission Notification

In accordance with section 733(f) of the Act, we intend to notify the International Trade Commission of our amended preliminary determination.

### Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the amended preliminary determination, in accordance with 19 CFR 351.224.

This amended preliminary determination is issued and published in accordance with sections 733(f) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: December 15, 2017.

### Gary Taverman,

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

## Appendix

### Scope of the Investigation

The merchandise covered by this investigation are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.*, products that contain by weight one or more of the following elements: 0.1 percent of more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS may also be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these proceedings is dispositive.

[FR Doc. 2017-27502 Filed 12-20-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XF862

### Endangered Species; File No. 21367

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Christopher Marshall, Ph.D., Texas A&M University at Galveston, 200 Seawolf Parkway, Galveston, TX 77553, has applied in due form for a permit to take Kemp's ridley (*Lepidochelys kempii*), green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), and loggerhead (*Caretta caretta*) sea turtles for purposes of scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before January 22, 2018.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 21367 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Amy Hapeman or Erin Markin, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and

exporting of endangered and threatened species (50 CFR parts 222-226).

The applicant proposes to study Kemp's ridley, green, hawksbill and loggerhead sea turtles in the western Gulf of Mexico and along the Texas coast. The purpose of the work is to characterize the movement, habitat use, foraging ecology, and health of sea turtles using these areas. Up to 55 Kemp's ridley, 55 green, 10 hawksbill, and 55 loggerhead sea turtles annually would be captured by hand, dip net, tangle net or cast net. Upon capture, researchers would examine; photograph; apply a temporary carapace mark; collect morphometric data; scute, blood and tissue biopsy; and flipper and passive integrated transponder tag each turtle before release. A subset of animals for each species except hawksbills would also receive either (1) a satellite tag and a separate acoustic transmitter or (2) a 3D dive profile-video tag. The permit would be valid for up to five years from the date of issuance.

Dated: December 18, 2017.

### Julia Harrison,

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2017-27488 Filed 12-20-17; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Estuarine Research Reserve System

**AGENCY:** Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

**ACTION:** Notice of public comment period for the San Francisco Bay, California National Estuarine Research Reserve management plan revision.

**SUMMARY:** Notice is hereby given that the Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce is announcing a thirty (30) day public comment period for the revised management plan for San Francisco Bay, California National Estuarine Research Reserve management plan revision.

**SUPPLEMENTARY INFORMATION:** Pursuant to 15 CFR 921.33(c), a state must periodically update their management plan for a National Estuarine Research Reserve. The San Francisco Bay Reserve

revised plan will replace the plan previously approved in 2010. NOAA issues this notice of a public comment period for the revised plan under 15 CFR 921.33 (a).

The revised management plan outlines a strategic plan; administrative structure; research and monitoring, education, stewardship, wetland science and training programs of the reserve; resource protection and manipulation plans, restoration management plan; public access and visitor use plan; considerations for future land acquisition; and facility development to support reserve operations.

The San Francisco Bay Reserve takes an integrated approach to management, linking research, education, coastal training, and resource management functions. The reserve has outlined how it will manage administration and its core programs, providing detailed actions that will enable it to accomplish specific goals and objectives. Since the last management plan, the reserve has built out its core research programs and monitoring infrastructure; conducted an educational market analysis and needs assessment to understand current needs of teachers and underserved audiences; updated the coastal training program strategy and expanded the program partnerships, expanded stewardship program and developed resource management plans.

There will be no boundary change with the approval of the revised management plan. The management plan will serve as the guiding document for the 3,710-acre San Francisco Bay Reserve.

View the San Francisco Bay Reserve management plan revision on their website, at [http://www.sfbaynerr.org/resource-library/reserve-plans-reports/sf-bay-nerr-management-plan\\_oct-25/](http://www.sfbaynerr.org/resource-library/reserve-plans-reports/sf-bay-nerr-management-plan_oct-25/), and provide comments to Christine Metzger, [christinemetzger@sfsu.edu](mailto:christinemetzger@sfsu.edu).

**FOR FURTHER INFORMATION CONTACT:** Bree Turner at (206) 526-4641 or Kimberly Texeira at (240) 533-0722 of NOAA's National Ocean Service, Stewardship Division, Office for Coastal Management, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: November 30, 2017.

**Keelin Kuipers,**

*Acting Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2017-27514 Filed 12-20-17; 8:45 am]

**BILLING CODE 3510-08-P**

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**Submission for OMB Review; Comment Request on; "Applications for Trademark Registration"**

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* United States Patent and Trademark Office, Commerce.

*Title:* Applications for Trademark Registration.

*OMB Control Number:* 0651-0009.

*Form Number(s):*

- PTO Form 1478
- PTO Form 1479
- PTO Form 1480
- PTO Form 1481
- PTO Form 1482

*Type of Request:* Regular.

*Number of Respondents:* 437,599 responses per year.

*Average Hours per Response:* The USPTO estimates that it takes the public between approximately 23 minutes (0.38 hours) to 35 minutes (0.58 hours) to complete this information, depending on the application. This includes the time to gather the necessary information, prepare the application, and submit the complete request to the USPTO. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

*Burden Hours:* 205,854.64 hours per year.

*Cost Burden:* \$109,770,653 per year.

*Needs and Uses:* The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed at the USPTO's website. Additionally, the USPTO provides the information to other entities, including Patent and Trademark Resource Centers (PTRCs). The PTRCs maintain the information for use by the public.

*Affected Public:* Businesses or other for-profits; not-for-profit institutions.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Nicholas A. Fraser, email: [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov).

Once submitted, the request will be publicly available in electronic format

through [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0009 copy request" in the subject line of the message.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before January 22, 2018 to Nicholas A. Fraser, OMB Desk Officer, via email to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov), or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

**Marcie Lovett,**

*Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.*

[FR Doc. 2017-27477 Filed 12-20-17; 8:45 am]

**BILLING CODE 3510-16-P**

**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**Submission for OMB Review; Comment Request; "Patent and Trademark Resource Center Metrics"**

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* United States Patent and Trademark Office, Commerce.

*Title:* Patent and Trademark Resource Center Metrics.

*OMB Control Number:* 0651-0068.

*Form Number(s):*

- Electronic Worksheet.

*Type of Request:* Regular.

*Number of Respondents:* 352 responses per year.

*Average Hours per Response:* The USPTO estimates that it will take the public approximately 30 minutes (0.50 hours) to complete. This includes the time to gather the necessary information, prepare the worksheet, and submit it to the USPTO.

*Burden Hours:* 176 hours per year.

*Cost Burden:* \$0 There are no filing fees or start up, maintenance, record keeping, or postage costs associated with this information collection.



*Needs and Uses:* The participating Patent and Trademark Resource Centers (PTRCs) uses this information collection to provide metrics pertaining to the use of the patent and trademark services by the public, as well as the public outreach efforts of their libraries.

*Affected Public:* Not-for-profit institutions; Libraries affiliated with the PTRC.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Nicholas A. Fraser, email: [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov). Once submitted, the request will be publicly available in electronic format through [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0068 copy request" in the subject line of the message.

- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before January 22, 2018 to Nicholas A. Fraser, OMB Desk Officer, via email to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov), or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

**Marcie Lovett,**

*Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.*

[FR Doc. 2017-27478 Filed 12-20-17; 8:45 am]

**BILLING CODE 3510-16-P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces; Notice of Federal Advisory Committee Meeting

**AGENCY:** General Counsel of the Department of Defense, Department of Defense.

**ACTION:** Notice of Federal advisory committee meeting.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that the following Federal

Advisory Committee meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) will take place.

**DATES:** Open to the public, Friday, January 19, 2018, from 8:45 a.m. to 5:00 p.m.

**ADDRESSES:** One Liberty Center, 875 N Randolph Street, Suite 1432, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:**

Dwight Sullivan, 703-695-1055 (Voice), [dwight.h.sullivan.civ@mail.mil](mailto:dwight.h.sullivan.civ@mail.mil) (Email).

Mailing address is DAC-IPAD, One Liberty Center, 875 N Randolph Street, Suite 150, Arlington, Virginia 22203. Website: <http://dacipad.whs.mil/>. The most up-to-date changes to the meeting agenda can be found on the website.

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.140 and 102-3.150.

*Purpose of the Meeting:* In section 546 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113-291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92), Congress directed the DAC-IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the fifth public meeting held by the DAC-IPAD. The Committee will hear testimony from the Deputy Director of the U.S. Department of Defense Sexual Assault Prevention and Response Office (SAPRO) regarding data requested by the DAC-IPAD on expedited transfer requests made by victims of sexual assault in fiscal year 2016. The Committee will receive a presentation from the DAC-IPAD Policy Working Group on its findings and proposed recommendations related to the expedited transfer policy and commander legal and sexual assault response training, followed by Committee deliberations on these topics. Next, the Committee will receive a presentation from the DAC-IPAD Data Working Group regarding sexual assault case adjudication data for fiscal years 2012-15 followed by Committee deliberations. For the last session, the Committee will receive a presentation from the DAC-IPAD Case Review Working Group followed by Committee deliberations.

*Agenda:* 8:45 a.m.-9:00 a.m. Public Meeting Begins—Welcome and Introduction; 9:00 a.m.-10:00 a.m. Department of Defense, Data Brief on Expedited Transfers; 10:00 a.m.-10:15 a.m. Break; 10:15 a.m.-12:30 p.m. Policy Working Group Presentation and Committee Deliberations on Expedited Transfers and Command Training; 12:30 p.m.-1:30 p.m. Lunch; 1:30 p.m.-2:45 p.m. Data Working Group Presentation and Committee Deliberations on FY 2012-15 Sexual Assault Case Adjudication Data; 2:45 p.m.-4:45 p.m. Case Review Working Group Presentation and Committee Deliberations; 4:45 p.m.-5:00 p.m. Public Comment; 5:00 p.m. Public Meeting Adjourned.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. Visitors are required to sign in at the One Liberty Center security desk and must leave government-issued photo identification on file and wear a visitor badge while in the building. Department of Defense Common Access Card (CAC) holders who do not have authorized access to One Liberty Center must provide an alternate form of government-issued photo identification to leave on file with security while in the building. All visitors must pass through a metal detection security screening. Individuals requiring special accommodations to access the public meeting should contact the DAC-IPAD at [whs.pentagon.em.mbx.dacipad@mail.mil](mailto:whs.pentagon.em.mbx.dacipad@mail.mil) at least five (5) business days prior to the meeting so that appropriate arrangements can be made. In the event the Office of Personnel Management closes the government due to inclement weather or for any other reason, please consult the website for any changes to the public meeting date or time.

*Written Statements:* Pursuant to 41 CFR 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Committee about its mission and topics pertaining to this public session. Written comments must be received by the DAC-IPAD at least five (5) business days prior to the meeting date so that they may be made available to the Committee members for their consideration prior to the meeting. Written comments should be submitted via email to the DAC-IPAD at [whs.pentagon.em.mbx.dacipad@mail.mil](mailto:whs.pentagon.em.mbx.dacipad@mail.mil) in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the DAC-IPAD



operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. Oral statements from the public will be permitted, though the number and length of such oral statements may be limited based on the time available and the number of such requests. Oral presentations by members of the public will be permitted from 4:45 p.m. to 5:00 p.m. on January 19, 2018, in front of the Committee members.

Dated: December 18, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2017-27489 Filed 12-20-17; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Policy Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** Office of the Under Secretary of Defense (Policy), Department of Defense.

**ACTION:** Federal Advisory Committee meeting notice.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce the following Federal advisory committee meeting of the Defense Policy Board (DPB). This meeting will be closed to the public.

**DATES:** *Quarterly Meeting:* Thursday, January 18, 2018 from 9:30 a.m. to 5:00 p.m. and on January 19, 2018 from 8:00 a.m. to 11:00 a.m.

**ADDRESSES:** The Pentagon, 2000 Defense Pentagon, Washington, DC 20301-2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ann Hansen, 2000 Defense Pentagon, Washington, DC 20301-2000. Phone: (703) 571-9232.

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) (“the Sunshine Act”), and the Federal Advisory Committee Management Act; Final Rule 41 CFR parts 101-6 and 102-3 (“the FACA Final Rule”).

*Purpose of Meeting:* To obtain, review and evaluate classified information related to the DPB’s mission to advise on: (a) Issues central to strategic DoD planning; (b) policy implications of U.S. force structure and force modernization

and on DoD’s ability to execute U.S. defense strategy; (c) U.S. regional defense policies; and (d) other research and analysis of topics raised by the Secretary of Defense, the Deputy Secretary or the Under Secretary of Defense for Policy.

*Meeting Agenda:* Beginning at 10:00 a.m. on January 18, the DPB will have secret through top secret (SCI) level discussions on national security issues regarding the National Security Strategy, National Defense Strategy, Nuclear Posture Review, Ballistic Missile Defense Review, and Acquisition, Technology and Logistics future.

*Meeting Accessibility:* Pursuant to the Sunshine Act, the FACA and the FACA Final Rule, the DoD has determined that this meeting shall be closed to the public. The Under Secretary of Defense (Policy), in consultation with the DoD FACA Attorney, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of Section 552b(c)(1) of the Sunshine Act and are so inextricably intertwined with unclassified material that they cannot reasonably be segregated into separate discussions without disclosing secret or higher classified material.

*Committee’s Designated Federal Officer or Point of Contact:* Ann Hansen, *osd.pentagon.ousd-policy.mbx.defense-board@mail.mil.*

*Written Statements:* Pursuant to 41 CFR 102-3.105(j) and 102-3.140(c) and section 10(a)(3) of the FACA, the public or interested organizations may submit written statements to the membership of the DPB at any time regarding its mission or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB’s Designated Federal Officer (DFO); the DFO’s contact information is listed in this notice or it can be obtained from the GSA’s FACA Database—*http://www.facadatabase.gov/*.

Written statements that do not pertain to a scheduled meeting of the DPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all committee members.

Dated: December 18, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2017-27537 Filed 12-20-17; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0125]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Third Party Servicer Data Collection

**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 January 22, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED-2017-ICCD-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:* Private Sector; Individuals or Households; State, Local, and Tribal Governments.

*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: December 18, 2017.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017–27533 Filed 12–20–17; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0126]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; 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 January 22, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2017–ICCD–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:* Private Sector; State, Local, and Tribal Governments; Individuals or Households.

*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: December 18, 2017.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017–27534 Filed 12–20–17; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0127]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; 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 January 22, 2018.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2017–ICCD–0127. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>

[www.regulations.gov](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: December 18, 2017.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2017-27535 Filed 12-20-17; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14861-000]

#### FFP Project 101, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 20, 2017, FFP Project 101, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Goldendale Energy Storage Project (project) to be located near Goldendale in Klickitat County, Washington and Sherman County, Oregon. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project will be closed-loop. Water to initially fill the reservoirs and required make-up water will be pumped from the Columbia River via an existing pumphouse. The proposed project would consist of an upper and

lower reservoir, an underground water conveyance system connecting the two reservoirs, an underground powerhouse, and a transmission line. The lower reservoir would be formed by a 7,400-foot-long, 170-foot-high rockfill embankment, with storage capacity of 7,100 acre-feet at maximum water surface elevation of 580 feet and surface area of 62 acres. The upper reservoir would be formed by an 8,000-foot-long, 170-foot-high rockfill embankment, with storage capacity of 7,100 acre-feet at maximum water surface elevation of 2,940 feet and surface area of 59 acres. Water would be conveyed from the upper reservoir to the lower reservoir via a 5,000-foot-long, concrete and steel tunnel with internal diameters ranging from 20 to 29 feet, and a 600-foot-long, 15-foot-diameter steel/concrete penstock. The powerhouse would contain three, 400-megawatt (MW) Francis-type pump-turbine units for a total installed capacity of 1,200 MW. Project power would be transmitted through a new 5-mile-long, 500-kilovolt transmission line from the powerhouse to Bonneville Power Administration's John Day Substation.

The estimated averaged annual generation of the project would be 3,500 gigawatt-hours.

**Applicant Contact:** Erik Steimle, Rye Development, 745 Atlantic Ave. 8th Floor, Boston, MA 02111, phone (503) 998-0230.

**FERC Contact:** Kim Nguyen, (202) 502-6105.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-14861-000.

More information about this project, including a copy of the application, can be viewed or printed on the “eLibrary” link of Commission’s website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14861) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 15, 2017.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2017-27497 Filed 12-20-17; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. IC17-14-000]

**Commission Information Collection Activities (FERC-725U); Errata and Comment Request**

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Errata and comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act (PRA) of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC-725U (Mandatory Reliability Standards: Reliability Standard CIP-014) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission published notices in the **Federal Register** (82 FR 41618, 9/1/2017, and 82 FR 50645, 11/1/2017) requesting public comments. FERC received no comments on the FERC-725U for either notice and is making this notation in its submittal to OMB.

This 30-day errata and notice corrects the total annual burden estimates and

explains changes in the calculation of the annual burden estimates. There are no changes to the information collection, filing, or recordkeeping requirements.

**DATES:** Comments on the collections of information are due by January 22, 2018.

**ADDRESSES:** Comments filed with OMB, identified by the OMB Control No. 1902-0274 (FERC-725U) should be sent via email to the Office of Information and Regulatory Affairs: [oira\\_submission@omb.gov](mailto:oira_submission@omb.gov), Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202-395-4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC17-14-000, by one of the following methods:

- *eFiling at Commission’s website:* <http://www.ferc.gov/docs-filing/efiling.asp>
- *Mail/Hand Delivery/Courier:*

Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

**FOR FURTHER INFORMATION CONTACT:**

Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), by telephone at (202) 502-8663, and by fax at (202) 273-0873.

**SUPPLEMENTARY INFORMATION:**

*Titles:* Mandatory Reliability Standards: Reliability Standard CIP-014.

OMB Control Nos.: 1902-0274.

*Type of Request:* Three-year extension of the FERC-725U information collection requirements with no changes to the reporting or recordkeeping requirements.

*Abstract:* Two previous notices proposing the extension of FERC-725U were published in the **Federal Register**.<sup>1</sup> The total annual burden presented in those notices was incorrect and based on faulty approaches for calculating burden estimates. This 30-day errata/notice corrects the total annual burden estimates and explains changes in calculation of the annual burden estimates.

The burden for the FERC-725U information collection is estimated based on the five year cycle of the requirements in the Reliability Standard. Over this five-year cycle, annual burden levels fluctuate greatly based on which reporting requirements are implicated each year.

FERC extensions usually request three years of extension/approval. However, using a three-year timespan to calculate the burden would cause the total annual burden to fluctuate in an unrepresentative way because of the mathematical mismatch between the Reliability Standard’s five-year cycle and the three-year PRA cycle for OMB approval. Some extension requests would propose inordinately high or low burden solely dependent on the timing of the request, not on any actual changes to reporting requirements.

In order to provide the annual burden estimate in a more representative way, Commission staff is calculating the average annual burden using the five-year cycle of the Standard and using that average for Years 1-3 of this extension.

*Types of Respondents:* Intrastate natural gas and Hinshaw pipelines.

*Estimate of Annual Burden:*<sup>2</sup> The Commission estimates the total Public Reporting Burden for the FERC-725U information collection as:

**FERC-725U: MANDATORY RELIABILITY STANDARDS: RELIABILITY STANDARD CIP-014<sup>3</sup>**

Year and requirement for this PRA clearance cycle	Number and type of respondents	Number of responses per respondent	Total number of responses	Average burden hours and cost per response <sup>4</sup>	Total burden hours and total cost
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4)
Year 1: Record Retention .....	334 TO and 2 TOP <sup>5</sup> .....	1	336	2 hrs.; \$76 .....	672 hrs.; \$25,536.

<sup>1</sup> 60-Day notice: 82 FR 41618, 9/1/2017; 30-day notice: 82 FR 50645, 11/1/2017.

<sup>2</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further

explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC-725U: MANDATORY RELIABILITY STANDARDS: RELIABILITY STANDARD CIP-014<sup>3</sup>—Continued

Year and requirement for this PRA clearance cycle	Number and type of respondents (1)	Number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours and cost per response <sup>4</sup> (4)	Total burden hours and total cost (3) * (4)
Year 2:					
R1	334 TO	1	334	20 hrs.; \$1,280	6,680 hrs.; \$427,520.
R2	334 TO	1	334	34 hrs.; \$2,448	11,356 hrs.; \$817,632.
R3	2 TOP	1	2	1 hrs.; \$129	2 hrs.; \$258.
R4	30 TO and 2 TOP	1	32	80 hrs.; \$5,120	2,560 hrs.; \$163,840.
R5	30 TO and 2 TOP	1	32	320 hrs.; \$20,480	10,240 hrs.; \$655,360.
R6	30 TO and 2 TOP	1	32	304 hrs.; \$19,456	9,728 hrs.; \$622,592.
Record Retention	334 TO and 2 TOP	1	336	2 hrs.; \$76	672 hrs.; \$25,536.
Year 3:					
Record Retention	334 TO and 2 TOP	1	336	2 hrs.; \$76	672 hrs.; \$25,536.
Year 4:					
R1	30 TO	1	30	20 hrs.; \$1,280	600 hrs.; \$38,400.
R2	30 TO	1	30	34 hrs.; \$2,448	1,020 hrs.; \$73,440.
R3	2 TOP	1	2	1 hrs.; \$129	2 hrs.; \$258.
R4	30 TO and 2 TOP	1	32	80 hrs.; \$5,120	2,560 hrs.; \$163,840.
R5	30 TO and 2 TOP	1	32	80 hrs.; \$5,120	2,560 hrs.; \$163,840.
R6	30 TO and 2 TOP	1	32	134 hrs.; \$8,576	4,288 hrs.; \$274,432.
Record Retention	334 TO and 2 TOP	1	336	2 hrs.; \$76	672 hrs.; \$25,536.
Year 5:					
Record Retention	334 TO and 2 TOP	1	336	2 hrs.; \$76	672 hrs.; \$25,536.
Year 1 Total			336		672 hrs.; \$25,536.
Year 2 Total			336		41,238 hrs.; \$2,712,738.
Year 3 Total			336		672 hrs.; \$25,536.
Year 4 Total			336		11,702 hrs.; \$739,746.
Year 5 Total			336		672 hrs.; \$25,536.
Total (for Years 1–5)					54,956 hrs.; \$3,529,092.
Average Annual Burden and Cost (for Years 1–5)					10,991 hrs.; \$705,818.

A brief synopsis follows of the Reliability Standard’s five-year cycle and its relation to Requirements R1–R6 and Record Retention Requirements. (The year stated is the year in this 3-year

<sup>3</sup> For each Reliability Standard, the Measure shows the acceptable evidence for the associated Reporting Requirement (R numbers), and the Compliance section details the related Recordkeeping Requirement.

<sup>4</sup> The estimates for cost per response are derived using the following formula: Average Burden Hours per Response \* \$XX per Hour = Average Cost per Response.

The hourly cost figures are based on data for wages plus benefits from the Bureau of Labor Statistics (as of 11/9/2016) at [https://www.bls.gov/oes/current/naics2\\_22.htm](https://www.bls.gov/oes/current/naics2_22.htm) and <http://www.bls.gov/news.release/ecec.nr0.htm>. The figures are rounded for the purposes of calculations in this table and are:

- For electrical engineers (occupation code: 17–2071), \$64.29/hr., rounded to \$64/hr.
- for attorneys (occupation code: 23–0000), \$129.12/hr., rounded to \$129/hr.
- for administrative staff (occupation code: 43–0000), \$37.75/hr., rounded to \$38/hr.

The record retention cost is based on the administrative staff category; R3 is based on the attorney category; and Requirements R1, R4, R5 and R6 are based on the electrical engineer category.

R2 is a mix of the electrical engineer (30 hrs. at \$64/hr.) and attorney (4 hrs. at \$129/hr.) categories. The resulting average hourly figure is \$71.65, rounded to \$72/hr.

<sup>5</sup> TO: transmission owner; TOP: transmission operator.

PRA cycle with the requirements imposed during that year.)<sup>6</sup>

- Year 1: Record Retention only
- Year 2: R1, R2, R3, R4, R5, R6, and Record Retention
- Year 3: Record Retention only
- Year 4: R1, R2, R3, R4, R5, R6, and Record Retention
- Year 5: Record Retention only

For this 3-year PRA extension request, we will use the annual averages (over the 5-year cycle of the Reliability Standard, as shown in the table) for:

- Burden of 10,991 hours
- cost of \$705,828

Comments: Comments are invited on:

- (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;
- (2) the accuracy of the agency’s estimate of the burden and cost of the collections of information, including the validity of the methodology and assumptions used;
- (3) ways to enhance the quality, utility and clarity of the information collections; and
- (4) ways to minimize the burden of the collections of

<sup>6</sup> Although Year 4 includes R1–R6 and Record Retention similar to Year 2, the related burden is not in the same amount as in Year 2.

Also note that Years 4 and 5 are part of the 5-year Reliability Standard’s cycle but beyond the current 3-year PRA approval cycle.

information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 15, 2017.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2017–27496 Filed 12–20–17; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. EL18–6–000]

**FirstEnergy Service Company; Notice of Filing**

Take notice that on December 6, 2017, FirstEnergy Service Company (Service Company), on behalf of its affiliated franchised public utilities and market-regulated power sales affiliates within the FirstEnergy Corp. holding company system,<sup>1</sup> submitted responses to the

<sup>1</sup> As more fully described in Service Company’s October 6, 2017 Waiver Request in the above-captioned proceeding, the relevant franchised public utilities, referred to as the FE Franchised Public Utilities, are Jersey Central Power & Light Company, Monongahela Power Company, Pennsylvania Electric Company, and The Potomac

request for additional information issued by the Federal Energy Regulatory Commission (Commission) in the above captioned proceeding on November 17, 2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5:00 p.m. Eastern Time on December 27, 2017.

Dated: December 15, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017-27495 Filed 12-20-17; 8:45 am]

**BILLING CODE 6717-01-P**

Edison Company. Currently, the FE Franchised Public Utilities dispatch their respective generation resources through a single generation dispatch group. The Market-regulated power sales affiliates are FirstEnergy Solutions Corp. ("Solutions") and Allegheny Energy Supply Company, LLC ("AE Supply"). Currently, Solutions dispatches all of the output of the generation that is owned or controlled by Solutions and AE Supply.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13-614-001.  
*Applicants:* Kincaid Generation, L.L.C.

*Description:* Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215-5000.

*Comments Due:* 5 p.m. ET 1/5/18.

*Docket Numbers:* ER15-1641-002.

*Applicants:* Dynegy Fayette II, LLC.

*Description:* Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5154.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER15-1642-002.

*Applicants:* Dynegy Hanging Rock II, LLC.

*Description:* Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5156.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER15-1648-002.

*Applicants:* Dynegy Washington II, LLC.

*Description:* Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5160.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1658-001.

*Applicants:* Calumet Energy Team, LLC.

*Description:* Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5152.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1659-001.

*Applicants:* Northeastern Power Company.

*Description:* Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5162.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1660-001.

*Applicants:* Pleasants Energy, LLC.

*Description:* Compliance filing:

Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5163.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1718-003.

*Applicants:* Dynegy Dicks Creek, LLC.

*Description:* Compliance filing:

Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5153.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1719-003.

*Applicants:* Dynegy Killen, LLC.

*Description:* Compliance filing:

Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5157.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1720-003.

*Applicants:* Dynegy Miami Fort, LLC.

*Description:* Compliance filing:

Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5158.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1721-004.

*Applicants:* Dynegy Stuart, LLC.

*Description:* Compliance filing:

Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5159.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER17-1722-003.

*Applicants:* Dynegy Zimmer, LLC.

*Description:* Compliance filing:

Informational Filing Regarding Upstream Change in Control to be effective N/A.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5161.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER18-365-001.

*Applicants:* Access Energy Solutions, LLC.

*Description:* Tariff Amendment: MBR

Tariff to be effective 1/29/2018.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214-5103.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER18-454-000.

*Applicants:* The United Illuminating Company.

*Description:* § 205(d) Rate Filing: Third Supplement to Lease Agreement with CDOT to be effective 12/15/2017.

*Filed Date:* 12/14/17.

*Accession Number:* 20171214–5155.

*Comments Due:* 5 p.m. ET 1/4/18.

*Docket Numbers:* ER18–455–000.

*Applicants:* ISO New England Inc., New England Power Pool Participants Committee.

*Description:* § 205(d) Rate Filing: ISO–NE and NEPOOL Filing Re: CSO Transfer Improvements to be effective 3/1/2018.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5054.

*Comments Due:* 5 p.m. ET 1/5/18.

*Docket Numbers:* ER18–456–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Cancellation: Notice of Cancellation of 1st Rev. Service Agreement No. 2195, Queue No. X1–074 to be effective 1/13/2018.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5061.

*Comments Due:* 5 p.m. ET 1/5/18.

*Docket Numbers:* ER18–457–000.

*Applicants:* Gainesville Renewable Energy Center, LLC.

*Description:* Tariff Cancellation: Cancellation of MBR Tariff to be effective 12/18/2017.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5069.

*Comments Due:* 5 p.m. ET 1/5/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2017.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2017–27492 Filed 12–20–17; 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:* ER17–1138–002.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Compliance filing: Compliance Filing Pursuant to the Nov. 17, 2017 Order in Docket No. ER17–1138 to be effective 5/9/2017.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5111.

*Comments Due:* 5 p.m. ET 1/5/18.

*Docket Numbers:* ER17–1864–001.

*Applicants:* Bayshore Solar A, LLC.

*Description:* Compliance filing: Bayshore Solar A LLC MBR Tariff to be effective 8/19/2017.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5073.

*Comments Due:* 5 p.m. ET 1/5/18.

*Docket Numbers:* ER17–1909–001.

*Applicants:* Bayshore Solar C, LLC.

*Description:* Compliance filing: Bayshore Solar C LLC MBR Tariff to be effective 8/26/2017.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5072.

*Comments Due:* 5 p.m. ET 1/5/18.

*Docket Numbers:* ER18–458–000.

*Applicants:* Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

*Description:* § 205(d) Rate Filing: 2017–12–15\_SA 2880 Attachment A Project Specs No. 2 (Ameren-Wabash Valley UCA) to be effective 11/30/2017.

*Filed Date:* 12/15/17.

*Accession Number:* 20171215–5103.

*Comments Due:* 5 p.m. ET 1/5/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2017.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2017–27493 Filed 12–20–17; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP18–14–000]

#### Blue Mountain Midstream, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Blue Mountain Delivery Line Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Blue Mountain Delivery Line Project involving construction and operation of facilities by Blue Mountain Midstream, LLC (Blue Mountain) in Grady County, Oklahoma. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before January 16, 2018.

If you sent comments on this project to the Commission before the opening of this docket on November 9, 2017, you will need to file those comments in Docket No. CP18–14–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about



the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Blue Mountain provided landowners with a fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website ([www.ferc.gov](http://www.ferc.gov)).

### Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502-8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov). Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. With *eFiling*, you can provide comments in a variety of formats by attaching them as a file with your submission. New *eFiling* users must first create an account by clicking on "*eRegister*." If you are filing a comment on a particular project, please select "Comment on a Filing" as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP18-14-000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

### Summary of the Proposed Project

Blue Mountain proposes to construct and operate two natural gas pipelines

totaling 9.57 miles and a metering and pigging facility in Grady County, Oklahoma.<sup>1</sup> The Blue Mountain Deliver Line would provide about 225 million cubic feet of natural gas per day to markets in Oklahoma and neighboring states. According to Blue Mountain, its project would accommodate natural gas development in Grady County, Oklahoma.

The Blue Mountain Delivery Line Project would consist of the following facilities:

- Two natural gas pipelines, the Enable Discharge Line #127 (Line 127) (4.4 miles) and Enable Discharge Line #128 (Line 128) (5.2 miles); and
- a metering and pigging facility.

The general location of the project facilities is shown in appendix 1.<sup>2</sup>

### Land Requirements for Construction

Construction of the proposed facilities would disturb about 80.7 acres of land for the aboveground facilities and the pipelines. Following construction, Blue Mountain would maintain about 37.9 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

### The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us<sup>3</sup> to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the

<sup>1</sup> A "pig" is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

<sup>2</sup> The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at [www.ferc.gov](http://www.ferc.gov) using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

<sup>3</sup> "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

proposed project under these general headings:

- Geology and soils;
- water resources, fisheries, and wetlands;
- vegetation and wildlife;
- endangered and threatened species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.<sup>4</sup> Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

### Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.<sup>5</sup> We will define the

<sup>4</sup> The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

<sup>5</sup> The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.



project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

#### Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; Native American Tribes; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

#### Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Intervenor play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the "Document-less Intervention Guide" under the "e-filing" link on the Commission's website. Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>.

#### Additional Information

Additional information about the project is available from the

Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at [www.ferc.gov](http://www.ferc.gov) using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.*, CP18-14). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to [www.ferc.gov/docs-filing/esubscription.asp](http://www.ferc.gov/docs-filing/esubscription.asp).

Finally, public sessions or site visits will be posted on the Commission's calendar located at [www.ferc.gov/EventCalendar/EventsList.aspx](http://www.ferc.gov/EventCalendar/EventsList.aspx) along with other related information.

Dated: December 15, 2017.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2017-27494 Filed 12-20-17; 8:45 am]

**BILLING CODE 6717-01-P**

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### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0011; FRL-9970-95]

#### Registration Review; Neonicotinoid Risk Assessments; Neonicotinoid Benefits Assessments; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's (or Agency) draft ecological non-pollinator risk assessment for the registration review of imidacloprid, along with draft human health and non-pollinator ecological risk assessments for the registration review of clothianidin, thiamethoxam, and dinotefuran, and opens a public comment period on these assessments. This notice also announces the availability of assessments of benefits of neonicotinoid insecticide use in cotton and citrus. While EPA typically releases benefits assessments along with the

proposed interim decisions, EPA is releasing and obtaining public comment on these two benefits assessments at an earlier stage of the registration review process. These benefits assessments will help EPA evaluate the impacts of potential measures to reduce certain risks to pollinators identified in previously issued preliminary pollinator risk assessments. EPA is not proposing any mitigation at this stage, and anticipates that early input and information from the public on the benefits of these compounds will be helpful as EPA evaluates and considers the risks and the benefits of the neonicotinoid insecticides. Finally, EPA is releasing a response to public comments on the Agency's 2014 assessment of the benefits of neonicotinoid seed treatments to soybean production. This assessment and associated comments are available in docket EPA-HQ-OPP-2014-0737. Copies of all of the benefits assessments will be placed in the individual chemical dockets for each of the four neonicotinoid insecticides listed in Table 1 of Unit III.

**DATES:** Comments must be received on or before February 20, 2018.

**ADDRESSES:** Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in Table 1 of Unit III, 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 Confidential Business Information (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>.

#### FOR FURTHER INFORMATION CONTACT:

*For pesticide specific information contact:* The Chemical Review Manager for the pesticide of interest identified in Table 1 of Unit III.

*For general questions on the registration review program, contact:* Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection

Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 308-8015; email address: [friedman.dana@epa.gov](mailto:friedman.dana@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in Table 1 of Unit III.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then

identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

**II. Authority**

EPA is conducting its registration review of the chemicals listed in Table 1 of Unit III pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

**III. Registration Reviews**

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration for the pesticides listed in Table 1 to ensure that they continue to satisfy the FIFRA standard for registration.

TABLE 1—ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Clothianidin, 7620 .....	EPA-HQ-OPP-2011-0865	Thomas Harty, <a href="mailto:harty.thomas@epa.gov">harty.thomas@epa.gov</a> , 703-347-0338.
Dinotefuran, 7441 .....	EPA-HQ-OPP-2011-0920	Steven Snyderman, <a href="mailto:snyderman.steven@epa.gov">snyderman.steven@epa.gov</a> , 703-347-0249.
Imidacloprid, 7605 .....	EPA-HQ-OPP-2008-0844	Steven Snyderman, <a href="mailto:snyderman.steven@epa.gov">snyderman.steven@epa.gov</a> , 703-347-0249.
Thiamethoxam, 7614 .....	EPA-HQ-OPP-2011-0581	Thomas Harty, <a href="mailto:harty.thomas@epa.gov">harty.thomas@epa.gov</a> , 703-347-0338.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and/or ecological risk assessments for the pesticides listed in the Table 1 in Unit III. This Notice is announcing the availability of the human health risk assessments and the ecological risk assessments for non-pollinator species for clothianidin, thiamethoxam and dinotefuran. Preliminary pollinator-only ecological risk assessments for these chemicals were previously issued in May 2017, and are available in the individual chemical dockets. For imidacloprid, this Notice is announcing the availability of the terrestrial non-pollinator ecological assessment. A preliminary pollinator-

only risk assessment was issued in January 2016, an aquatic species-only ecological risk assessment was issued in January 2017, and a human health risk assessment was issued in September 2017. All of these assessments were previously made available for comment and are available in the imidacloprid docket.

1. *Other related information.* Additional information on the registration review status of the chemicals listed in Table 1, as well as information on the Agency's registration review program and on its implementing regulation is available at <http://www.epa.gov/pesticide-reevaluation>.

2. *Information submission requirements.* Anyone may submit data or information in response to this

document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

- Submitters must clearly identify the source of any submitted data or information.

- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: November 30, 2017.

**Charles Smith,**

*Acting, Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2017-27520 Filed 12-20-17; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 17-83]

### Fourth Meeting of the Broadband Deployment Advisory Committee

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Commission announces and provides an agenda for the fourth meeting of Broadband Deployment Advisory Committee (BDAC).

**DATES:** Tuesday, January 23, and Wednesday, January 24, 2018. The meeting will come to order at 9:00 a.m. both days.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Room TW-C305, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Brian Hurley, Designated Federal Officer (DFO), at (202) 418-2220 or [brian.hurley@fcc.gov](mailto:brian.hurley@fcc.gov); or Paul D'Ari, Deputy DFO, at (202) 418-1550 or [paul.dari@fcc.gov](mailto:paul.dari@fcc.gov). The TTY number is: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This meeting is open to members of the general public. The FCC will accommodate as many participants as possible; however, admittance will be limited to seating availability. The Commission will also provide audio and/or video coverage of the meeting over the internet from the FCC's web

page at [www.fcc.gov/live](http://www.fcc.gov/live). Oral statements at the meeting by parties or entities not represented on the BDAC will be permitted to the extent time permits, at the discretion of the BDAC Chair and the DFO. Members of the public may submit comments to the BDAC in the FCC's Electronic Comment Filing System, ECFS, at [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs). Comments to the BDAC should be filed in Docket 17-83.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice; last minute requests will be accepted but may not be possible to accommodate.

**Proposed Agenda:** At this meeting, the BDAC will consider recommendations from its Model Code for Municipalities, Model Code for States, Competitive Access to Broadband Infrastructure, Removing State and Local Regulatory Barriers, and Streamlining Federal Siting Working Groups. In addition, the BDAC will continue its discussions on how to accelerate the deployment of broadband by reducing and/or removing regulatory barriers to infrastructure investment. This agenda may be modified at the discretion of the BDAC Chair and the DFO.

Federal Communications Commission.

**Amy Brett,**

*Associate Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Commission.*

[FR Doc. 2017-27445 Filed 12-20-17; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors met in open session at 9:59 a.m. on Tuesday, December 19, 2017, to consider the following matters:

#### SUMMARY AGENDA:

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Civil Money Penalty Annual Inflation Adjustment.

Memorandum and resolution re: Modifications to the Statement of Policy for Section 19 of the Federal Deposit Insurance Act.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors, and reports of the Office of Inspector General.

#### DISCUSSION AGENDA:

Memorandum and resolution re: FDIC 2018 Operating Budget.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Mick Mulvaney (Acting Director, Consumer Financial Protection Bureau), and concurred in by Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters on less than seven days' notice to the public; and that no earlier notice of the meeting than that previously provided on December 15, 2017, was practicable.

The meeting was held in the Board Room located on the sixth floor of the FDIC Building located at 550 17th Street NW, Washington, DC.

Dated: December 19, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017-27607 Filed 12-19-17; 4:15 pm]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:25 a.m. on Tuesday, December 19, 2017, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Mick Mulvaney (Acting Director, Consumer Financial Protection Bureau), and concurred in by Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days'

notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: December 19, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017-27608 Filed 12-19-17; 4:15 pm]

**BILLING CODE P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS17-09]

### Notice of Amendment to ASC Rules of Operation Governing Frequency of Regular Meetings of the Appraisal Subcommittee

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of amendment to ASC Rules of Operation governing frequency of regular Meetings of the Appraisal Subcommittee.

**SUMMARY:** The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council is amending section 3.06(e) of the ASC Rules of Operation, which addresses the scheduling of regular Meetings of the ASC. As amended, the ASC will meet at least quarterly instead of every two months (bi-monthly).

**DATES:** *Applicable Date:* Immediately.

**FOR FURTHER INFORMATION CONTACT:** James R. Park, Executive Director, at (202) 595-7575, or Alice M. Ritter, General Counsel, at (202) 595-7577, Appraisal Subcommittee, 1401 H Street NW, Suite 760, Washington, DC 20005.

**SUPPLEMENTARY INFORMATION:** The ASC, on May 29, 1991, adopted ASC Rules of Operation, which were published at 56 FR 28561 (June 21, 1991). The ASC Rules of Operation describe, among other things, the organization of ASC Meetings, notice requirements for Meetings, quorum requirements and certain practices regarding the disclosure of information. Section 3.06(e) as amended provides that the ASC will meet at least quarterly instead of every two months (bi-monthly).

The ASC is publishing amended Section 3.06(e) pursuant to 5 U.S.C.

552(a)(1)(C) governing publication of agency rules of operation in the **Federal Register**. The notice and publication requirements of 5 U.S.C. 553 do not apply to the adoption of Section 3.06(e) because it is a "rule of agency organization, procedure, or practice" exempt from the public notice and comment process under 5 U.S.C. 553(b)(3)(A).

Based on the foregoing, the ASC adopts amended Section 3.06(e) of the Rules of Operation, as follows, effective immediately:

### Rules of Operation

\* \* \* \* \*

#### Article III Organization and Operation of the ASC

\* \* \* \* \*

#### Section 3.06. Organization of ASC Meetings.

\* \* \* \* \*

(e) Regular meetings of the ASC shall be held at least quarterly, unless not practicable, at the call of the Chairperson. Special meetings shall be held as provided in section 3.07(b) below.

\* \* \* \* \*

By the Appraisal Subcommittee.

Dated: December 15, 2017.

**Arthur Lindo,**

*Chairman.*

[FR Doc. 2017-27513 Filed 12-20-17; 8:45 am]

**BILLING CODE 6700-01-P**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Proprietary Trading and Certain Interests in and Relationships with Covered Funds (Regulation VV) (FR VV; OMB No. 7100-0360).

#### FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrahi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of

the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-6974.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

### Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report

*Report title:* Reporting, Recordkeeping, and Disclosure Requirements Associated with Proprietary Trading and Certain Interests in and Relationships with Covered Funds (Regulation VV).

*Agency form number:* FR VV.

*OMB control number:* 7100-0360.

*Frequency:* Annual, monthly, quarterly, and on occasion.

*Respondents:* State member banks, bank holding companies, savings and loan holding companies, foreign banking organizations, U.S. State branches or agencies of foreign banks, and other holding companies that control an insured depository institution and any subsidiary of the foregoing other than a subsidiary for which the OCC, FDIC, CFTC, or SEC is the primary financial regulatory agency. The Board will take burden for all institutions under a holding company including:

- OCC-supervised institutions,
- FDIC-supervised institutions,
- Banking entities for which the

CFTC is the primary financial regulatory agency, as defined in section 2(12)(C) of the Dodd-Frank Act, and

• Banking entities for which the SEC is the primary financial regulatory agency, as defined in section 2(12)(B) of the Dodd-Frank Act.

*Estimated number of respondents:* 5,027.

*Estimated average hours per response:*

#### Reporting Burden

§ \_\_\_\_ .12(e)—20 hours (Initial setup 50 hours).

§ \_\_\_\_ .20(d) (entities with \$50 billion or greater in trading assets and liabilities)—2 hours (Initial setup 6 hours).

§ \_\_\_\_ .20(d) (entities with at least \$10 billion and less than \$50 billion in trading assets and liabilities)—2 hours (Initial setup 6 hours).

#### Recordkeeping Burden

§ \_\_\_\_ .3(d)(3)—1 hour (Initial setup 3 hours).

§ \_\_\_\_ .4(b)(3)(i)(A)—2 hours.

§ \_\_\_\_ .5(c)—100 hours (Initial setup 50 hours).

§ \_\_\_\_ .11(a)(2)—10 hours.

§ \_\_\_\_ .20(b)—265 hours (Initial setup 795 hours).

§ \_\_\_\_ .20(c)—1,200 hours (Initial setup 3,600 hours).

§ \_\_\_\_ .20(d)—(entities with \$50 billion or more in trading assets and liabilities) 440 hours.

§ \_\_\_\_ .20(d)—(entities with at least \$10 billion and less than \$50 billion in trading assets and liabilities) 350 hours.

§ \_\_\_\_ .20(e)—200 hours.

§ \_\_\_\_ .20(f)(1)—8 hours.

§ \_\_\_\_ .20(f)(2)—40 hours (Initial setup 100 hours).

#### Disclosure Burden

§ \_\_\_\_ .11(a)(8)(i)—0.1 hours.

*Estimated annual burden hours:* 1,085,690 hours (718,388 hours for initial setup and 367,302 hours for ongoing compliance).

*General description of report:* The Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Commodity Futures Trading Commission (CFTC), and the Securities and Exchange Commission (SEC) (collectively, the agencies) adopted a final rule that implemented section 13 of the Bank Holding Company Act of 1956 (BHC Act), which was added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 13 contains certain prohibitions and restrictions on the ability of a banking entity supervised by the agencies to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. Section 248.20 and Appendix A of

Regulation VV require certain of the largest banking entities engaged in significant trading activities to collect, evaluate, and furnish data regarding covered trading activities as an indicator of areas meriting additional attention by the banking entity and the Board.<sup>1</sup>

The reporting requirements are found in sections 248.12(e) and 248.20(d); the recordkeeping requirements are found in sections 248.3(d)(3), 248.4(b)(3)(i)(A), 248.5(c), 248.11(a)(2), and 248.20(b)–(f); and the disclosure requirements are found in section 248.11(a)(8)(i). The recordkeeping burden for sections 248.4(a)(2)(iii), 248.4(b)(2)(iii), 248.5(b)(1), 248.5(b)(2)(i), 248.5(b)(2)(iv), 248.13(a)(2)(i), and 248.13(a)(2)(ii)(A) is accounted for in section 248.20(b); the recordkeeping burden for Appendix B is accounted for in section 248.20(c); the reporting and recordkeeping burden for Appendix A is accounted for in section 248.20(d); and the recordkeeping burden for sections 248.10(c)(12)(i) and 248.10(c)(12)(iii) is accounted for in section 248.20(e).

These information collection requirements for the Board implemented section 13 of the BHC Act for banking entities for which the Board is authorized to issue regulations under section 13(b)(2) of the BHC Act and take actions under section 13(e) of that Act. These banking entities include any state bank that is a member of the Federal Reserve System, any company that controls an insured depository institution (including a bank holding company and savings and loan holding company), any company that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any subsidiary of the foregoing other than a subsidiary for which the OCC, FDIC, CFTC, or SEC is the primary financial regulatory agency. The Board takes burden for all institutions under a holding company including OCC-supervised institutions, FDIC-supervised institutions, banking entities for which the CFTC is the primary financial regulatory agency, and banking entities for which the SEC is the primary financial regulatory agency. Compliance with the information collection is required for covered entities to obtain the benefit of engaging in certain types of proprietary trading or investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund. No other federal

law mandates these reporting, recordkeeping, and disclosure requirements. At this time, there are no required reporting forms associated with this information collection.

#### Reporting Requirements

Section 248.12(e) states that, upon application by a banking entity, the Board may extend the period of time to meet the requirements on ownership limitations in Regulation VV for up to two additional years, if the Board finds that an extension would be consistent with safety and soundness and not detrimental to the public interest. An application for extension must (1) be submitted to the Board at least 90 days prior to expiration of the applicable time period, (2) provide the reasons for application including information that addresses the factors in paragraph (e)(2) of section 248.12, and (3) explain the banking entity's plan for reducing the permitted investment in a covered fund through redemption, sale, dilution, or other methods.

Section 248.20(d) provides that a banking entity engaged in proprietary trading activity must comply with the reporting requirements described in Appendix A, if (1) the banking entity has, together with its affiliates and subsidiaries, trading assets and liabilities (excluding trading assets and liabilities involving obligations of or guaranteed by the United States or any agency of the United States) the average gross sum of which over the previous consecutive four quarters, as measured as of the last day of each of the four prior calendar quarters, equals or exceeds the established threshold; (2) in the case of a foreign banking entity, the average gross sum of the trading assets and liabilities of the combined U.S. operations of the foreign banking entity (including all subsidiaries, affiliates, branches and agencies of the foreign banking entity operating, located or organized in the United States and excluding trading assets and liabilities involving obligations of or guaranteed by the United States or any agency of the United States) over the previous consecutive four quarters, as measured as of the last day of each of the four prior calendar quarters, equals or exceeds the established threshold; or (3) the Board notifies the banking entity in writing that it must satisfy the reporting requirements contained in Appendix A. The threshold for reporting is \$50 billion beginning on June 30, 2014; \$25 billion beginning on April 30, 2016; and \$10 billion beginning on December 31, 2016. Unless the appropriate agency notifies the banking entity in writing that it must report on a different basis,

<sup>1</sup> As announced in the joint implementing rules, the agencies are currently in the process of conducting a review of the reported data on covered trading activities collected through September 30, 2015, and, based on this review, are considering whether to modify, retain, or replace the reported data.

a banking entity with \$50 billion or more in trading assets and liabilities must report the information required by Appendix A for each calendar month within 30 days of the end of the relevant calendar month. Beginning with information for the month of January 2015, such information must be reported within 10 days of the end of that calendar month. Any other banking entity subject to Appendix A must report the information required by Appendix A for each calendar quarter within 30 days of the end of that calendar quarter unless the appropriate agency notifies the banking entity in writing that it must report on a different basis. Appendix A requires banking entities to furnish the following quantitative measurements for each trading desk of the banking entity: (1) Risk and position limits and usage; (2) risk factor sensitivities; (3) Value-at-Risk and stress Value-at-Risk; (4) comprehensive profit and loss attribution; (5) inventory turnover; (6) inventory aging; and (7) customer facing trade ratio.

Risk and position limits are the constraints that define the amount of risk that a trading desk is permitted to take at a point in time, as defined by the banking entity for a specific trading desk. Usage represents the portion of the trading desk's limits that are accounted for by the current activity of the desk. Risk and position limits must be reported in the format used by the banking entity for the purposes of risk management of each trading desk. Risk and position limits are often expressed in terms of risk measures, such as Value-at-Risk (VaR) and risk factor sensitivities, but may also be expressed in terms of other observable criteria, such as net open positions. When criteria other than VaR or risk factor sensitivities are used to define the risk and position limits, both the value of the risk and position limits and the value of the variables used to assess whether these limits have been reached must be reported. The calculation period is one trading day and the measurement frequency is daily.

Risk factor sensitivities are changes in a trading desk's comprehensive profit and loss that are expected to occur in the event of a change in one or more underlying variables that are significant sources of the trading desk's profitability and risk. A banking entity must report the risk factor sensitivities that are monitored and managed as part of the trading desk's overall risk management policy. The underlying data and methods used to compute a trading desk's risk factor sensitivities will depend on the specific function of

the trading desk and the internal risk management models employed. The number and type of risk factor sensitivities that are monitored and managed by a trading desk, and furnished to the appropriate agency, will depend on the explicit risks assumed by the trading desk. In general, however, reported risk factor sensitivities must be sufficiently granular to account for a preponderance of the expected price variation in the trading desk's holdings. Trading desks must take into account any relevant factors in calculating risk factor sensitivities, including, for example, the following with respect to particular asset classes: Commodity derivative positions, credit positions, credit-related derivative positions, equity derivative positions, equity positions, foreign exchange derivative positions, and interest rate positions, including interest rate derivative positions. The methods used by a banking entity to calculate sensitivities to a common factor shared by multiple trading desks, such as an equity price factor, must be applied consistently across its trading desks so that the sensitivities can be compared from one trading desk to another. The calculation period is one trading day and the measurement frequency is daily.

VaR is the commonly used percentile measurement of the risk of future financial loss in the value of a given set of aggregated positions over a specified period of time, based on current market conditions. Stress VaR is the percentile measurement of the risk of future financial loss in the value of a given set of aggregated positions over a specified period of time, based on market conditions during a period of significant financial stress. Banking entities must compute and report VaR and stress VaR by employing generally accepted standards and methods of calculation. VaR should reflect a loss in a trading desk that is expected to be exceeded less than one percent of the time over a one-day period. For those banking entities that are subject to regulatory capital requirements imposed by a Federal banking agency, VaR and stress VaR must be computed and reported in a manner that is consistent with such regulatory capital requirements. In cases where a trading desk does not have a standalone VaR or stress VaR calculation but is part of a larger aggregation of positions for which a VaR or stress VaR calculation is performed, a VaR or stress VaR calculation that includes only the trading desk's holdings must be performed consistent with the VaR or stress VaR model and methodology used for the larger

aggregation of positions. The calculation period is one trading day and the measurement frequency is daily.

Comprehensive profit and loss attribution is an analysis that attributes the daily fluctuation in the value of a trading desk's positions to various sources. First, the daily profit and loss of the aggregated positions is divided into three categories: (1) Profit and loss attributable to a trading desk's existing positions that were also positions held by the trading desk as of the end of the prior day (existing positions); (2) profit and loss attributable to new positions resulting from the current day's trading activity (new positions); and (3) residual profit and loss that cannot be specifically attributed to existing positions or new positions. The sum of (1), (2), and (3) must equal the trading desk's comprehensive profit and loss at each point in time. In addition, profit and loss measurements must calculate volatility of comprehensive profit and loss (*i.e.*, the standard deviation of the trading desk's one-day profit and loss, in dollar terms) for the reporting period for at least a 30-, 60-, and 90-day lag period, from the end of the reporting period, and any other period that the banking entity deems necessary to meet the requirements of the rule. The specific categories used by a trading desk in the comprehensive profit and loss attribution analysis and amount of detail for the analysis should be tailored to the type and amount of trading activities undertaken by the trading desk. The new position attribution must be computed by calculating the difference between the prices at which instruments were bought and/or sold and the prices at which those instruments are marked to market at the close of business on that day multiplied by the notional or principal amount of each purchase or sale. Any fees, commissions, or other payments received (paid) that are associated with transactions executed on that day must be added (subtracted) from such difference. These factors must be measured consistently over time to facilitate historical comparisons. The calculation period is one trading day and the measurement frequency is daily.

Inventory turnover is a ratio that measures the turnover of a trading desk's inventory. The numerator of the ratio is the absolute value of all transactions over the reporting period. The denominator of the ratio is the value of the trading desk's inventory at the beginning of the reporting period. For derivatives other than options and interest rate derivatives, value means gross notional value. For options, value means delta adjusted notional value. For

interest rate derivatives, value means 10-year bond equivalent value. The calculation period is 30 days, 60 days, and 90 days and the measurement frequency is daily.

Inventory aging generally describes a schedule of the trading desk's aggregate assets and liabilities and the amount of time that those assets and liabilities have been held. Inventory aging should measure the age profile of the trading desk's assets and liabilities. In general, inventory aging must be computed using a trading desk's trading activity data and must identify the value of a trading desk's aggregate assets and liabilities. Inventory aging must include two schedules, an asset-aging schedule and a liability-aging schedule. Each schedule must record the value of assets or liabilities held over all holding periods. For derivatives other than options and interest rate derivatives, value means gross notional value. For options, value means delta adjusted notional value. For interest rate derivatives, value means 10-year bond equivalent value. The calculation period is one trading day and the measurement frequency is daily.

The customer-facing trade ratio is a ratio comparing (1) the transactions involving a counterparty that is a customer of the trading desk to (2) the transactions involving a counterparty that is not a customer of the trading desk. A trade count based ratio must be computed that records the number of transactions involving a counterparty that is a customer of the trading desk and the number of transactions involving a counterparty that is not a customer of the trading desk. A value based ratio must be computed that records the value of transactions involving a counterparty that is a customer of the trading desk and the value of transactions involving a counterparty that is not a customer of the trading desk. For purposes of calculating the customer-facing trade ratio, a counterparty is considered to be a customer of the trading desk if the counterparty is a market participant that makes use of the banking entity's market making-related services by obtaining such services, responding to quotations, or entering into a continuing relationship with respect to such services. However, a trading desk or other organizational unit of another banking entity would not be a client, customer, or counterparty of the trading desk if the other entity has trading assets and liabilities of \$50 billion or more as measured in accordance with section 248.20(d)(1) unless the trading desk documents how and why a particular trading desk or other

organizational unit of the entity should be treated as a client, customer, or counterparty of the trading desk. Transactions conducted anonymously on an exchange or similar trading facility that permits trading on behalf of a broad range of market participants would be considered transactions with customers of the trading desk. For derivatives other than options and interest rate derivatives, value means gross notional value. For options, value means delta adjusted notional value. For interest rate derivatives, value means 10-year bond equivalent value. The calculation period is 30 days, 60 days, and 90 days and the measurement frequency is daily.

#### **Recordkeeping Requirements**

Section 248.3(d)(3) specifies that proprietary trading does not include any purchase or sale of a security by a banking entity for the purpose of liquidity management in accordance with a documented liquidity management plan of the banking entity that (1) specifically contemplates and authorizes the particular securities to be used for liquidity management purposes, the amount, types, and risks of these securities that are consistent with liquidity management, and the liquidity circumstances in which the particular securities may or must be used; (2) requires that any purchase or sale of securities contemplated and authorized by the plan be principally for the purpose of managing the liquidity of the banking entity, and not for the purpose of short-term resale, benefitting from actual or expected short-term price movements, realizing short-term arbitrage profits, or hedging a position taken for such short-term purposes; (3) requires that any securities purchased or sold for liquidity management purposes be highly liquid and limited to securities the market, credit and other risks of which the banking entity does not reasonably expect to give rise to appreciable profits or losses as a result of short-term price movements; (4) limits any securities purchased or sold for liquidity management purposes, together with any other instruments purchased or sold for such purposes, to an amount that is consistent with the banking entity's near-term funding needs, including deviations from normal operations of the banking entity or any affiliate thereof, as estimated and documented pursuant to methods specified in the plan; (5) includes written policies and procedures, internal controls, analysis and independent testing to ensure that the purchase and sale of securities that are not permitted under section 248.6(a) or

(b) are for the purpose of liquidity management and in accordance with the liquidity management plan described in this paragraph; and (6) is consistent with the appropriate agency's supervisory requirements, guidance, and expectations regarding liquidity management.

Section 248.4(b)(3)(i)(A) provides that a trading desk or other organizational unit of another banking entity with more than \$50 billion in trading assets and liabilities is not a client, customer, or counterparty unless the trading desk documents how and why a particular trading desk or other organizational unit of the entity should be treated as a client, customer, or counterparty of the trading desk for purposes of section 248.4(b).

Section 248.5(c) requires documentation for certain purchases or sales of a financial instrument for risk-mitigating hedging purposes that is: (1) Not established by the specific trading desk establishing the underlying positions, contracts, or other holdings the risks of which the hedging activity is designed to reduce; (2) established by the specific trading desk establishing or responsible for the underlying positions, contracts, or other holdings but that is not specifically identified in the trading desk's written policies and procedures; or (3) established to hedge aggregated positions across two or more trading desks. In connection with any purchase or sale that meets these specified circumstances, a banking entity must, at a minimum and contemporaneously with the purchase or sale, document (1) the specific, identifiable risk(s) of the identified positions, contracts, or other holdings of the banking entity that the purchase or sale is designed to reduce; (2) the specific risk-mitigating strategy that the purchase or sale is designed to fulfill; and (3) the trading desk or other business unit that is establishing and responsible for the hedge. The banking entity must also create and retain records sufficient to demonstrate compliance with this section for at least five years in a form that allows the banking entity to promptly produce such records to the appropriate agency on request, or such longer period as required under other law or this part.

Section 248.11(a)(2) requires that a banking entity must create a written plan or similar documentation in order to acquire or retain an ownership interest in a covered fund that is organized and offered by the banking entity pursuant to that exemption. The covered fund must be organized and offered only in connection with the provision of bona fide trust, fiduciary, investment advisory, or commodity



trading advisory services and only to persons that are customers of such services of the banking entity. The written plan or similar documentation must outline how the banking entity intends to provide advisory or other similar services to its customers through organizing and offering the covered fund.

Section 248.20(a) requires each banking entity to develop a compliance program reasonably designed to ensure and monitor compliance with the prohibitions and restrictions on proprietary trading and covered fund activities and investments set forth in section 13 of the BHC Act. For a banking entity with total consolidated assets over \$10 billion, the compliance program from section 248.20(b) must include: (1) Written policies and procedures reasonably designed to document, describe, monitor and limit trading activities, including setting and monitoring required limits set out in sections 248.4 and 248.5 and activities and investments with respect to a covered fund (including those permitted under sections 248.3 through 248.6 or sections 248.11 through 248.14) to ensure that all activities and investments conducted by the banking entity that are subject to section 13 of the BHC Act and Subpart D of Regulation VV comply with section 13 of the BHC Act and applicable regulations; (2) a system of internal controls reasonably designed to monitor compliance with section 13 of the BHC Act and Subpart D of Regulation VV and to prevent the occurrence of activities or investments that are prohibited by section 13 of the BHC Act and applicable regulations; (3) a management framework that clearly delineates responsibility and accountability for compliance with section 13 of the BHC Act and Subpart D of Regulation VV and includes appropriate management review of trading limits, strategies, hedging activities, investments, incentive compensation, and other matters identified in this part or by management as requiring attention; (4) independent testing and audit of the effectiveness of the compliance program conducted periodically by qualified personnel of the banking entity or by a qualified outside party; (5) training for trading personnel and managers, as well as other appropriate personnel, to effectively implement and enforce the compliance program; and (6) records sufficient to demonstrate compliance with section 13 of the BHC Act and applicable regulations, which a banking entity must promptly provide to the

Board upon request and retain for a period of no less than five years or such longer period as required by the Board.

Section 248.20(c) specifies that the compliance program of a banking entity must satisfy the requirements and other standards contained in Appendix B, if (1) the banking entity engages in proprietary trading permitted under subpart B and is required to comply with the reporting requirements of section 248.20(d); (2) the banking entity has reported total consolidated assets as of the previous calendar year end of \$50 billion or more or, in the case of a foreign banking entity, has total U.S. assets as of the previous calendar year end of \$50 billion or more (including all subsidiaries, affiliates, branches and agencies of the foreign banking entity operating, located or organized in the United States); or (3) the Board notifies the banking entity in writing that it must satisfy the requirements and other standards contained in Appendix B. Appendix B provides enhanced minimum standards for compliance programs for banking entities that meet the thresholds in section 248.20(c) as described above. These include the establishment, maintenance, and enforcement of the enhanced compliance program and meeting the minimum written policies and procedures, internal controls, management framework, independent testing, training, and recordkeeping. The program must: (1) Be reasonably designed to identify, document, monitor, and report the permitted trading and covered fund activities and investments; identify, monitor, and promptly address the risk of these covered activities and investments and potential areas of noncompliance; and prevent activities or investments prohibited by, or that do not comply with, section 13 of the BHC Act and this part; (2) establish and enforce appropriate limits on covered activities and investments, including limits on size, scope, complexity, and risks of individual activities or investments consistent with the requirements of section 13 of the BHC Act and this part; (3) subject the effectiveness of the compliance program to periodic independent review and testing, and ensure that internal audit, corporate compliance, and internal control functions involved in review and testing are effective and independent; (4) make senior management and others accountable for effective implementation of compliance program and ensure that board of directors and chief executive officer (or equivalent) of the banking entity review effectiveness

of the compliance program; and (5) facilitate supervision and examination by the relevant agencies of permitted trading and covered fund activities and investments.

Section 248.20(d) provides that certain banking entities engaged in certain proprietary trading activities must comply with the reporting requirements described in Appendix A. A banking entity subject to these requirements must also, for any quantitative measurement furnished to the appropriate agency pursuant to section 248.20(d) and Appendix A, create and maintain records documenting the preparation and content of these reports, as well as such information as is necessary to permit the appropriate agency to verify the accuracy of such reports, for a period of five years from the end of the calendar year for which the measurement was taken.

Section 248.20(e) specifies additional recordkeeping requirements for covered funds. Any banking entity that has more than \$10 billion in total consolidated assets as reported on December 31 of the previous two calendar years must maintain records that include: (1) Documentation of the exclusions or exemptions other than sections 3(c)(1) and 3(c)(7) of the Investment Company Act of 1940 relied on by each fund sponsored by the banking entity (including all subsidiaries and affiliates) in determining that such fund is not a covered fund; (2) for each fund sponsored by the banking entity (including all subsidiaries and affiliates) for which the banking entity relies on one or more of the exclusions from the definition of covered fund provided by sections 248.10(c)(1), 248.10(c)(5), 248.10(c)(8), 248.10(c)(9), or 248.10(c)(10) of subpart C of the final rule, documentation supporting the banking entity's determination that the fund is not a covered fund pursuant to one or more of those exclusions; (3) for each seeding vehicle described in sections 248.10(c)(12)(i) or 248.10(c)(12)(iii) of subpart C that will become a registered investment company or SEC-regulated business development company, a written plan documenting the banking entity's determination that the seeding vehicle will become a registered investment company or SEC-regulated business development company, the period of time during which the vehicle will operate as a seeding vehicle, and the banking entity's plan to market the vehicle to third-party investors and convert it into a registered investment company or SEC-regulated business development company within the time



period specified in section 248.12(a)(2)(i)(B) of subpart C; and (4) for any banking entity that is, or is controlled directly or indirectly by a banking entity that is, located in or organized under the laws of the United States or of any State, if the aggregate amount of ownership interests in foreign public funds that are described in section 248.10(c)(1) of subpart C owned by such banking entity (including ownership interests owned by any affiliate that is controlled directly or indirectly by a banking entity that is located in or organized under the laws of the United States or of any State) exceeds \$50 million at the end of two or more consecutive calendar quarters, beginning with the next succeeding calendar quarter, documentation of the value of the ownership interests owned by the banking entity (and such affiliates) in each foreign public fund and each jurisdiction in which any such foreign public fund is organized, calculated as of the end of each calendar quarter, which documentation must continue until the banking entity's aggregate amount of ownership interests in foreign public funds is below \$50 million for two consecutive calendar quarters.

Pursuant to section 248.20(f)(1), a banking entity that does not engage in activities or investments pursuant to subpart B or subpart C (other than trading activities permitted pursuant to section 248.6(a) of subpart B) may satisfy the requirements of section 248.20 by establishing the required compliance program prior to becoming engaged in such activities or making such investments (other than trading activities permitted pursuant to section 248.6(a) of subpart B).

Pursuant to section 248.20(f)(2) a banking entity with total consolidated assets of \$10 billion or less as reported on December 31 of the previous two calendar years that engages in activities or investments pursuant to subpart B or subpart C (other than trading activities permitted under section 248.6(a)) may satisfy the requirements of section 248.20 by including in its existing compliance policies and procedures appropriate references to the requirements of section 13 and this part and adjustments as appropriate given the activities, size, scope, and complexity of the banking entity.

#### Disclosure Requirements

Section 248.11(a)(8)(i) requires that a banking entity must clearly and conspicuously disclose, in writing, to any prospective and actual investor in the covered fund (such as through disclosure in the covered fund's offering

documents) (1) that "any losses in [such covered fund] will be borne solely by investors in [the covered fund] and not by [the banking entity]; therefore, [the banking entity's] losses in [such covered fund] will be limited to losses attributable to the ownership interests in the covered fund held by [the banking entity] in its capacity as investor in the [covered fund] or as beneficiary of a carried interest held by [the banking entity]"; (2) that such investor should read the fund offering documents before investing in the covered fund; (3) that the "ownership interests in the covered fund are not insured by the FDIC, and are not deposits, obligations of, or endorsed or guaranteed in any way, by any banking entity" (unless that happens to be the case); and (4) the role of the banking entity and its affiliates and employees in sponsoring or providing any services to the covered fund.

*Legal authorization and confidentiality:* The Board's Legal Division has determined that section 13 of the Bank Holding Company Act (BHC Act) authorizes the Board and the other agencies to issue rules to carry out the purposes of the section (12 U.S.C. 1851(b)(2)). In addition, section 13 requires the agencies to issue regulations regarding internal controls and recordkeeping to ensure compliance with section 13 (12 U.S.C. 1851(e)(1)). The information collection is required in order for covered entities to obtain the benefit of engaging in certain types of proprietary trading or investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund, under the restrictions set forth in section 13 and the final rule.

As required information, the information submitted under sections 248.12(e) and 248.20(d) of the rule can be withheld under exemption 4 of the Freedom of Information Act (FOIA) if disclosure would result in substantial competitive harm (*National Parks and Conservation Association v. Morton*, 498 F.2d 765 (DC Cir. 1974)). The information required to be submitted meets this test, as detailed below. In addition, the information is "contained in or related to examination, operating, or condition reports prepared . . . for the use of" the Board, and thus may be withheld under exemption 8 of FOIA. Under section 248.12(e), the banking entity, as part of any request to extend the period to divest ownership of a covered fund, must provide to the agency (among other information): The total exposure of the banking entity to the covered fund and its materiality to the institution; the risks and costs of

disposing of, or maintaining the fund, within the applicable period; and the contractual terms governing the banking entity's interest in the covered fund. Among the types of information required to be submitted under section 248.20(d) and Appendix A are (1) risk and position limits and usage; (2) risk factor sensitivities; (3) Value-at-Risk and stress Value-at-Risk; (4) comprehensive profit and loss attribution; (5) inventory turnover; (6) inventory aging; and (7) customer facing trade ratio. Disclosure of this type of internal proprietary business information would clearly cause substantial competitive harm.

Regarding the information contained in the rule subject to recordkeeping requirements only, no issues of confidentiality normally would arise. If such information were gathered by the Federal Reserve during the course of supervisory examinations and inspections, however, such information normally would be deemed exempt under exemption 8 of FOIA. The information collected in response to these recordkeeping requirements would be confidential commercial and financial information of the type normally exempt from disclosure under exemption 4 of FOIA, if gathered by the Federal Reserve. Such information includes: the banking entity's liquidity management plan to qualify for certain regulatory exclusions under section 248.3(d)(3); documentation requirements for certain hedging transactions or exemptions under sections 248.5(c) and 248.11(a)(2); and a detailed compliance program (or equivalent trading policies and procedures) under sections 248.20(b)–(f).

*Current actions:* On August 2, 2017, the Board published a notice in the **Federal Register** (82 FR 35947) requesting public comment for 60 days on the extension, without revision, of the FR VV. The comment period for this notice expired on October 2, 2017. The Board did not receive any comments. The information collection will be extended as proposed.

Board of Governors of the Federal Reserve System, December 15, 2017.

**Ann E. Misback,**  
*Secretary of the Board.*

[FR Doc. 2017–27451 Filed 12–20–17; 8:45 am]

**BILLING CODE 6210–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day-18-0978; Docket No. CDC-2017-0116]

**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 the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled *Emerging Infections Program*, a population-based surveillance via active, laboratory case finding that is used for detecting, identifying, and monitoring emerging pathogens.

**DATES:** CDC must receive written comments on or before February 20, 2018.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2017-0116 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](http://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](http://Regulations.gov).

*Please note:* Submit all Federal comments through the Federal eRulemaking portal ([regulations.gov](http://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](mailto: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**

Emerging Infections Program (OMB Control Number 0920-0978, Expiration Date 2/28/2019)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

The Emerging Infections Programs (EIPs) are population-based centers of excellence established through a network of state health departments collaborating with academic institutions; local health departments; public health and clinical laboratories; infection control professionals; and healthcare providers. EIPs assist in local, state, and national efforts to prevent, control, and monitor the public health impact of infectious diseases.

Activities of the EIPs fall into the following general categories: (1) Active surveillance; (2) applied public health epidemiologic and laboratory activities; (3) implementation and evaluation of pilot prevention/intervention projects; and (4) flexible response to public health emergencies. Activities of the EIPs are designed to: (1) Address issues that the EIP network is particularly suited to investigate; (2) maintain sufficient flexibility for emergency response and new problems as they arise; (3) develop and evaluate public health interventions to inform public health policy and treatment guidelines; (4) incorporate training as a key function; and (5) prioritize projects that lead directly to the prevention of disease.

A revision is being submitted to make existing forms clearer and to add several new forms: ABCs Severe GAS Infection Supplemental Form, HAIC Multi-site Gram-Negative Bacilli Case Report Form for Carbapenem-resistant *Pseudomonas aeruginosa* (CR-PA), HAIC Multi-site Gram-Negative Surveillance Initiative—Extended-Spectrum Beta-Lactamase-Producing Enterobacteriaceae (MuGSI-ESBL), HAIC Invasive Methicillin-sensitive *Staphylococcus aureus* (MSSA), and HAIC Candidemia Case Report Form. These forms will allow the EIP to better detect, identify, and monitor emerging pathogens. The estimates of the infection incidence generated by this collection provide the foundation for a variety of epidemiologic studies to explore risk factors, spectrum of disease, and prevention strategies.

The total estimated burden is 40,347 hours. There is no cost to respondents other than their time.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Health Department .....	ABCs Case Report Form .....	10	809	20/60	2,697

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	ABCs Invasive Pneumococcal Disease in Children Case Report Form.	10	22	10/60	37
	ABCs Surveillance for Non-Invasive Pneumococcal Pneumonia (SNIPP) Case Report Form.	10	125	10/60	208
	ABCs <i>H.influenzae</i> Neonatal Sepsis Expanded Surveillance Form ....	10	6	10/60	10
	ABCs Severe GAS Infection Supplemental Form—NEW FORM .....	10	136	20/60	453
	ABCs Neonatal Infection Expanded Tracking Form .....	10	37	20/60	123
	FoodNet Campylobacter .....	10	850	21/60	2,975
	FoodNet Cryptosporidium .....	10	130	10/60	217
	FoodNet Cyclospora .....	10	3	10/60	5
	FoodNet Listeria monocytogenes .....	10	13	20/60	43
	FoodNet Salmonella .....	10	827	21/60	2,895
	FoodNet Shiga toxin producing E. coli .....	10	190	20/60	633
	FoodNet Shigella .....	10	290	10/60	483
	FoodNet Vibrio .....	10	25	10/60	42
	FoodNet Yersinia .....	10	30	10/60	50
	FoodNet Hemolytic Uremic Syndrome .....	10	10	1	100
	Influenza Hospitalization Surveillance Network Case Report Form .....	10	1,000	25/60	4,167
	Influenza Hospitalization Surveillance Project Vaccination Phone Script Consent Form (English).	10	333	5/60	278
	Influenza Hospitalization Surveillance Project Vaccination Phone Script Consent Form (Spanish).	10	333	5/60	278
	Influenza Hospitalization Surveillance Project Provider Vaccination History Fax Form (Children/Adults).	10	333	5/60	278
	HAIC CDI Case Report Form .....	10	1,650	30/60	8,250
	HAIC Multi-site Gram-Negative Bacilli Case Report Form ( <i>MuGSI-CRE/CRAB</i> ).	10	500	20/60	1,667
	HAIC Multi-site Gram-Negative Bacilli Case Report Form for Carbapenem-resistant <i>Pseudomonas aeruginosa</i> (CR-PA)—NEW FORM.	10	344	45/60	2,580
	HAIC Multi-site Gram-Negative Surveillance Initiative—Extended-Spectrum Beta-Lactamase-Producing Enterobacteriaceae ( <i>MuGSI-ESBL</i> )—NEW FORM.	10	1,200	20/60	4,000
	HAIC Invasive Methicillin-resistant <i>Staphylococcus aureus</i> (MRSA) ...	10	609	20/60	2,030
	HAIC Invasive Methicillin-sensitive <i>Staphylococcus aureus</i> (MSSA)—NEW FORM.	10	1,035	20/60	3,450
	HAIC Candidemia Case Report Form—NEW FORM .....	9	800	20/60	2,400
Total .....					40,347

**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. 2017-27482 Filed 12-20-17; 8:45 am]  
 BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day-18-18EV; Docket No. CDC-2017-0105]

**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 the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled *Enhanced Surveillance for Histoplasmosis*. CDC will collect state health department and patient furnished histoplasmosis case data.

**DATES:** CDC must receive written comments on or before February 20, 2018.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2017-0105 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**

Enhanced Surveillance for Histoplasmosis—New—National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

Histoplasmosis is an infectious disease caused by inhalation of the environmental fungus *Histoplasma capsulatum*. Histoplasmosis can range from asymptomatic or mild illness to severe disseminated disease, and it is often described as the most common endemic mycosis in North America. However, much still remains unknown about the epidemiology and patient burden of histoplasmosis in the United States. Histoplasmosis is currently reportable in 11 states but is not nationally notifiable. In June 2016, the Council of State and Territorial Epidemiologists (CSTE) passed a position statement to standardize the case definition for histoplasmosis, a first step towards more consistent surveillance methodology. A recent multistate analysis of histoplasmosis cases reported to public health during 2011–2014 also revealed variation in the data elements collected by each state, limiting inter-state comparability. In addition, data on possible exposures, underlying medical conditions, symptoms, and antifungal treatment was only collected in a few states. Furthermore, no multistate data exists about histoplasmosis cases identified using the newly-created CSTE case definition.

More detailed data about histoplasmosis cases detected during routine surveillance are needed to better understand the features of persons at risk, characterize the effects of histoplasmosis on patients (e.g., delays in diagnosis, symptom duration, and

decreased productivity), understand patient awareness of histoplasmosis, and determine its true public health burden. This information will not only help inform routine surveillance practices, but also guide awareness efforts and appropriate prevention strategies.

For a period of one year, health department personnel in participating states will conduct telephone interviews with reported histoplasmosis cases that meet the CSTE case definition and will record responses on a standardized form. The form will collect information on demographics, underlying medical conditions, exposures, symptom type and duration, healthcare-seeking behaviors, diagnosis, treatment, and outcomes.

This interview activity is consistent with the state's existing authority to investigate reports of notifiable diseases for routine surveillance purposes; therefore, formal consent to participate in the surveillance is not required. However, cases may choose not to participate and may choose not to answer any question they do not wish to answer.

It will take health department personnel approximately 15 minutes to administer the questionnaire to 300 patient respondents and 15 minutes for health department personnel to retrieve and record diagnostic information from their state reportable disease database. This results in an estimated annual burden to the public of 150 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)
Histoplasmosis cases .....	Case Report Form for Histoplasmosis Enhanced Surveillance ....	300	1	15/60	75
Health department personnel .....	Case Report Form for Histoplasmosis Enhanced Surveillance ....	10	30	15/60	75
<b>Total .....</b>	.....	.....	.....	.....	<b>150</b>

**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. 2017–27481 Filed 12–20–17; 8:45 am]

**BILLING CODE 4163–18–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Correction to Notice Published 12/13/2017**

*Title:* Adoption and Foster Care Analysis Reporting System for title IV–B and title IV–E (AFCARS).

*OMB No.:* 0970–0422.

*Description:* The notice, vol. 82, page 58615, published 12/13/2017 was an

erroneous re-publication of a notice published on 10/20/2017 at vol. 82, page 48821. No additional comments are being solicited at this time. We regret the confusion it may have caused.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2017–27479 Filed 12–20–17; 8:45 am]

**BILLING CODE 4184–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. FDA-2017-N-1277]

**Keith J. Pierce: Debarment Order****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

**SUMMARY:** The U.S. Food and Drug Administration (FDA or Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debaring Dr. Keith J. Pierce for a period of 5 years from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Pierce was convicted of a misdemeanor under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product under the FD&C Act. Dr. Pierce was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. Dr. Pierce failed to request a hearing. Dr. Pierce's failure to request a hearing constitutes a waiver of his right to a hearing concerning this action.

**DATES:** This order is applicable December 21, 2017.

**ADDRESSES:** Submit applications for special termination of debarment to the Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Kenny Shade, Division of Enforcement, Office of Enforcement and Import Operations, Office of Regulatory Affairs (ELEM 4144), Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 301-796-4640.

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 306(b)(2)(B) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)) permits debarment of an individual if FDA finds that the individual has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval, including the process for development or approval, of any drug product under the FD&C Act. On March 3, 2016, the U.S. District Court for the Eastern District of Michigan entered judgment against Dr. Pierce for one count of failure to maintain records required under section 505(i) of the FD&C Act (21 U.S.C. 355(i)) and FDA's

regulations at § 312.62(b) (21 CFR 312.62(b)), a Federal misdemeanor offense under the FD&C Act sections 301(e) and 303(a) (21 U.S.C. 331(e) and 333(a)(1)).

FDA's finding that the debarment is appropriate is based on the misdemeanor conviction referenced herein. The factual basis for this conviction was as follows: At the time the conduct underlying the conviction occurred, Dr. Pierce was licensed to practice medicine under the laws of Michigan. In 2003, Aventis Pharmaceuticals operated a clinical trial for KETEK (telithromycin), investigating its use as a drug to treat acute maxillary sinusitis (AMS). This clinical trial was conducted pursuant to an investigational new drug application (IND) held by Aventis Pharmaceuticals, and was therefore subject to FDA's oversight and jurisdiction. (see section 505(i) of the FD&C Act and part 312 (21 CFR part 312)). Between approximately April and July 2003, Dr. Pierce served as an investigator under the IND by conducting clinical testing of KETEK on patients in his medical practice. FDA's regulations at part 312 require, among other things, that clinical investigators prepare and maintain adequate and accurate case histories that record all observations and other data pertinent to the investigation on each individual administered the investigational drug or employed as a control in the investigation. The failure to establish or maintain any record required under section 505(i) of the FD&C Act is a prohibited act under sections 301(e) and 303(a) of the FD&C Act. Records required under section 505(i) of the FD&C Act include records required to be kept under FDA's regulations at § 312.62. Between approximately April and July 2003, Dr. Pierce failed to maintain adequate and accurate case histories on each individual administered the investigational drug or employed as a control in the investigation, as required by § 312.62. In particular, Dr. Pierce failed to adequately and accurately document information about trial participants' previous research participation and relevant medical histories.

As a result of his conviction, on July 17, 2017, FDA sent Dr. Pierce a notice by certified mail proposing to debar him for a period of 5 years from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(b)(2)(B) of the FD&C Act, that Dr. Pierce was convicted of a misdemeanor under Federal law for conduct relating to the development or approval,

including the process for development or approval, of any drug product under the FD&C Act. FDA determined that Dr. Pierce's misdemeanor conviction was for illegal conduct relating to the development or approval of KETEK (telithromycin) for the treatment of AMS in that he failed to maintain adequate and accurate case histories for individuals in his clinical investigations. FDA finds that Dr. Pierce's conduct undermined the Agency's ability to rely on clinical data obtained in the process of developing new drugs for approval and therefore related to the development or approval of a drug product under the FD&C Act. The proposal also offered Dr. Pierce an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. The proposal was received on July 24, 2017. Dr. Pierce failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and any contentions concerning his debarment (21 CFR part 12).

**II. Findings and Order**

Therefore, the Director, Office of Enforcement and Import Operations, Office of Regulatory Affairs, under section 306(b)(2)(B) of the FD&C Act, under authority delegated to him (Staff Manual Guide 1410.35), finds that Dr. Keith J. Pierce has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product under the FD&C Act.

As a result of the foregoing finding, Dr. Keith J. Pierce is debarred for 5 years from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see DATES) (see sections 201(dd), 306(c)(1)(B), and 306(c)(2)(A)(iii) of the FD&C Act (21 U.S.C. 321(dd), 335a(c)(1)(B), and 335a(c)(2)(A)(iii)). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Dr. Pierce, in any capacity during his debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Dr. Pierce provides services in any capacity to a person with

an approved or pending drug product application during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug applications from Dr. Pierce during his period of debarment (section 306(c)(1)(B) of the FD&C Act).

Any application by Dr. Pierce for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA-2017-N-1277 and sent to the Dockets Management Staff (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by § 10.20.

Publicly available submissions may be seen in the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 14, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2017-27485 Filed 12-20-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Privacy Act of 1974; Matching Program

**AGENCY:** Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Notice of a new matching program.

**SUMMARY:** In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (HHS/ACF/OCSE), is providing notice of a re-established matching program between OCSE and state workforce agencies (SWAs) administering the Unemployment Compensation (UC) Program. The matching program will provide SWAs with new hire (*i.e.*, employment status) and quarterly wage information from OCSE's National Directory of New Hires (NDNH) system of records, for the purpose of assisting SWAs in preventing, detecting, and addressing program violations and errors, and for related secondary purposes.

**DATES:** The deadline for comments on this notice is January 22, 2018. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a

change to this notice. The matching program will be conducted for an initial term of 18 months (approximately January 13, 2018 through July 13, 2019) and within 3 months of expiration may be renewed for up to 12 additional months if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

**ADDRESSES:** Interested parties may submit written comments on this notice, by mail or email, to Linda Boyer, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, by email at [linda.boyer@acf.hhs.gov](mailto:linda.boyer@acf.hhs.gov), or by mail at Mary E. Switzer Building, 330 C Street SW, 5th Floor, Washington, DC 20201. Comments received will be available for public inspection at this address from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** General questions about the matching program may be submitted to Linda Boyer, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, by email at [linda.boyer@acf.hhs.gov](mailto:linda.boyer@acf.hhs.gov), by mail at Mary E. Switzer Building, 330 C Street SW, 5th Floor, Washington, DC 20201, or by telephone at 202-401-5410.

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, as amended (5 U.S.C. 552a), provides for certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, records about individual retrieved by personal identifier) are matched with other federal or state agency records. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each participating federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other

adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o) (2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

### Participating Agencies

Office of Child Support Enforcement (OCSE) is the source agency, and state workforce agencies (SWAs) administering the Unemployment Compensation (UC) Program are the recipient agencies.

### Authority for Conducting the Matching Program

42 U.S.C. 653(j)(8).

### Purpose(s)

The matching program provides each SWA with new hire and quarterly wage information from OCSE's National Directory of New Hires (NDNH) system of records, pertaining to adult UC applicants and recipients, resulting from comparing client name and Social Security number combinations in the SWA's files to data in NDNH. The match results assist the SWAs in establishing or verifying eligibility for assistance, reducing payment errors, and maintaining program integrity, including determining whether duplicate participation exists or if the client resides in another state. The SWAs may also use the NDNH information for secondary purposes, such as updating UC recipients' reported participation in work activities, updating recipients' and their employers' contact information, and administering the SWAs' tax compliance function.

### Categories of Individuals

The categories of individuals whose information is involved in the matching program are adult members of households who receive or have applied for UC benefits.

### Categories of Records

The categories of records involved in the matching program are new hire and quarterly wage information. The specific data elements that will be provided to OCSE in a SWA input file are:

- Submitting state code (2-digit FIPS code)
- Date stamp (input file transmission date)

- UC benefit applicant/recipient's Social Security number
- UC benefit applicant/recipient's first, middle, and last name
- Same state data indicator (indicates whether the SWA requests NDNH new hire and quarterly wage information was provided to the NDNH by that same state)
- Passback data (SWA information used to identify individuals within the input file to be returned on the output file)
- Name/Social Security number verification request

OCSE will compare the Social Security numbers in the SWA input file to the Social Security numbers in the NDNH, and will provide the SWA with any available new hire and quarterly wage information in NDNH (including names, Social Security numbers, home addresses, and employment information) pertaining to the individuals whose records are contained in the SWA input file.

#### System(s) of Records

The OCSE records disclosed to SWAs will be disclosed from OCSE's National Directory of New Hires (NDNH) system of records, No. 09-80-0381, last published at 80 FR 17906 on April 2, 2015. The disclosures are authorized by routine use 13 in that system of records.

**Scott M. Lekan,**

*Commissioner, Office of Child Support Enforcement.*

[FR Doc. 2017-27486 Filed 12-20-17; 8:45 am]

**BILLING CODE 4184-42-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Privacy Act of 1974; Matching Program

**AGENCY:** Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Notice of a new matching program.

**SUMMARY:** In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (HHS/ACF/OCSE), is providing notice of a re-established matching program between OCSE and state agencies administering Temporary Assistance for Needy Families (TANF). The matching program will compare state TANF agency records with new hire, quarterly wage, and unemployment insurance information from OCSE's National Directory of New Hires (NDNH) system

of records. The matching program will assist state TANF agencies in establishing or verifying eligibility for assistance, reducing payment errors, and maintaining program integrity.

**DATES:** The deadline for comments on this notice is January 22, 2018. The re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice.

The matching program will be conducted for an initial term of 18 months (approximately January 13, 2018 through July 13, 2019) and within 3 months of expiration may be renewed for up to 12 additional months if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

**ADDRESSES:** Interested parties may submit written comments on this notice, by mail or email, to Linda Boyer, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, by email at [linda.boyer@acf.hhs.gov](mailto:linda.boyer@acf.hhs.gov), or by mail at Mary E. Switzer Building, 330 C Street SW, 5th Floor, Washington, DC 20201. Comments received will be available for public inspection at this address from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** General questions about the matching program may be submitted to Linda Boyer, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, by email at [linda.boyer@acf.hhs.gov](mailto:linda.boyer@acf.hhs.gov), by mail at Mary E. Switzer Building, 330 C Street SW, 5th Floor, Washington, DC 20201, or by telephone at 202-401-5410.

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, as amended (5 U.S.C. 552a), provides for certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records (meaning, records about individual retrieved by personal identifier) are matched with other federal or state agency records. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each participating federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available

to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o)(2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

**Participating Agencies:** Office of Child Support Enforcement (OCSE) is the source agency, and state agencies administering the Temporary Assistance for Needy Families (TANF) program are the recipient agencies.

**Authority for Conducting the Matching Program:** 42 U.S.C. 653(j)(3).

**Purpose(s):** The matching program provides each participating state agency with new hire, quarterly wage, and unemployment insurance information from OCSE's National Directory of New Hires (NDNH) system of records, pertaining to adult TANF applicants and recipients, resulting from comparing client Social Security numbers in the state agency's files to data in NDNH. The match results assist the state agencies in establishing or verifying clients' eligibility for assistance, reducing payment errors, and maintaining program integrity, including determining whether duplicate participation exists or if the client resides in another state. The state agencies may also use the NDNH information for the secondary purposes of updating the applicants' and recipients' reported participation in work activities and updating applicant, recipient, and employer contact information maintained by the state TANF agencies.

**Categories of Individuals:** The categories of individuals whose information is involved in the matching program are adult members of households who receive or have applied for TANF benefits.

**Categories of Records:** The categories of records involved in the matching program are new hire, quarterly wage, and unemployment insurance information. The specific data elements



that will be provided to OCSE in a state TANF agency input file are:

- Submitting state code (2-digit FIPS code)
- Date stamp (input file transmission date)
- Adult TANF applicant/recipient's Social Security number
- Adult TANF applicant/recipient's first, middle, and last name
- Same state data indicator (indicates whether the state TANF agency requests NDNH new hire, quarterly wage, or unemployment insurance even if the information was provided by that same state)
- Passback data (state TANF agency information used to identify individuals within the input file to be returned on the output file)
- Name/Social Security number verification request

OCSE will compare the Social Security numbers in the state TANF agency input file to the Social Security numbers in the NDNH, and will provide the state TANF agency with any available new hire and quarterly wage information in NDNH (including names, Social Security numbers, home addresses, and employment information) pertaining to the individuals whose records are contained in the state TANF agency input file.

*System(s) of Records:* The OCSE records disclosed to state TANF agencies will be disclosed from OCSE's National Directory of New Hires (NDNH) system of records, No. 09–80–0381, last published at 80 FR 17906 on April 2, 2015. The disclosures are authorized by routine use 8 in that system of records.

**Scott M. Lekan,**

*Commissioner, Office of Child Support Enforcement.*

[FR Doc. 2017–27487 Filed 12–20–17; 8:45 am]

**BILLING CODE 4184–42–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; PAR16–212: Cognitive Neuroscience and Assessment of Cancer Treatment-Related Cognitive Impairment.

*Date:* January 17, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, [kramerkm@csr.nih.gov](mailto:kramerkm@csr.nih.gov).

*Name of Committee:* Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Risk and Disease Prevention Study Section.

*Date:* January 22–23, 2018.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

*Contact Person:* Stacey FitzSimmons, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 451–9956, [fitsimmons@csr.nih.gov](mailto:fitsimmons@csr.nih.gov). (Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 18, 2017.

**Melanie J. Pantoja,**

*Program Analyst; Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–27506 Filed 12–20–17; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Biomedical Imaging and Bioengineering; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Biomedical Imaging and Bioengineering.

The meeting will be open to the public as indicated below, with

attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Biomedical Imaging and Bioengineering.

*Date:* January 18, 2018.

*Open:* 8:30 a.m. to 11:45 a.m.

*Agenda:* Report from the Institute Director, other Institute Staff and scientific presentation.

*Place:* The William F. Bolger Center, Franklin Building, Classroom 3, 9600 Newbridge Drive, Potomac, MD 20854.

*Closed:* 1:00 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* The William F. Bolger Center, Franklin Building, Classroom 3, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* David T. George, Ph.D., Acting Associate Director, Office of Research Administration, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 920, Bethesda, MD 20892.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://www.nibib1.nih.gov/about/NACBIB/NACBIB.htm>, where an agenda and any additional information for the meeting will be posted when available.

Dated: December 18, 2017.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017–27508 Filed 12–20–17; 8:45 am]

**BILLING CODE 4140–01–P**



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; 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 Aging Special Emphasis Panel; Cardiac Rehabilitation in Older Adults.

*Date:* February 5, 2018.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

*Contact Person:* Anita H. Undale, Ph.D., MD, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 240-747-7825, [anita.undale@nih.gov](mailto:anita.undale@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 18, 2017.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2017-27507 Filed 12-20-17; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-HQ-MB-2017-N166; FF09M21200-167-FXMB1231099BPP0; OMB Control Number 1018-0103]

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Conservation Order for Light Geese

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the U.S. Fish and Wildlife Service (Service, we), are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before January 22, 2018.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); or via facsimile to (202) 395-5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov). Please reference OMB Control Number 1018-0103 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov), or by telephone at (703) 358-2503. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 3, 2017 (82 FR 30883). The following comments were received:

*Comment 1:* The Central Flyway Council commented that a single survey conducted by Service is the most appropriate and accurate method for annually monitoring the participation and harvest in the light goose conservation order. This approach has been used by the Service since 1960 to monitor waterfowl harvest nationally for regular hunting seasons.

*Agency Response to Comment 1:* With regard to the Central Flyway proposal to implement a single, uniform survey conducted by the Service, during discussions with Flyway Councils

regarding initiation of the conservation order in the late 1990s there were concerns about whether or not a national information collection should be developed for the conservation order. That approach was not pursued due to the need to develop a new Federal permit, which we continue to believe is not a feasible alternative at this time. It was decided that each State would conduct its own information collection. Although State harvest estimates may not be fully comparable due to differences in methodology, we believe that summation of such estimates is warranted for general monitoring purposes. Furthermore, our existing Harvest Information Program (HIP) is geared towards estimating harvest of birds during regular hunting seasons that end on or before March 10 each year. Many States hold their light goose conservation order (not a regular hunting season) after March 10. Therefore, if HIP was used to estimate light goose conservation order harvest, our annual HIP reports would be delayed and could affect the normal hunting regulations promulgation process. The Service can only require HIP registration for regular hunting seasons to develop a sampling frame. There is no current mechanism for the Service to require HIP registration for conservation order participants. Therefore, there no sampling frame exists from which to conduct a single, uniform Federal survey.

*Comment 2:* The commenter feels the Service has lied about increasing populations of light geese, promotes the killing of birds to increase hunting license sales, and only considers input from hunters and farmers.

*Agency Response to Comment 2:* Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the hunting seasons are compatible with the current status of migratory bird populations and long-term population goals. With regard to the light goose conservation order, we documented the exponential growth of light goose populations when we authorized the conservation order (64 FR 7517 and 73 FR 65926). In those **Federal Register** notices, we also documented degradation to breeding habitats as a result of feeding actions of overabundant light goose populations.

For that reason, we implemented the conservation order to increase harvest above that which occurs during regulator hunting seasons. Furthermore, we continue to annually document high population levels of light geese in our annual Waterfowl Status Report (<https://www.fws.gov/migratorybirds/pdf/surveys-and-data/Population-status/Waterfowl/WaterfowlPopulationStatusReport17.pdf>).

Additionally, we are obligated to, and do, seriously consider to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, the Flyway Council system of migratory game bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. Public input is provided not only at the Federal level but also at the State level and the input from State public processes is reflected in the Flyway system. Therefore, public involvement from hunters and non-hunters (including those that are not farmers) alike occurs at multiple levels. We disagree that input from the non-hunting, non-agricultural public is ignored. Furthermore, because the Federal government does not sell hunting licenses our actions associated with light goose management are not tied to selling additional hunting licenses. Because the light goose conservation order is not a hunting season, States do not require the purchase of a hunting license to participate and therefore cannot benefit from additional hunting license sales.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to

withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The Migratory Bird Treaty Act (Act; 16 U.S.C. 703–712) implements the four bilateral migratory bird treaties the United States entered into with Great Britain (for Canada), Mexico, Japan, and Russia. The Act authorizes and directs the Secretary of the Interior to allow hunting, taking, etc., of migratory birds subject to the provisions of and in order to carry out the purposes of the four treaties. Section VII of the U.S.-Canada Migratory Bird Treaty authorizes the taking of migratory birds that, under extraordinary conditions, become seriously injurious to agricultural or other interests.

The number of light geese (lesser snow, greater snow, and Ross' geese) in the midcontinent region has nearly quadrupled during the past several decades, due to a decline in adult mortality and an increase in winter survival. We refer to these species and subspecies as light geese because of their light coloration, as opposed to dark geese, such as white-fronted or Canada geese. Because of their feeding activity, light geese have become seriously injurious to their habitat, as well as to habitat important to other migratory birds. This poses a serious threat to the short- and long-term health and status of some migratory bird populations. We believe that the number of light geese in the midcontinent region has exceeded long-term sustainable levels for their arctic and subarctic breeding habitats, and that the populations must be reduced. Title 50 of the Code of Federal Regulations (CFR) at part 21 provides authority for the management of overabundant light geese.

Regulations at 50 CFR 21.60 authorize States and Tribes in the midcontinent and Atlantic flyway regions to control light geese within the United States through the use of alternative regulatory strategies. The conservation order authorizes States and Tribes to implement population control measures without having to obtain a Federal permit, thus significantly reducing their administrative burden. The conservation order is a streamlined process that affords an efficient and effective population reduction strategy, rather than addressing the issue through our permitting process. Furthermore, this strategy precludes the use of more drastic and costly direct population-reduction measures such as trapping and culling geese. States and tribes participating in the conservation order must:

- Designate participants and inform them of the requirements and conditions of the conservation order. Individual States and Tribes determine the method to designate participants and how they will collect information from participants.

- Keep records of activities carried out under the authority of the conservation order, including:

- (1) Number of persons participating in the conservation order;

- (2) Number of days people participated in the conservation order;

- (3) Number of light geese shot and retrieved under the conservation order; and

- (4) Number of light geese shot, but not retrieved.

- Submit an annual report summarizing the activities conducted under the conservation order on or before September 15 of each year. Tribal information can be incorporated in State reports to reduce the number of reports submitted.

*Title of Collection:* Conservation Order for Light Geese, 50 CFR 21.60.

*OMB Control Number:* 1018–0103.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* State and Tribal governments; individuals who participate in the conservation order.

*Total Estimated Number of Annual Respondents:* 21,577.

*Total Estimated Number of Annual Responses:* 21,577.

*Estimated Completion Time per Response:* 114 hours for State and Tribal governments and 8 minutes for individuals.

*Total Estimated Number of Annual Burden Hours:* 7,318.

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

*Frequency of Collection:* Annually.

*Total Estimated Annual Nonhour Burden Cost:* \$78,000, primarily for State overhead costs (materials, printing, postage, etc.) associated with mailing surveys to conservation order participants of approximately \$2,000, or a total of \$78,000 in non-hour burden costs (39 responses × \$2,000).

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 11, 2017.

**Madonna L. Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2017-27536 Filed 12-20-17; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[IDI-32319]

#### **Public Land Order No. 7864; Extension of Public Land Order No. 7306; Howell Canyon Recreation Complex; Idaho**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order extends the duration of the withdrawal created by Public Land Order No. 7306 for an additional 20-year period. This extension is necessary to continue the protection of the 3,805.87 acre Howell Canyon Recreation Complex located in Cassia County, Idaho.

**DATES:** This order is effective on January 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Jeff Cartwright, BLM Idaho State Office 208-373-3885. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to reach the Bureau of Land Management contact during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** PLO No. 7306 (63 FR 109 (1998)) withdrew 3,805.87 acres of National Forest System lands in the Sawtooth National Forest, Cassia County, Idaho, from location and entry under the United States mining laws, but not from the general land laws or leasing under the mineral leasing laws. The withdrawal was originally authorized to protect the investments made by the United States Forest Service and its permittees on the Howell Canyon Recreation Complex, and to preserve a Research Natural Area.

#### *Order*

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, PLO No. 7306, which withdrew 3,805.87 acres of National Forest System lands

from the United States mining laws, but not from the general land laws or leasing under the mineral leasing laws, is hereby extended for an additional 20-year period.

2. The withdrawal extended by this order will expire on January 1, 2038, unless, as a result of review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (f), the Secretary determines that the withdrawal shall be further extended.

Dated: December 12, 2017.

**David L. Bernhardt,**

*Deputy Secretary.*

[FR Doc. 2017-27511 Filed 12-20-17; 8:45 am]

**BILLING CODE 3410-11-P**

## INTERNATIONAL TRADE COMMISSION

### **Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Load Supporting Systems, Including Composite Mat Systems, and Components Thereof, DN 3281*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information

System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Newpark Mats & Integrated Services LLC on December 15, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain load supporting systems, including composite mat systems, and components thereof. The complaint names as respondents Checkers Industrial Products, LLC of Broomfield, CO; Checkers Safety Group UK LTD of United Kingdom; and Zigma Ground Solutions LTD of United Kingdom. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third

party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3281) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures.<sup>1</sup>) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews,

and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: December 18, 2017.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2017–27498 Filed 12–20–17; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[USITC SE–17–060]

### Government in the Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** January 3, 2018 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–575 and 731–TA–1360–1361 (Final) (Tool Chests and Cabinets from China and Vietnam). The Commission is currently scheduled to complete and file its determinations and views of the Commission by January 16, 2018.

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: December 19, 2017.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2017–27609 Filed 12–19–17; 4:15 pm]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[USITC SE–17–061]

### Government in the Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** January 4, 2018 at 9:30 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 532–534, and 536 (Fourth Review)(Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey). The Commission is currently scheduled to complete and file its determinations and views of the Commission by January 18, 2018.

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: December 19, 2017.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2017–27610 Filed 12–19–17; 4:15 pm]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA–392]

### Bulk Manufacturer of Controlled Substances Registration

**ACTION:** Notice of registration.

**SUMMARY:** Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration as bulk manufacturers of various classes of schedule I and II controlled substances.

**SUPPLEMENTARY INFORMATION:** The companies listed below applied to be registered as bulk manufacturers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf).

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

Company	FR docket	Published
AMPAC Fine Chemicals LLC .....	82 FR 43569	September 18, 2017.
Specgx LLC .....	82 FR 43570	September 18, 2017.
Halo Pharmaceutical, Inc .....	82 FR 43571	September 18, 2017.
Research Triangle Institute .....	82 FR 45613	September 29, 2017.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed persons.

Dated: December 18, 2017.

**Demetra Ashley,**

*Acting Assistant Administrator.*

[FR Doc. 2017-27512 Filed 12-20-17; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1121-0260]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2018 Police Public Contact Survey (PPCS)

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until February 20, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time,

suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Elizabeth Davis, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: [elizabeth.davis@ojp.usdoj.gov](mailto:elizabeth.davis@ojp.usdoj.gov); telephone: (202-305-2667).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement of the Police Public Contact Survey, with changes, a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2018 Police Public Contact Survey.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is PPCS-1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief*

*abstract:* Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The PPCS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The PPCS is one component of the BJS effort to fulfill the mandate set forth by the Violent Crime Control and Law Enforcement Act of 1994 to collect, evaluate, and publish data on the use of excessive force by law enforcement personnel. The goal of the collection is to report national statistics that provide a better understanding of the types, frequency, and outcomes of contacts between the police and the public, public perceptions of police behavior during the contact, and the conditions under which police force may be threatened or used. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 118,714. About 80% of respondents (92,597) will have no police contact and will complete the short interview with an average burden of three minutes. Among the 20% of respondents (26,117) who experienced police contact, the time to ask the detailed questions regarding the nature of the contact is estimated to take an average of 10 minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimate is based on data from prior administrations of the PPCS.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 8,983 total burden hours associated with this collection.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 15, 2017.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2017-27454 Filed 12-20-17; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1117-0051]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection: Red Ribbon Week Patch

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Drug Enforcement Administration, 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.

**DATES:** Comments are encouraged and will be accepted for 30 days until January 22, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary R. Owen, Chief, Office of Congressional & Public Affairs, Drug Enforcement Administration, 8701 Morrisette Drive, Springfield, VA 22152. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

### Overview of This Information Collection

1. *Type of Information Collection:* Extension of Previously Approved collection.

2. *The Title of the Form/Collection:* Red Ribbon Week Patch.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is DEA-316a. The applicable component within the Department of Justice is the Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Boy Scout and Girl Scout Troop Leaders.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 450 respondents will complete the application in approximately 10 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 75 hours. It is estimated that applicants will take 10 minutes to complete the DEA-316a. The burden hours for collecting respondent data sum to 75 hours (450 respondents × 10 minutes = 4500 hours. 4500/60 seconds = 75).

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: December 18, 2017.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2017-27483 Filed 12-20-17; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Office for Victims of Crime

[OMB Number 1121-0309]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: International Terrorism Victim Expense Reimbursement Program Application

**AGENCY:** Office for Victims of Crime, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Office for Victims of Crime, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

**DATES:** The Department of Justice encourages public comment and will accept input until January 22, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Victoria Jolicoeur, Office for Victims of Crime, 810 Seventh Street NW, Washington, DC 20531; by facsimile at (202) 305-2440 or by email, to [ITVERP@usdoj.gov](mailto:ITVERP@usdoj.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office for Victims of Crime, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

### Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection
2. *The Title of the Form/Collection:* International Terrorism Victim Expense Reimbursement Program (ITVERP) Application
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Department of Justice is the Office for Victims of Crime, in the Office of Justice Programs.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals victims, surviving family members or personal representatives. Other: Federal Government. This application will be used to apply for the expense reimbursement by U.S. nationals and U.S. Government employees who are victims of acts of international terrorism that occur(red) outside of the United States. The application will be used to collect necessary information on the expenses incurred by the applicant, as associated with his or her victimization, as well as other pertinent information, and will be used by OVC to make an award determination.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100 respondents will complete the certification in approximately 45 minutes.
6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this collection is 75 hours.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution

Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 18, 2017.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2017-27484 Filed 12-20-17; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (“Act”), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (“TAA”) for workers by (TA-W) number issued during the period of *October 23, 2017 through November 30, 2017*. (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or “and,” “or,” or other words are added for clarification.)

#### Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers’ firm (or “such firm”) have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

#### (A) Increased Imports Path

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased OR

(II) (aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II) (bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers’ separation or threat of separation and to the decline in the sales or production of such firm; OR

#### (B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services From a Foreign Country Path

(i)(I) there has been a shift by such workers’ firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers’ firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers’ separation or threat of separation.

#### Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) a significant number or proportion of the workers in the workers’ firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;



AND  
 (2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4)));

AND  
 (3) either—  
 (A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm;

OR  
 (B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

**Section 222(e)—Firms Identified by the International Trade Commission**

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and

a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1));

OR  
 (B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1));

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND  
 (2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C.

2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND  
 (3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

**Affirmative Determinations for Trade Adjustment Assistance**

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
85,355	Chevron Mining, Inc., Chevron Corporation, Stu Blattner, Inc. (SBI)	Questa, NM	June 4, 2013.
91,525	Teknetix Inc., Nolans Services, LLC	Parkersburg, WV	February 26, 2015.
92,359	MacFasteners, River Valley Tooling Division, TriMas	Paris, AR	October 24, 2015.
92,546	Kellogg Seelyville Bakery, Snacks, Kellogg Company, Kelly Services, Nexus, Omni GOI.	Terre Haute, IN	January 10, 2016.
92,746	Lucerne Textiles, Vitality Staffing, Active Staffing	New York, NY	March 20, 2016.
92,746A	Lucerne Textiles, Vitality Staffing, Active Staffing	Jersey City, NJ	March 20, 2016.
92,793	Classtex Knitting Mill	Orwigsburg, PA	April 5, 2016.
92,906	Baker Hughes Inc., North America Offshore Division	Houston, TX	May 22, 2016.
92,924	Owner Revolution Inc., Advanced Services, Inc	Atlantic, IA	May 31, 2016.
92,934	Data Listing Service, LLC, The Connection	Olean, NY	June 5, 2016.
92,954	Resolute Forest Products-Catawba Mill, PPM Contractors	Catawba, SC	June 14, 2016.
92,954A	Resolute Forest Products-Jonesville Chip Mill	Jonesville, SC	June 14, 2016.
93,104	General Motors (GM), Lake Orion Assembly, Development Dimensions International.	Lake Orion, MI	January 22, 2017.
93,169	Putnam Company, Inc	Walworth, WI	September 22, 2016.
93,236	RotaDyne Molded Products, Rotation Dynamics Corporation	Chicago, IL	October 17, 2016.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
92,604	First American Professional Real Estate	Irvine, CA	February 2, 2016
92,710	Sutherland Global Services, Inc., Sutherland Global Holdings, Inc	Rochester, NY	March 8, 2016.
92,727	Strategic Products and Services, LLC	Camarillo, CA	March 14, 2016.
92,786	Nevamar Company, LLC, Panolam Industrial International Inc., Manpower.	Oshkosh, WI	April 3, 2016.
92,842	Industrial Tube Company LLC, ITT Aerospace Controls, ITT Industries Holdings, Adecco, Chipton Ross, etc.	Perris, CA	April 25, 2016.
92,932	L. Perrigo Company, Procurement, 515 Eastern Avenue, Perrigo Company PLC, Manpower.	Allegan, MI	June 5, 2016.

TA-W No.	Subject firm	Location	Impact date
92,932A	L. Perrigo Company, Procurement, 1251 Lincoln Road, Perrigo Company PLC, Manpower.	Allegan, MI	June 5, 2016.
92,963	International Automotive Components (IAC) Group North America, Malone Staffing Solutions, Resource MFG.	Springfield, TN	June 21, 2016.
92,967	NICE Systems, Inc., NICE Limited	Richardson, TX	June 22, 2016.
92,983	Autodesk, Inc., Accelon, Adroit Resources, Ascent Services Group, etc	Lake Oswego, OR	June 30, 2016.
93,011	Government Employees Insurance Company (GEICO), Berkshire Hathaway, Information Technology, etc.	Chevy Chase, MD	July 13, 2016.
93,017	Hearthmark, LLC, Newell Brands, Inc., Kelly Services	Cloquet, MN	July 14, 2016.
93,042	Custom Control Sensors, LLC, CCS Holdings, Inc., Aerotek Commercial Staffing, Crossroads Staffing.	Chatsworth, CA	July 27, 2016.
93,061	STAR Envirotech	Huntington Beach, CA	August 4, 2016.
93,063	JAE Oregon, Inc., JAE Electronics, Inc., Express Employment Professionals, Aerotek.	Tualatin, OR	August 4, 2016.
93,065	Oracle America, Inc., Oracle Corporation, Volt Workforce Solutions, 3295 NW 211th Terrace.	Hillsboro, OR	August 4, 2016.
93,065A	Oracle America, Inc., Oracle Corporation, Volt Workforce Solutions, 3380 NW 215th Avenue.	Hillsboro, OR	August 4, 2016.
93,072	National Oilwell Varco Process & Flow Technologies, Inc., National Oilwell Varco, L.P., Abundant Solutions, Employee Solutions, etc.	Claremore, OK	August 9, 2016.
93,074	Philips Medical Systems (Cleveland) Inc., Randstad-Sourceright	Aurora, IL	August 11, 2016.
93,081	Casamba, LLC, Revenue Cycle Services (RCS), Randstad	Rome, GA	August 17, 2016.
93,096	Asurion Services, Inc., N.E.W. Customer Service Companies, LCC, Asurion Insurance Services, etc.	Klamath Falls, OR	August 25, 2016.
93,097	Avery Dennison, Retain Branding and Information Solutions (RBIS), Zero Chaos.	Greensboro, NC	September 3, 2017.
93,098	Benchmark Electronics, Innovative Way, Davis Companies	Nashua, NH	August 28, 2016.
93,100	Mercury Instruments, LLC, Honeywell International, Inc	Melbourne, FL	August 28, 2016.
93,124	Darian Group Incorporated	New York, NY	September 5, 2016.
93,127	Flowserve Corporation, Finance Division, 1480 Valley Center Parkway	Bethlehem, PA	September 8, 2016.
93,127A	Flowserve Corporation, Finance Division, 567 Rocky Glen Road	Moosic, PA	September 8, 2016.
93,137	Experian, Experian Health Division	Springfield, IL	September 13, 2016.
93,137A	Experian, Experian Health Division	Schaumburg, IL	September 13, 2016.
93,145	Nelson Global Products, Inc., EHDTech, American Technical Associates, Inc., TechUSA, RandstadUSA, etc.	Clinton, TN	September 14, 2016.
93,163	Johnson Controls, Inc., Building Technologies & Solutions, Johnson Controls International PLC.	Milwaukee, WI	September 21, 2016.
93,164	Lululemon Athletica Lab NYC, lululemon USA Inc	New York, NY	September 15, 2016.
93,172	General Foam Plastics Corp	Norfolk, VA	September 26, 2016.
93,172A	General Foam Plastics Corp., Holden Temporaries, Inc., U.S. Security Associates.	Tarboro, NC	September 26, 2016.
93,172B	General Foam Plastics Corp., DM Dickinson Personnel Services	El Paso, TX	September 26, 2016.
93,173	Itron, Inc., Gas Regulator Department, Crown Services, Inc	Owenton, KY	September 14, 2016.
93,174	Total System Services, Inc., (TSYS), Information Technology Division	Boise, ID	September 8, 2016.
93,177	Sutherland Global Services, Inc	Rochester, NY	September 27, 2016.
93,177A	Sutherland Global Services, Inc	Pittsford, NY	September 27, 2016.
93,193	Sony Corporation of America, Global Infrastructure Shared Services (GISS), SAP Support Division.	Park Ridge, NJ	September 29, 2016.
93,195	American Home Patient, Inc., Cash Application Department, Lincare Inc	Philipsburg, PA	September 22, 2016.
93,196	Hearth and Home Technologies, HNI Corporation, Aerotek Staffing	Colville, WA	September 28, 2016.
93,198	International Business Machines (IBM), Global Technical Services, GSAM Relationship and Problem Management.	Seattle, WA	September 25, 2016.
93,205	Kelly Aviation Center, L.P., Lockheed Martin Engine Investment, Kelly Aviation Center Management, etc.	San Antonio, TX	October 4, 2016.
93,206	Powerex, Inc., General Electric & Mitsubishi Electric	Youngwood, PA	November 13, 2017.
93,207	Sohnen Enterprises, Inc., AJL Staffing	Santa Fe Springs, CA	October 4, 2016.
93,209	Fiserv Solutions, LLC, Fiserv, Inc., ITI of Nebraska, Inc., Randstad SourceRight.	Walnut, CA	October 5, 2016.
93,210	Augusta Sportswear, Inc	Grovetown, GA	October 5, 2016.
93,212	The Northwestern Mutual Life Insurance Company, IT, Adecco, Apex, Codeworks, Cognizant, Infosys, Genesis, Kforce, Manpower.	Franklin, WI	October 5, 2016.
93,218	Xerox Corporation, Field Commission Specialists	Rochester, NY	October 6, 2016.
93,221	MD Electronics Corporation, Express Employment Professionals, Adecco.	Jamestown, NY	October 10, 2016.
93,224	Superior Industries International Arkansas, LLC, Superior Industries International Inc.	Rogers, AR	October 10, 2016.
93,227	Umicore Thin Film Products USA, Inc., Umicore USA, Monroe Staffing, MicroTech Staffing, Aerotek Staffing, etc.	Providence, RI	October 11, 2016.
93,230	BP Products North America Inc., GBS Americas Division, Collabera, Acro, Insight, Nextsource, Procom, etc.	Naperville, IL	October 13, 2016.
93,231	Bush Industries, Inc., Mason Drive Facility, Express Employment Professionals, Kelly Services, etc.	Jamestown, NY	November 14, 2017.
93,231A	Career Concepts, Bush Industries, Inc., Mason Drive Facility	Jamestown, NY	October 13, 2016.
93,232	JD Norman Industries, Express Employment Professionals	Brooklyn, OH	October 13, 2016.

TA-W No.	Subject firm	Location	Impact date
93,233 .....	Commercial Sewing, Inc., Missouri Plant Division, Penmac .....	Phillipsburg, MO .....	October 17, 2016.
93,240 .....	Amesbury Group, Inc. (dba AmesburyTruth), Foam-Tite, Tyman plc, Key Partners.	Amesbury, MA .....	October 19, 2016.
93,241 .....	Ferrara Candy Company, Creston Plant, Elite Staffing, ASI .....	Creston, IA .....	October 19, 2016.
93,243 .....	LEGO Systems, Inc., Legal, Corporate IT-Marketing Management & Development, Americas-Brand, etc.	Enfield, CT .....	October 20, 2016.
93,246 .....	Matrix Absence Management, Inc., Delphi Financial Group, Inc., All About People.	Hawthorne, NY .....	October 20, 2016.
93,249 .....	Vesuvius USA, Flow Control, Resource Manufacturing, Express Employment Professionals, etc.	Charleston, IL .....	October 24, 2016.
93,250 .....	Daymon Worldwide, Inc., Adecco Agency, Arnold Group .....	Hutchinson, KS .....	October 25, 2016.
93,251 .....	SKF Sealing Solutions, SKF USA Inc .....	Seneca, KS .....	October 25, 2016.
93,254 .....	Arrow International Inc., Teleflex Incorporated, Office Team, Aerotek ....	Reading, PA .....	December 18, 2017.
93,254A .....	Piper Companies, Arrow International Inc., Teleflex Incorporated .....	Reading, PA .....	October 27, 2016.
93,257 .....	Georg Jensen, Inc., Georg Jensen A/S .....	New York, NY .....	October 25, 2016.
93,260 .....	Ocean Steel Corporation, OSCO Construction Group .....	Conklin, NY .....	October 26, 2016.
93,261 .....	UPM Blandin Paper Company, Paper Machine 5 (PM5), UPM-Kymmene Investment, Personnel Dynamics, Spherion.	Grand Rapids, MN .....	October 26, 2016.
93,266 .....	Wells Fargo Virtual Channels (WFVC) Contact Center, Wells Fargo Bank, NA, Wells Fargo & Company.	Bethlehem, PA .....	October 31, 2016.
93,267 .....	Caterpillar Inc., dba Dyersburg Transmission Facility, Advanced Components Manufacturing, Manpower, Manpower Inc., AECOM, etc.	Dyersburg, TN .....	November 1, 2016.
93,271 .....	Airtex Products, LP, Airtex Industries, LLC, UCI International, Inc .....	Fairfield, IL .....	November 4, 2017.
93,272 .....	Behr-Hella Thermocontrol, Inc., MAHLE (BEHR) GmbH/Hella GmbH, Express Employment Professionals.	Wixom, MI .....	November 2, 2016.
93,273 .....	Henry Technologies, Inc., Hendricks Holdings Company, Express Employment Professionals, Manpower.	Chatham, IL .....	November 2, 2016.
93,275 .....	Willis Lease Finance Corporation, Aerotek Recruiting & Staff, Robert Half International, etc.	Novato, CA .....	November 2, 2016.
93,276 .....	Avery Dennison, Retail Branding and Information Solutions (RBIS) Division.	Dallas, TX .....	November 2, 2016.
93,286 .....	M&G Polymers USA, LLC, M&G Chemicals, SA, Professional Services of America.	Apple Grove, WV .....	November 3, 2016.
93,298 .....	ABB Inc., Power Grids, ABB Holdings, Pontoon, Manpower, Industrial Staffing Services.	St. Louis, MO .....	November 9, 2016.
93,299 .....	Advanced Health Partners, Inc .....	New Windsor, NY .....	November 9, 2016.
93,301 .....	Carlisle Fluid Technologies, Inc., Carlisle Companies, Inc., ProResources, ManPower, PeopleLink.	Angola, IN .....	November 10, 2016.
93,313 .....	MilliporeSigma, Merck KGaA, Randstad Corporate Services .....	Bellefonte, PA .....	November 15, 2016.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
91,264 .....	Shenango Incorporated, DTE Energy Services, Steel City and Safety Supply, MK Technologies, etc.	Pittsburgh, PA .....	December 28, 2014.
92,162 .....	SunCoke Technology & Development LLC, Capital Projects Group, SunCoke Energy, Inc. Haverhill Coke Company LLC.	Franklin Furnace, OH .....	August 30, 2015.
92,835 .....	Leadec Corp., VIUS Services Corp., Voith Industrial Services .....	Warren, OH .....	April 21, 2016.
92,926 .....	Android Industries—Detroit, Android Industries, LLC, Focus: Hope Companies, Inc., Nesco Resource.	Detroit, MI .....	June 1, 2016.
93,226 .....	Lear Corporation, Seating Division .....	Rochester Hills, MI .....	May 1, 2017.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
93,217 .....	AMIKA LLC d/b/a US Industrial Services .....	Pulaski, TN .....	October 6, 2016.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
93,178 .....	AK Steel Corporation, Butler Works, AK Steel Holding Corporation, Unlimited Staffing, Inc.	Lyndora, PA .....	September 29, 2015.
93,179 .....	AK Steel Corporation, Middletown Works, AK Steel Holding Corporation, Belcan, Phoenix Services.	Middletown, OH .....	September 29, 2015.
93,180 .....	ArcelorMittal Cleveland LLC, ArcelorMittal USA LLC .....	Cleveland, OH .....	September 29, 2015.
93,182 .....	Top Gun Investment Corp, NLMK Pennsylvania, LLC, Novolipetsk Steel	Farrell, PA .....	September 29, 2015.
93,182A .....	Sharon Coating, LLC, Novolipetsk Steel .....	Sharon, PA .....	September 29, 2015.
93,184 .....	United States Steel Corporation, Irvin Plant .....	West Mifflin, PA .....	March 13, 2017.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are

certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA-W No.	Subject firm	Location	Impact date
91,444 .....	Johnson Matthey Process Technologies, Inc., Kelly Services, Aerotek ...	Savannah, GA.	
92,040 .....	Willamette Egg Farms, MG Waldbaum Company, Willamette Egg Farms LLC, Direct Labor, Inc.	Canby, OR.	
92,537 .....	General Motors Components Holdings, LLC (GMCH), Development Dimensions International (DDI).	Kokomo, IN.	
92,674 .....	Rock of Ages Corporation, Polycor Inc., Barre Quarry Division .....	Graniteville, VT.	
92,779 .....	3M Company, Homecare, Pride One, Manpower Group, Experis, Lab Support.	Elyria, OH.	
93,015 .....	Vertiv Group Corporation, Liebert North America, PE Vertiv Holdings, Tailored Management, Dawson.	Columbus, OH.	
93,043 .....	Delft Blue LLC, Ecolait .....	New York Mills, NY.	
93,159 .....	Benny's Inc., Benny's of RI, Inc., Benny's of Mass, Inc., Benny's of Conn., Inc., etc.	Esmond, RI.	
93,181 .....	Bank of America, Mortgage and Vehicle Servicing Operation, Bank of America, N.A.	Simi Valley, CA.	
93,281 .....	Remy Power Products, LLC, Remy Acquisition LLC .....	Edmond, OK.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and

on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA-W No.	Subject firm	Location	Impact date
92,554 .....	Skiva Graphics Screen .....	Carlsbad, CA.	
92,698 .....	Actronix, Inc. ....	Flippin, AR.	

The following determinations terminating investigations were issued because the worker group on whose

behalf the petition was filed is covered under an existing certification.

TA-W No.	Subject firm	Location	Impact date
92,940 .....	Nielsen, A.C. Nielsen Company, LLC .....	Fond Du Lac, WI.	
93,079 .....	Apex Systems, LLC, Travelport, LP .....	Kansas City, MO.	
93,083 .....	SKJ Facilities Management .....	Big Flats, NY.	
93,162 .....	Opusing, LLC .....	Bloomfield, CT.	
93,171 .....	Convergys Customer Management Group, Directv Customer Service Support, AT&T Retention/Loyalty, etc.	Tamarac, FL.	
93,215 .....	NSi Industries LLC, Adecco, Direct Staffing Solutions, Career Connections.	Mount Vernon, NY.	
93,219 .....	Dura Automotive Systems, LLC, Furst Staffing, ManPower Group, Atwood Automotive, Inc.	Stockton, IL.	
93,229 .....	CenturyLink, Embarq .....	Carlisle, PA.	
93,239 .....	Kalmar Rough Terrain Center, LLC, Cargotec, Southwest Business Corporation (SWBC).	Cibolo, TX.	

The following determinations terminating investigations were issued because the petitioning group of

workers is covered by an earlier petition that is the subject of an ongoing

investigation for which a determination has not yet been issued.

TA-W No.	Subject firm	Location	Impact date
93,161 .....	Industrial Tube Company LLC, ITT Aerospace Controls LLC, Adecco, Chipton Ross, Ronin Staffing, etc.	Perris, CA.	
93,176 .....	Microsoft Corporation, Production Division .....	Wilsonville, OR.	

I hereby certify that the aforementioned determinations were issued during the period of *October 23, 2017 through November 30, 2017*. These determinations are available on the Department's Website [https://www.doleta.gov/tradeact/taa/taa\\_search\\_form.cfm](https://www.doleta.gov/tradeact/taa/taa_search_form.cfm) under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888-365-6822.

Signed at Washington, DC, this 7th day of December, 2017.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2017-27531 Filed 12-20-17; 8:45 am]

**BILLING CODE 4510-FN-P**

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than January 2, 2018.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than January 2, 2018.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N-5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, on December 7, 2017.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

**Appendix**

**101 TAA PETITIONS INSTITUTED BETWEEN 10/23/17 AND 11/30/17**

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
93240 .....	Amesbury Group, Inc. (dba AmesburyTruth) (Company).	Amesbury, MA .....	10/23/17	10/19/17
93241 .....	Ferrara Candy Company (State/One-Stop) .....	Creston, IA .....	10/23/17	10/19/17
93242 .....	Kellogg Company (State/One-Stop) .....	Hagerstown, MD .....	10/23/17	10/19/17
93243 .....	LEGO Systems, Inc. (Company) .....	Enfield, CT .....	10/23/17	10/20/17
93244 .....	Cone Denim-White Oak Plant (Company) .....	Greensboro, NC .....	10/24/17	10/20/17
93245 .....	Gerresheimer Glass (State/One-Stop) .....	Millville, NJ .....	10/24/17	10/10/17
93246 .....	Matrix Absence Management, Inc. (State/One-Stop) .....	Hawthorne, NY .....	10/24/17	10/20/17
93247 .....	West Linn Paper Company (State/One-Stop) .....	West Linn, OR .....	10/26/17	10/23/17
93248 .....	Unilever United States (State/One-Stop) .....	Shelton, CT .....	10/26/17	10/23/17
93249 .....	Vesuvius USA (Company) .....	Charleston, IL .....	10/26/17	10/24/17
93250 .....	Daymon Worldwide, Inc. (State/One-Stop) .....	Hutchinson, KS .....	10/27/17	10/25/17
93251 .....	SKF Sealing Solutions (State/One-Stop) .....	Seneca, KS .....	10/27/17	10/25/17
93252 .....	Toront-Dominion Bank/TD Holdings II, Inc. (State/One-Stop).	New York, NY .....	10/27/17	10/25/17
93253 .....	Total Facility Solutions a M+W Company (State/One-Stop).	Plano, TX .....	10/27/17	10/25/17
93254A .....	Piper Companies (Union) .....	Reading, PA .....	10/30/17	10/27/17
93254 .....	Arrow International Inc. (Union) .....	Reading, PA .....	10/30/17	10/27/17
93255 .....	Capgemini NA (Workers) .....	Chicago, IL .....	10/30/17	10/16/17
93256 .....	DXC Technology aka HP Enterprise (State/One-Stop).	Boulder, CO .....	10/30/17	10/27/17
93257 .....	Georg Jensen, Inc. (Workers) .....	New York, NY .....	10/30/17	10/25/17
93258 .....	Gonzalez Group, LLC (State/One-Stop) .....	Jonesville, MI .....	10/30/17	10/26/17
93259 .....	Legend 3D VR VFX (State/One-Stop) .....	Los Angeles, CA .....	10/30/17	10/26/17
93260 .....	Ocean Steel Corporation (State/One-Stop) .....	Conklin, NY .....	10/30/17	10/26/17
93261 .....	UPM Blandin Paper Company (State/One-Stop) .....	Grand Rapids, MN .....	10/30/17	10/26/17

## 101 TAA PETITIONS INSTITUTED BETWEEN 10/23/17 AND 11/30/17—Continued

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
93262	Boyd Coffee Company (State/One-Stop)	Portland, OR	10/31/17	10/27/17
93263	Echo Bay Minerals Company (State/One-Stop)	Republic, WA	10/31/17	10/24/17
93263A	On-Site Leased Workers from Alaska Aggregate and Aspect Consulting (State/One-Stop).	Republic, WA	10/31/17	10/24/17
93264	Ericsson (State/One-Stop)	Plano, TX	11/01/17	10/31/17
93265	Kellogg d/b/a Keebler (State/One-Stop)	Springfield, MO	11/01/17	10/31/17
93266	Wells Fargo Virtual Channels (WFVC) Contact Center (Workers).	Bethlehem, PA	11/01/17	10/31/17
93267	Caterpillar Inc., dba Dyersburg Transmission Facility (Company).	Dyersburg, TN	11/02/17	11/01/17
93268	Gentex Corporation (State/One-Stop)	Carbondale, PA	11/02/17	11/01/17
93269	McAfee (Workers)	Idaho Falls, ID	11/02/17	11/01/17
93270	Hazelnut Grower of Oregon (Wilco) (State/One-Stop).	Cornelius, OR	11/02/17	11/01/17
93271	Airtex Products, LP (State/One-Stop)	Fairfield, IL	11/03/17	11/02/17
93272	Behr-Hella Thermocontrol, Inc. (State/One-Stop)	Wixom, MI	11/03/17	11/02/17
93273	Henry Technologies, Inc. (State/One-Stop)	Chatham, IL	11/03/17	11/02/17
93274	Quad Graphics (State/One-Stop)	Saratoga Springs, NY	11/03/17	11/02/17
93275	Willis Lease Finance Corporation (State/One-Stop)	Novato, CA	11/03/17	11/02/17
93276	Avery Dennison (Company)	Dallas, TX	11/06/17	11/02/17
93277	Bay Valley Foods (sub of Treehouse Foods) (State/One-Stop).	Portland, OR	11/06/17	11/03/17
93278	Bush Industries of Pennsylvania, Inc. (Company)	Erie, PA	11/06/17	11/05/17
93278A	Career Concepts, Express Employment Professional, U.S. Security Associates (Company).	Erie, PA	11/06/17	11/05/17
93279	Invista (Workers)	Athens, GA	11/06/17	11/03/17
93280	News America Marketing (Workers)	Wilton, CT	11/06/17	10/10/17
93281	Remy Power Products, LLC (State/One-Stop)	Edmond, OK	11/06/17	11/03/17
93282A	Stion Corporation (Company)	Hattiesburg, MS	11/06/17	11/03/17
93282	Stion Corporation (Company)	San Jose, CA	11/06/17	11/03/17
93283	Milestone Technologies (State/One-Stop)	Fremont, CA	11/07/17	11/06/17
93284	Selectel Wireless Call Center (State/One-Stop)	Fremont, NE	11/07/17	11/06/17
93285	TrueBlue, Inc. (State/One-Stop)	Chicago, IL	11/07/17	11/06/17
93286	M&G Polymers USA, LLC (Union)	Apple Grove, WV	11/07/17	11/03/17
93287	Duracell (State/One-Stop)	Cleveland, TN	11/08/17	11/07/17
93288	Zhongding USA (Hannibal) Inc. (State/One-Stop)	Hannibal, MO	11/09/17	11/08/17
93289	Haemonetics Corporation (State/One-Stop)	Braintree, MA	11/09/17	11/08/17
93290	HITCO (State/One-Stop)	Gardena, CA	11/09/17	11/08/17
93291	iMedX (State/One-Stop)	Atlanta, GA	11/09/17	11/08/17
93292	JR Simplot (Company)	Lathrop, CA	11/09/17	11/08/17
93293	Masimo (State/One-Stop)	Irvine, CA	11/09/17	11/08/17
93294	National Spinning Beulaville Spinning Plant (Company).	Beulaville, NC	11/09/17	11/08/17
93295	RR Donnelley (Company)	Wayne, NJ	11/09/17	11/08/17
93296	Trialon (State/One-Stop)	Warren, OH	11/09/17	11/08/17
93297	Willis Towers Watson (State/One-Stop)	Nashville, TN	11/09/17	11/08/17
93298	ABB Inc. (State/One-Stop)	St. Louis, MO	11/13/17	11/09/17
93299	Advanced Health Partners, Inc. (State/One-Stop)	New Windsor, NY	11/13/17	11/09/17
93300	ATeam HQ, Inc. (Workers)	Chandler, AZ	11/13/17	10/19/17
93301	Carlisle Fluid Technologies, Inc. (Company)	Angola, IN	11/13/17	11/10/17
93302	Contitech (Union)	Sun Prairie, WI	11/13/17	11/09/17
93303	Huawei (State/One-Stop)	Plano, TX	11/13/17	11/10/17
93304	Huntsman/Venator (Workers)	Easton, PA	11/13/17	11/09/17
93305	Specialty Tires of America (State/One-Stop)	Indiana, PA	11/13/17	11/09/17
93306	Vertellus (State/One-Stop)	Delaware Water Gap, PA	11/13/17	11/09/17
93307	ADM (State/One-Stop)	Decatur, IL	11/14/17	11/13/17
93308	Oak-Mitsui (State/One-Stop)	Hoosick Falls, NY	11/14/17	10/27/17
93309	Smart & Final (Workers)	Commerce, CA	11/14/17	11/13/17
93310	GBG USA Inc. (Workers)	Wytheville, VA	11/15/17	11/13/17
93311	Temp Inc. (Workers)	Fairmont, WV	11/15/17	11/15/17
93312	Microsemi Corporation (State/One-Stop)	Bend, OR	11/16/17	11/15/17
93313	MilliporeSigma (Workers)	Bellefonte, PA	11/16/17	11/15/17
93314	Aerogroup International, Inc. (State/One-Stop)	Edison, NJ	11/17/17	11/16/17
93315	Astro Apparel, Inc. (Company)	Scranton, PA	11/17/17	11/16/17
93316	Vestas America Wind Technology Inc. (State/One-Stop).	Portland, OR	11/20/17	11/17/17
93317	Auxin Solar (State/One-Stop)	San Jose, CA	11/21/17	11/20/17
93318	Beamreach (State/One-Stop)	San Francisco, CA	11/21/17	11/20/17
93319	Smith International Inc. (State/One-Stop)	Ponca City, OK	11/21/17	07/31/17
93320	Solon Corporation (State/One-Stop)	Tucson, AZ	11/21/17	11/20/17
93321	Kyocera Solar, Inc. (State/One-Stop)	San Diego, CA	11/22/17	11/21/17

101 TAA PETITIONS INSTITUTED BETWEEN 10/23/17 AND 11/30/17—Continued

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
93322	Unified Grocers (State/One-Stop)	Commerce, CA	11/22/17	11/20/17
93323	Payless (State/One-Stop)	Topeka, KS	11/24/17	11/22/17
93324	Dresser-Rand (State/One-Stop)	Painted Post, NY	11/27/17	11/24/17
93325	Eli Lilly (Company)	Bridgewater, NJ	11/27/17	11/24/17
93326	Oticon, Inc. (State/One-Stop)	Somerset, NJ	11/27/17	11/24/17
93327	AG Manufacturing, Inc.—Alabama (Company)	Wetumpka, AL	11/28/17	11/27/17
93328	Altice USA (State/One-Stop)	Woodbury, NY	11/28/17	11/27/17
93329	Kyklos Bearing International, LLC (State/One-Stop)	Sandusky, OH	11/28/17	11/27/17
93330	CDI (State/One-Stop)	Indianapolis, IN	11/29/17	11/28/17
93331	Securitas USA (at Kellogg Seelyville Bakery) (State/One-Stop).	Terre Haute, IN	11/29/17	11/28/17
93332	Murray's Iron Works, Inc. (State/One-Stop)	Commerce, CA	11/29/17	11/28/17
93333	Julius Koch USA, Inc. (Company)	New Bedford, MA	11/29/17	11/20/17
93334	Flowserve U.S. Inc., Parts Manufacturing Center (Company).	Clarks Summit, PA	11/30/17	11/27/17
93335	Pacific Gas & Electric Co. (State/One-Stop)	San Francisco, CA	11/30/17	11/29/17
93336	Suniva, Inc. (State/One-Stop)	Norcross, GA	11/30/17	11/29/17

[FR Doc. 2017-27532 Filed 12-20-17; 8:45 am]  
 BILLING CODE 4510-FN-P

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2018 Adverse Effect Wage Rates for Non-Range Occupations**

**AGENCY:** Employment and Training Administration, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2018 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform agricultural labor or services other than the herding or production of livestock on the range.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular occupation and area so that the wages and working conditions of similarly employed U.S. workers will not be adversely affected. In this notice, the Department announces the annual update of the AEWRs.

**DATE:** This notice is applicable January 4, 2018.

**FOR FURTHER INFORMATION CONTACT:** William W. Thompson, II, Administrator, Office of Foreign Labor Certification, Box #12-200, Employment & Training Administration, U.S.

Department of Labor, Office of Foreign Labor Certification, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202-513-7350 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627.

**SUPPLEMENTARY INFORMATION:** As a condition precedent to receiving an H-2A visa, employers must first obtain a labor certification from the Department of Labor. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

**Adverse Effect Wage Rates for 2018**

The Department's H-2A regulations at 20 CFR 655.122(l) provide that employers must pay their H-2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate, if applicable; or (v) the Federal or State minimum wage rate, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except for the herding or

production of livestock on the range, which is covered by 20 CFR 655.200-235) for which temporary H-2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the State or region as published annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2018 AEWRs to be paid for agricultural work performed by H-2A and U.S. workers on or after the applicable date of this notice are set forth in the table below:

**TABLE—2018 ADVERSE EFFECT WAGE RATES**

State	2018 AEWRs
Alabama	\$10.95
Arizona	10.46
Arkansas	10.73
California	13.18
Colorado	10.69
Connecticut	12.83
Delaware	12.05
Florida	11.29
Georgia	10.95
Hawaii	14.37
Idaho	11.63
Illinois	12.93
Indiana	12.93
Iowa	13.42
Kansas	13.64
Kentucky	11.19
Louisiana	10.73
Maine	12.83
Maryland	12.05
Massachusetts	12.83
Michigan	13.06
Minnesota	13.06
Mississippi	10.73



TABLE—2018 ADVERSE EFFECT WAGE RATES—Continued

State	2018 AEWRs
Missouri .....	13.42
Montana .....	11.63
Nebraska .....	13.64
Nevada .....	10.69
New Hampshire .....	12.83
New Jersey .....	12.05
New Mexico .....	10.46
New York .....	12.83
North Carolina .....	11.46
North Dakota .....	13.64
Ohio .....	12.93
Oklahoma .....	11.87
Oregon .....	14.12
Pennsylvania .....	12.05
Rhode Island .....	12.83
South Carolina .....	10.95
South Dakota .....	13.64
Tennessee .....	11.19
Texas .....	11.87
Utah .....	10.69
Vermont .....	12.83
Virginia .....	11.46
Washington .....	14.12
West Virginia .....	11.19
Wisconsin .....	13.06
Wyoming .....	11.63

Pursuant to the H-2A regulations at 20 CFR 655.173, the Department will publish a separate **Federal Register** notice in early 2018 to announce (1) the allowable charges for 2018 that employers seeking H-2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2018. Also in a separate **Federal Register** notice, the Department will publish the monthly AEWR for workers engaged to perform herding or production of livestock on the range for 2018.

**Rosemary Lahasky,**

*Deputy Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2017-27528 Filed 12-20-17; 8:45 am]

BILLING CODE 4510-FP-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Comment Request for Information Collection for Form ETA-9142-B-CAA, Revision of Currently Approved Collection

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL or Department), as part of its effort to streamline information collection,

clarify statutory and regulatory requirements, and provide greater transparency and oversight in the H-2B nonimmigrant visa application processes, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps provide that all requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the proposed revisions to Office of Management and Budget (OMB) Control Number 1205-0530, containing Form ETA-9142-B-CAA—*Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act*, which it is currently set to expire on January 31, 2018. A copy of the proposed revised information collection can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before February 20, 2018.

**ADDRESSES:** Submit written comments to William W. Thompson II, Administrator, Office of Foreign Labor Certification, Box #12-200, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number: 202-513-7350 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-513-7395. Email: [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov) subject line: ETA-9142-B-CAA. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The H-2B visa program enables employers to bring nonimmigrant foreign workers to the U.S. to perform nonagricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(b). For purposes of the H-2B program, the INA and governing federal regulations require the Secretary of Labor to certify, among other things,

that any foreign worker seeking to enter the United States on a temporary basis for the purpose of performing non-agricultural services or labor will not, by doing so, adversely affect wages and working conditions of U.S. workers who are similarly employed. In addition, the Secretary must certify that qualified U.S. workers are not available to perform such temporary labor or services.

Section 543 of the Consolidated Appropriations Act, 2017, Public Law 115-31 (May 5, 2017) (2017 Act), authorized the Secretary of the Department Homeland Security (DHS), in consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers in Fiscal Year (FY) 2017, notwithstanding the otherwise established statutory numerical limitation. In consultation with the Secretary of Labor, the Secretary of Homeland Security increased the H-2B cap for FY 2017 by up to 15,000 additional visas for American businesses that were likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their petition before the end of FY 2017. As set forth in the Temporary Rule: Exercise of Time-Limited Authority to Increase the Fiscal Year 2017 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program, 82 FR 32987 (July 19, 2017), which implemented the 2017 Act, employers seeking authorization to employ workers under this time-limited authority were required to complete and submit Form ETA-9142-B-CAA.

The authority to issue any new visas under the 2017 Act has expired, and employers are no longer permitted to submit Form ETA-9142-B-CAA. However, employers continue to be required to retain the form and required supporting documentation for 3 years from the date of the certification. The retention requirement expires on October 1, 2020. As a result, the Department now seeks public comment to revise the information collection as a result of continued record retention requirements following the expiration of Form ETA-9142-B-CAA, and elimination of the burden associated with the preparation and submission of the form, which is no longer required or accepted in connection with petitions for H-2B workers.

##### II. Review Focus

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

- evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; and also the agency’s estimates associated with the annual burden cost incurred by respondents and the government cost associated with this collection of information;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**III. Current Actions**

*Agency:* DOL–ETA.  
*Type of Review:* Revision.  
*Title:* Attestation for Employers Seeking to Employ H–2B Nonimmigrant Workers Under Section 543 of the Consolidated Appropriations Act, 2017 Public Law 115–31 (May 5, 2017).  
*Form:* Form ETA–9142–B–CAA.  
*OMB Number:* 1205–0530.  
*Affected Public:* Private Sector (businesses or other for-profits and not-for-profit institutions) and State, Local, and Tribal Governments.  
*Total Annual Respondents:* 2,298.  
*Annual Frequency:* 1.  
*Total Annual Responses:* 2,298.  
*Average Time per Response:* 1 hour.  
*Estimated Total Annual Burden Hours:* 2,298 hours.  
*Total Annual Burden Cost for Respondents:* \$104,674.00.  
 Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record. Commenters are encouraged not to disclose private and/or sensitive information (e.g., Social Security

Numbers or confidential business information).

**Rosemary Lahasky,**  
*Deputy Assistant Secretary for Employment and Training Administration, Department of Labor.*

[FR Doc. 2017–27529 Filed 12–20–17; 8:45 am]

**BILLING CODE 4510–FP–P**

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

**[NARA–2018–010]**

**Records Management; General Records Schedule (GRS); GRS Transmittal 29**

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of new General Records Schedule (GRS) Transmittal 29.

**SUMMARY:** NARA is issuing a new set of General Records Schedules (GRS) via GRS Transmittal 29. The GRS provides mandatory disposition instructions for administrative records common to several or all Federal agencies. Transmittal 29 announces changes we have made to the GRS since we published Transmittal 28 in July. We are concurrently disseminating Transmittal 29 (the memo and the accompanying records schedules and documents) directly to each agency’s records management official and have also posted it on NARA’s website.

**DATES:** This transmittal is effective December 21, 2017.

**ADDRESSES:** You can find this transmittal on NARA’s website at <http://www.archives.gov/records-mgmt/grs/grs-trs29.pdf>. You can download the complete current GRS, in PDF format, from NARA’s website at <http://www.archives.gov/records-mgmt/grs/trs29-sch-only.pdf>.

**FOR FURTHER INFORMATION CONTACT:** For more information about this notice or to obtain paper copies of the GRS, contact Kimberly Keravuori, External Policy Program Manager, by email at [regulation\\_comments@nara.gov](mailto:regulation_comments@nara.gov) or by telephone at 301–837–3151.

Writing and maintaining the GRS is the GRS Team’s responsibility. This team is part of Records Management Services in the National Records Management Program, Office of the Chief Records Officer at NARA. You may contact NARA’s GRS Team with general questions about the GRS at [GRS\\_Team@nara.gov](mailto:GRS_Team@nara.gov).

Your agency’s records officer may contact the NARA appraiser or records analyst with whom your agency normally works for support in carrying out this transmittal and the revised portions of the GRS. You may access a list of the appraisal and scheduling work group and regional contacts on our website at <http://www.archives.gov/records-mgmt/appraisal/index.html>.

**SUPPLEMENTARY INFORMATION:** GRS Transmittal 29 announces changes to the General Records Schedules (GRS) made since NARA published GRS Transmittal 28 in July 2017. The GRS provide mandatory disposition instructions for records common to several or all Federal agencies. With Transmittal 29, we come to the end of our five-year plan to completely rewrite the GRS dating from the 1940s and updated piecemeal over the succeeding decades. All the old items are now superseded or, in some case, rescinded.

Transmittal 29 includes only schedules newly issued or updated since the last transmittal and those schedules’ associated new-to-old crosswalks and FAQs. This means that many current GRS schedules are *not* included in this Transmittal.

You can find all schedules (in Word, PDF, and CSV formats), crosswalks and FAQs for all schedules, and FAQs about the whole GRS at <http://www.archives.gov/records-mgmt/grs.html>. At the same location, you can also find the entire GRS (just schedules—no crosswalks or FAQs) in a single document.

**What changes does this transmittal make to the GRS?**

GRS Transmittal 29 publishes five new schedules:

GRS 1.3	Budgeting Records .....	DAA–GRS–2015–0006
GRS 2.7	Employee Health and Safety Records .....	DAA–GRS–2017–0010
GRS 5.7	Agency Accountability Records .....	DAA–GRS–2017–0008
GRS 6.3	Information Technology Records .....	DAA–GRS–2017–0009
GRS 6.6	Rulemaking Records .....	DAA–GRS–2017–0012

This transmittal also publishes two updates:

- GRS 2.1 Employee Acquisition Records: Updated item (see question 3).
- GRS 5.2 Transitory and Intermediary Records: Updated FAQs (see question 4).

**What changes did we make to GRS 2.1?**

We expanded items 050 and 051 to include mandatory job applicant drug testing records.

**What changes did you make to the GRS 5.2 FAQs?**

We added new questions 7 and 8 in response to questions raised by users.

We also corrected a typo. “May not be destroyed until 90 days after submission of a notification to NARA” in question 12 (question 10 in the earlier version) now reads “may not be destroyed until 60 days after submission of a notification to NARA.”

**What GRS items does GRS Transmittal 29 rescind?**

Many old GRS items are superseded by new GRS items. A few old items, however, have outlived their usefulness and cannot be crosswalked to new items. The table below lists old items rescinded by GRS Transmittal 29.

GRS	Item	Title	Reason
1 .....	21a1 ....	Employee Medical Folders: Transferred employees.	Was simply a filing/handling instruction and never had an associated disposition authority. The instruction is now a Note appended to GRS 2.7, item 060.
1 .....	22 .....	Employee Health Statistics .....	Both the Bureau of Labor Statistics and the Occupational Safety and Health Administration confirmed these agency reports are no longer collected.
3 .....	17 .....	Small and Disadvantaged Business Utilization Files.	The Small and Disadvantaged Business Utilization program terminated in 2015. The records are no longer being created.
16 .....	5 .....	Project Control Files .....	Item authorized periodic disposal of system data after long-term records were downloaded and safeguarded. Such data is now covered under 5.1, item 020.
16 .....	11 .....	Information Resources Management Triennial Review Files.	Item was added to the GRS in 1987 to comply with regulations issued in response to the Brooks Act of 1985. The Information Technology Management Reform Act of 1996 repealed this authority, ending the reviews.
16 .....	14f2 ....	Management Control Records—Review files—Copies maintained by other offices as internal reviews.	Item described non-record reference copies, which do not need to be scheduled.

Rescinded items are shown in context of their schedules in the old-to-new crosswalk.

**How do I cite new GRS items?**

When you send records to an FRC for storage, you should cite the records’ legal authority—the “DAA” number—in the “Disposition Authority” column of the table. For informational purposes, please include schedule and item number. For example, “DAA-GRS-2013-0001-0004 (GRS 4.3, item 020).”

**Do I have to take any action to implement these GRS changes?**

NARA regulations (36 CFR 1226.12(a)) require agencies to disseminate GRS changes within six months of receipt.

Per 36 CFR 1227.12(a)(1), you must follow GRS dispositions that state they must be followed without exception.

Per 36 CFR 1227.12(a)(3), if you have an existing schedule that differs from a new GRS item that does *not* require being followed without exception, and you wish to continue using your agency-specific authority rather than the GRS authority, you must notify NARA within 120 days of the date of this transmittal.

If you do not have an already existing agency-specific authority but wish to apply a retention period that differs from that specified in the GRS, you must submit a records schedule to NARA for approval via the Electronic Records Archives.

**How do I get copies of the new GRS?**

You can download the complete current GRS, in PDF format, from

NARA’s website at <http://www.archives.gov/records-mgmt/grs/trs29-sch-only.pdf>.

**Whom do I contact for further information?**

Writing and maintaining the GRS is the responsibility of the GRS Team. You may contact the team with general questions about the GRS at [GRS\\_Team@nara.gov](mailto:GRS_Team@nara.gov). This team is part of Records Management Services in the National Records Management Program of the Office of the Chief Records Officer at NARA.

Your agency’s records officer may contact the NARA appraiser or records analyst with whom your agency normally works for support in carrying out this transmittal. A list of the appraisal and scheduling work group and regional contacts is on the NARA website at <http://www.archives.gov/records-mgmt/appraisal/index.html>.

**David S. Ferriero,**

*Archivist of the United States.*

[FR Doc. 2017-27462 Filed 12-20-17; 8:45 am]

**BILLING CODE 7515-01-P**

**NATIONAL SCIENCE FOUNDATION**

**RIN 3145-AA58**

**Notice on Penalty Inflation Adjustments for Civil Monetary Penalties**

**AGENCY:** National Science Foundation.

**ACTION:** Notice announcing updated penalty inflation adjustments for civil monetary penalties for 2018.

**SUMMARY:** The National Science Foundation (NSF or Foundation) is providing notice of its adjusted maximum civil monetary penalties, effective January 15, 2018. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**FOR FURTHER INFORMATION CONTACT:** Bijan Gilanshah, Assistant General Counsel, Office of the General Counsel, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. Telephone: 703-292-5055.

**SUPPLEMENTARY INFORMATION:** On June 27, 2016, NSF published an interim final rule amending its regulations to adjust, for inflation, the maximum civil monetary penalties that may be imposed for violations of the Antarctic Conservation Act of 1978 (ACA), as amended, 16 U.S.C. 2401 *et seq.*, and the Program Fraud Civil Remedies Act of 1986 (PFCRA), 31 U.S.C. 3801, *et seq.* These adjustments are required by the 2015 Act. The 2015 Act also requires agencies to make subsequent annual adjustments for inflation. Pursuant to OMB guidance dated December 15, 2017, the cost-of-living adjustment multiplier for 2018 is 1.02041. Accordingly, the 2018 annual inflation adjustments for the maximum penalties under the ACA are \$16,853 (\$16,516 × 1.02041) for violations and \$28,520 (\$27,950 × 1.02041) for knowing violations of the ACA. Finally, the 2018

annual inflation adjustment for the maximum penalty for violations under PFCRA is \$11,181 ( $\$10,957 \times 1.02041$ ).

Dated: December 18, 2017.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2017-27503 Filed 12-20-17; 8:45 am]

BILLING CODE 7555-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2017-0198]

### Revision of the Guidance Document for Alternative Disposal Requests

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft guidance; public meeting and request for comment; reopening of comment period.

**SUMMARY:** On October 19, 2017, the U.S. Nuclear Regulatory Commission (NRC) requested public comment on the draft revision to its guidance document for alternative disposal requests entitled, "Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a)." The public comment period closed on December 18, 2017. The NRC has decided to reopen the public comment period to allow more time for members of the public to develop and submit their comments.

**DATES:** The comment period for the document published on October 19, 2017 (82 FR 48727) has been reopened and now closes on January 17, 2018. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0198. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual 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 and submitting comments, see "Obtaining Information and Submitting

Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Robert Lee Gladney, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1022; email: [Robert.Gladney@nrc.gov](mailto:Robert.Gladney@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2017-0198 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0198.
- *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](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### B. Submitting Comments

Please include Docket ID NRC-2017-0198 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> and 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. Discussion

On October 19, 2017, the NRC requested public comment on the draft revision to its guidance document for alternative disposal requests entitled, "Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a)." The purpose of this draft revision to the guidance is to improve the alternative disposal process by providing more clarity, consistency, and transparency to the process. In addition, this draft revision to the guidance also clarifies the meaning of disposal relative to 10 CFR 20.2002 authorizations to include recycling and reuse of materials. The draft revision to the guidance is available for public comment in ADAMS under accession number ML16326A063. The NRC is interested in receiving comments related to the draft revision to the guidance from stakeholders, including professional organizations, licensees, Agreement States, and members of the public. Comments will be considered to determine if additional changes to the draft revision to the guidance and the alternative disposal request process are needed.

The NRC received a request from a public stakeholder to extend the comment period for the draft revision to the alternative disposal requests guidance document in order to allow more time for members of the public to submit their comments. The comment period is being reopened and now closes on January 17, 2018.

Dated at Rockville, Maryland, this 18th day of December 2017.

For the Nuclear Regulatory Commission.

**John Tappert,**

*Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2017-27523 Filed 12-20-17; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY COMMISSION**

[NRC-2017-0236]

**Preparing To License Accident Tolerant Fuel****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Draft project plan; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft project plan, "Draft Project Plan to Prepare the U.S. Nuclear Regulatory Commission to License and Regulate Accident Tolerant Fuel." The NRC has established a steering committee of senior managers to oversee and set direction for a staff working group to prepare the agency for the anticipated licensing and use of accident tolerant fuel (ATF) in U.S. commercial power reactors. This draft project plan lays out the tasks that must be completed by the agency ahead of licensing submittals in order to conduct meaningful and timely reviews of ATF designs. The plan is expected to be a living document that may evolve as ATF concepts are more clearly defined and schedules for lead test assemblies (LTAs) and batch loading are refined.

**DATES:** Submit comments by February 5, 2018. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0236. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual 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:**

Andrew Proffitt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1418, email: [Andrew.Proffitt@nrc.gov](mailto:Andrew.Proffitt@nrc.gov).

**SUPPLEMENTARY INFORMATION:****I. Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to Docket ID NRC-2017-0236 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0236.
- *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](mailto:pdr.resource@nrc.gov). The "Draft Project Plan to Prepare the U.S. Nuclear Regulatory Commission to License and Regulate Accident Tolerant Fuel," is available in ADAMS under Package Accession No. ML17325B771.
- *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-2017-0236 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 entering 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. Discussion**

The Offices of Nuclear Reactor Regulation, New Reactors, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research are preparing for anticipated licensing and use of ATF in the United States commercial power reactors.

Several fuel vendors, in coordination with Department of Energy (DOE), have announced plans to develop and seek approval for various fuel designs with enhanced accident tolerance (*i.e.*, fuels with longer coping times during loss of cooling conditions). The designs being considered in the development of this plan include Cr coated claddings, Cr-doped UO<sub>2</sub> pellets, FeCrAl cladding, SiC cladding, U<sub>3</sub>Si<sub>2</sub> pellets, and metallic fuels. For these ATF designs, the time frames for initial irradiation of LTA programs and topical report/license amendment request review were used as a basis for the timelines discussed in this plan.

The NRC has entered into a Memorandum of Understanding with DOE to collaborate on the nuclear safety research of enhanced ATFs that will reduce duplication of efforts and make the appropriate data available for regulatory decision processes. In preparing the agency to conduct meaningful and timely reviews of these advanced fuel designs, the NRC is conducting advanced planning, reviewing the existing regulatory infrastructure, and identifying needs for additional analysis capabilities and the development of unique critical skillsets within the staff.

This project plan outlines the preliminary strategy for preparing the NRC to license ATF designs. It also identifies the lead organization for each planned activity. The project plan does not cover existing licensing activities, as they follow existing processes for which schedules and regulatory approaches are well-established. Current preparation for ATF licensing is focused on light water reactor (LWR) fuel for the operating fleet. There may be synergies between the revolutionary LWR ATF fuel development and fuel safety qualification of some types of non-LWR fuels for advanced reactor designs. As appropriate, the NRC will leverage any synergies to optimize licensing efficiency and effectiveness.

The NRC is issuing the plan for public comment to solicit feedback and insight from stakeholders to ensure that the plan will appropriately prepare the NRC to license and regulate the ATF designs the industry is currently pursuing on a schedule consistent with industry timelines.

Dated at Rockville, Maryland, this 18th day of December 2017.

For the Nuclear Regulatory Commission.

**Mirela Gavrilas,**

*Director, Division of Safety Systems, Office of Nuclear Reactor Regulation.*

[FR Doc. 2017-27516 Filed 12-20-17; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2017-0235]

**Licensing Support Network Advisory Review Panel: Meeting Notice**

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) will convene a meeting of the Licensing Support Network Advisory Review Panel (LSNARP) on January 30-31, 2018, at the NRC's Headquarters Offices in Room 01C3, Three White Flint North Building, 11601 Landsdown Street, Rockville, Maryland 20852.

The meeting is being held to carry out the NRC's responsibilities under the U.S. Court of Appeals for the District of Columbia Circuit's decision in the case *In re Aiken County*, 645 F.3d 428 (D.C. Cir. 2011), and the Commission's July 31, 2017, direction in the Staff

Requirements Memorandum associated with COMSECY-17-0019 that a next step in the Yucca Mountain licensing process is for the NRC to initiate information-gathering activities regarding reinstating or replacing the Licensing Support Network (LSN). The LSN, which was used to make documentary material associated with the Yucca Mountain adjudicatory proceeding available to hearing participants and the public, was decommissioned when the adjudication was suspended in 2011. The information being collected will assist the Commission in making efficient, informed decisions concerning appropriate means for reconstituting the LSN's functionality if the currently-suspended Yucca Mountain adjudication were to re-commence in the future.

The meeting will be open to the public pursuant to the Federal Advisory Committee Act (FACA) (Pub. L. 94-463, 86 Stat. 770-776) and will be conducted as a virtual meeting with representatives of LSNARP member organizations utilizing the capabilities of GoToMeeting® and the general public having access via GoToWebinar®. Representatives of LSNARP member organizations and the public may also attend in person at the location indicated above.

*Agenda:* The meeting will be held from 10:00 a.m. to 6:30 p.m. EST on

Tuesday, January 30, 2018, and 10:00 a.m. to 5:00 p.m. EST on Wednesday, January 31, 2018. If attending the meeting in person, please plan your arrival to allow additional time (e.g., 15 to 30 minutes) for security screening. The preliminary agenda is listed below. Additional details regarding timing of presentations and changes to the agenda may be obtained through the contacts listed below and will be announced prior to the meeting.

The primary focus of the meeting will be on the options available for reconstituting the LSN's functionality. The NRC has prepared a paper describing the options (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17347B671) to be examined and discussed at the meeting with the objective of soliciting the views of the LSNARP member organizations on the best path forward for reconstituting the LSN or developing a suitable replacement system if the Yucca Mountain licensing adjudication is resumed in the future. Additionally, at the conclusion of the January 30 meeting session, the NRC will provide an orientation session regarding the ADAMS LSN Library, which currently houses the documentary material previously accessible via the LSN and provides the technical basis for one of the options to be discussed at the meeting.

	EST/PST
January 30, 2018:	
Security Check-in for Onsite Attendees .....	9:30 a.m./6:30 a.m.
Introduction and Overview .....	10:00 a.m./7:00 a.m.
Meeting Process/Ground Rules	
Status of Adjudicatory Proceeding	
Status of E-Filing/Electronic Hearing Docket and New Exhibit Submission Process	
Break	
History of the LSN	
Introduction of LSN Reconstitution/Replacement Options and New Functional Requirements	
Lunch	
Option 1, Traditional Discovery	
Member Comment and Discussion	
Public Comments	
Break	
Option 2, NRC ADAMS LSN Library	
Member Comment and Discussion	
Public Comments	
Wrap-up/Adjourn	
Break	
ADAMS LSN Library Orientation .....	(Approx. 1 Hour.)
End of Day 1 .....	6:30 p.m./3:30 p.m.
January 31, 2018:	
Security Check-in for Onsite Attendees .....	9:30 a.m./6:30 a.m.
Introduction and Overview .....	10:00 a.m./7:00 a.m.

	EST/PST
Meeting Process/Ground Rules Option 3, Move to the Cloud Break LSNARP Member Comment and Discussion Public Comments Lunch Option 4, Rebuild the Original LSN LSNARP Member Comment and Discussion Public Comments Break Member Discussion Regarding Recommendations on Options Wrap Up/Next Steps Adjourn ..... End of Day 2	5:00 p.m./2:00 p.m.

The agenda is subject to change.

**Public Participation:** Members of the public attending the meeting in person or virtually utilizing GoToWebinar or an audio-only telephone connection may provide oral comments to the LSNARP during the meeting or submit written comments during and after the meeting. Instructions for attending the meeting and providing comments virtually via GoToWebinar or an audio-only connection are outlined below and the process for providing comments will be explained during the LSNARP meeting.

**Instructions for Virtual Attendance at the January 30–31, 2018, LSNARP Meeting by Members of the Public via GoToWebinar**

LogMeIn, Inc.’s GoToWebinar will be the primary method for virtual (*i.e.*, remote) attendance by members of the public (*i.e.*, anyone other than a designated primary/secondary representative of an LSNARP member organization <sup>1</sup>) to view and participate in, when appropriate, the January 30–31, 2018, LSNARP meeting. Additionally, audio-only attendance will be offered to members of the public via a toll-free telephone connection.

**Instructions for Viewing via GoToWebinar**

Registration is required to view the meeting using GoToWebinar. To register, members of the public should access the following link at least several days before the meeting: <https://attendee.gotowebinar.com/register/4882474129139440898>. Once registered for the meeting at this link, a member of the public will receive a confirmation email that will contain the link and other connection information to be used to view the meeting.

<sup>1</sup> LSNARP member organization representatives have been contacted separately and provided information on how to make video/audio connections if they wish to attend the LSNARP meeting virtually rather than in person.

A member of the public viewing the LSNARP meeting via GoToWebinar will be able to hear speaker presentations and any discussion with/among LSNARP member organization representatives through his/her computer/tablet speakers or telephone, but will not be able to talk to the presenters or LSNARP member representatives directly, as that audio connection will be muted until instances during the meeting when public comments/questions are requested.

When afforded an opportunity to comment and/or ask written questions, a member of the public connected via GoToWebinar and using (1) headphones or a microphone/speakers; or (2) the GoToWebinar-provided toll telephone connection will be able to employ the “Raise Your Hand” feature that will allow meeting organizers to recognize him/her by unmuting his/her audio so that the comment/question can be provided orally to all those attending the meeting in person and remotely. Alternatively, a member of the public viewing the meeting via GoToWebinar can submit a written comment/question using the GoToWebinar “Questions” feature, which permits text messages to be sent to meeting organizers who, in turn, will forward comments/questions for appropriate consideration during the meeting.

Members of the public with questions regarding the use of GoToWebinar should visit the GoToWebinar customer support page at <https://support.logmeininc.com/gotowebinar>. It is also recommended that members of the public run a computer system check (available on the GoToWebinar customer support page) prior to the LSNARP meeting.

**Instructions for Audio-Only Remote Attendance**

A member of the public wishing to participate via audio-only (both to listen and, when appropriate, to talk) can do

so using the following toll-free telephone number and access code: (888) 395–2501/4652554. The telephone connection of a member of the public using this toll-free number to attend the LSNARP meeting will be muted until an opportunity for public comments/questions is afforded during the meeting. During the meeting, instructions will be given on how a member of the public attending via an audio-only connection can make a comment/ask a question.

**SUPPLEMENTARY INFORMATION:** The LSN was an internet-based electronic discovery database developed to aid the NRC in complying with the schedule for the decision on the construction authorization for the high-level waste repository contained in Section 114(d) of the Nuclear Waste Policy Act of 1982, as amended. In 1998, the NRC Rules of Practice in title 10 of the *Code of Federal Regulations* (10 CFR) part 2, subpart J, were modified to provide for the creation and operation of the internet-based LSN as the technological solution for the submission and management of documentary material relating to the licensing of a geologic repository for the disposal of high-level radioactive waste (63 FR 71729). Pursuant to 10 CFR 2.1011(d), the agency authorized the creation of the LSNARP, a FACA advisory committee chartered to provide advice to the NRC on, among other things, fundamental issues relating to LSN design, operation, maintenance, and compliance monitoring. In 2011, the original LSN was decommissioned, with the documentary material contained therein preserved by the NRC and currently residing in the ADAMS LSN Library, <https://www.nrc.gov/reading-rm/lsn/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Russell Chazell, Office of the Secretary, U.S. Nuclear Regulatory Commission, Mail Stop O–16B33, Washington, DC 20555–0001; telephone 301–415–7469;

email [Russell.Chazell@nrc.gov](mailto:Russell.Chazell@nrc.gov) or [LSNARP@nrc.gov](mailto:LSNARP@nrc.gov).

Dated at Rockville, Maryland, this 18th day of December 2017.

For the Nuclear Regulatory Commission.

**Russell E. Chazell,**

*Advisory Committee Management Officer.*

[FR Doc. 2017-27505 Filed 12-20-17; 8:45 am]

**BILLING CODE 7590-01-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018-88; CP2018-89; CP2018-90; MC2018-55 and CP2018-91; MC2018-56 and CP2018-92; CP2018-93; MC2018-57 and CP2018-94]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 22, 2017 (Comment due date applies to CP2018-88; CP2018-89; CP2018-90; MC2018-55 and CP2018-91; MC2018-56 and CP2018-92); December 26, 2017 (Comment due date applies to CP2018-93; MC2018-57 and CP2018-94).

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

### II. Docketed Proceeding(s)

1. *Docket No(s):* CP2018-88; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* December 22, 2017.

2. *Docket No(s):* CP2018-89; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* December 22, 2017.

3. *Docket No(s):* CP2018-90; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service

Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 22, 2017.

4. *Docket No(s):* MC2018-55 and CP2018-91; *Filing Title:* USPS Request to Add Priority Mail Contract 390 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 22, 2017.

5. *Docket No(s):* MC2018-56 and CP2018-92; *Filing Title:* USPS Request to Add Priority Mail Contract 391 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 22, 2017.

6. *Docket No(s):* CP2018-93; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 26, 2017.

7. *Docket No(s):* MC2018-57 and CP2018-94; *Filing Title:* USPS Request to Add Priority Mail Express Contract 55 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 14, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 26, 2017.

This notice will be published in the **Federal Register**.

**Stacy L. Ruble,**  
*Secretary.*

[FR Doc. 2017-27447 Filed 12-20-17; 8:45 am]

**BILLING CODE 7710-FW-P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service



Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of notice required under 39 U.S.C. 3642(d)(1):* December 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 15, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 392 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2018-58, CP2018-95.

**Elizabeth A. Reed,**

*Attorney, Corporate and Postal Business Law.*  
[FR Doc. 2017-27455 Filed 12-20-17; 8:45 am]

**BILLING CODE 7710-12-P**

## POSTAL SERVICE

### Product Change—First-Class Package Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of notice required under 39 U.S.C. 3642(d)(1):* December 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 15, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add First-Class Package Service Contract 87 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2018-59, CP2018-98.

**Elizabeth A. Reed,**

*Attorney, Corporate and Postal Business Law.*  
[FR Doc. 2017-27456 Filed 12-20-17; 8:45 am]

**BILLING CODE 7710-12-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82335; File No. SR-NASDAQ-2017-088]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Allow Participants To Designate When an Order With a RTFY or SCAN Routing Order Attribute Will Be Activated During Pre-Market Hours

December 15, 2017

#### I. Introduction

On August 30, 2017, The Nasdaq Stock Market LLC (“Exchange” or “Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> a proposed rule change to amend Nasdaq Rule 4703(a) to allow participants to designate when an order with a RTFY or SCAN routing order attribute will be activated during Pre-Market Hours. The proposed rule change was published for comment in the **Federal Register** on September 18, 2017. <sup>3</sup> On October 31, 2017, pursuant to Section 19(b)(2) of the Act, <sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change. <sup>5</sup> The Commission has received no comment letters on the proposed rule change. On December 13, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. <sup>6</sup> The

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 81579 (September 12, 2017), 82 FR 43584.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 81986, 82 FR 51453 (November 6, 2017). The Commission designated December 17, 2017 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

<sup>6</sup> In Amendment No. 1, the Exchange: (1) Modified the proposal to allow participants entering an order with the RTFY or SCAN routing order attribute to designate the order to activate at a specific time during Pre-Market Hours (rather than System Hours) on the same day; (2) specified that the proposed functionality would be offered on a port level basis; (3) stated that all of the times-in-force in Nasdaq Rule 4703(a) currently apply to orders with the RTFY or SCAN routing order attribute and made corresponding clarifications and corrections throughout the proposal; (4) provided additional information regarding why participants might use the proposed functionality; and (5)

Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act <sup>7</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposal

The Exchange proposes to amend Nasdaq Rule 4703(a) to allow participants to designate a specific time during Pre-Market Hours <sup>8</sup> when an order with a RTFY or SCAN routing order attribute will be activated.

RTFY is a routing option available for an order that qualifies as a designated retail order under which orders check the system for available shares only if so instructed by the entering firm and are thereafter routed to destinations on the system routing table. <sup>9</sup> If shares remain unexecuted after routing, they are posted to the Nasdaq book. <sup>10</sup> Once on the book, should the order subsequently be locked or crossed by another market center, the system will not route the order to the locking or crossing market center. <sup>11</sup> RTFY is designed to allow orders to participate in the opening, reopening, and closing process of the primary listing market for a security. <sup>12</sup> SCAN is a routing option under which orders check the system for available shares and simultaneously route the remaining shares to destinations on the system routing table. <sup>13</sup> If shares remain unexecuted after routing, they are posted on the Nasdaq book. <sup>14</sup> Once on the book, should the order subsequently be locked or crossed by another market center, the system will not route the

provided additional discussion regarding members' best execution obligations and the application of the Exchange's regulatory checks associated with the proposed functionality, and reminded members of their regulatory obligations (e.g., Market Access Rule, Regulation SHO) when using the proposed functionality. Amendment No. 1 is available at <https://www.sec.gov/comments/sr-nasdaq-2017-088/nasdaq2017088-2798107-161689.pdf>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> “Pre-Market Hours” means the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours. See Nasdaq Rule 4701(g). “Market Hours” means the period of time beginning at 9:30 a.m. ET and ending at 4:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). See *id.* “System Hours” means the period of time beginning at 4:00 a.m. ET and ending at 8:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). See *id.*

<sup>9</sup> See Nasdaq Rule 4758(a)(1)(A)(v)b.

<sup>10</sup> See *id.*

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See Nasdaq Rule 4758(a)(1)(A)(iv).

<sup>14</sup> See *id.*

order to the locking or crossing market center.<sup>15</sup>

Nasdaq Rule 4703(a) provides the times-in-force that may be assigned to orders entered into the system. According to Nasdaq Rule 4703(a), participants specify an order's time-in-force by designating a time at which the order will become active and a time at which the order will cease to be active. All of the times-in-force currently described in Nasdaq Rule 4703(a) are applicable to orders with RTFY or SCAN routing order attributes.<sup>16</sup> According to the Exchange, during Pre-Market Hours, participants usually designate orders with RTFY or SCAN routing order attributes to activate upon entry or at 8:00 a.m. ET.<sup>17</sup> The Exchange now proposes to amend Nasdaq Rule 4703(a) to provide that a participant entering an order with the RTFY or SCAN routing order attribute may designate the order to activate at a specific time during Pre-Market Hours on the same day.<sup>18</sup> The Exchange proposes to offer this functionality on a port level basis.<sup>19</sup> As a result, if, for example, a participant cancels an order entered through a port set for 8:00 a.m. ET activation and wishes the order to instead activate at 8:20 a.m. ET, it must either have another port set for activation at 8:20 a.m. ET or, alternatively, enter the order at that time for immediate activation.<sup>20</sup>

According to the Exchange, as of the time that an order with a RTFY or SCAN routing order attribute is activated, the Exchange would subject orders that are eligible for display or execution to all of the Exchange's standard regulatory checks (including compliance with Regulation NMS, Regulation SHO, and relevant Exchange rules), as it currently does with all orders upon entry.<sup>21</sup>

### III. Proceedings To Determine Whether To Approve or Disapprove SR–NASDAQ–2017–088, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>22</sup> to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this

time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>23</sup> the Commission is providing notice of the grounds for disapproval under consideration. As noted above, during Pre-Market Hours, Exchange participants usually designate orders with the RTFY or SCAN routing order attribute to activate upon entry or at 8:00 a.m. ET. The Exchange now proposes to permit participants to designate orders with the RTFY or SCAN routing order attribute to activate at any time during Pre-Market Hours on the same day (*i.e.*, at any specified time during the period beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours). As a result, participants could designate any time during Pre-Market Hours (rather than only 8:00 a.m. ET) to activate orders with the RTFY or SCAN routing order attribute, and the time between order entry and order activation could be much longer than is currently the case.

The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the consistency of the proposal with Section 6(b)(5)<sup>24</sup> of the Act. Section 6(b)(5) of the Act requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

### IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the

proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) or any other provision of the Act, or rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,<sup>25</sup> any request for an opportunity to make an oral presentation.<sup>26</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by January 11, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 25, 2018. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 1,<sup>27</sup> in addition to any other comments they may wish to submit about the proposed rule change.

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](mailto:rule-comments@sec.gov). Please include File No. SR–NASDAQ–2017–088 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 No. SR–NASDAQ–2017–088. The file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements

<sup>25</sup> 17 CFR 240.19b–4.

<sup>26</sup> Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

<sup>27</sup> See *supra* note 6.

<sup>15</sup> See *id.*

<sup>16</sup> See Amendment No. 1.

<sup>17</sup> See *id.*

<sup>18</sup> Participants may cancel their inactive orders with RTFY or SCAN routing order attributes at any time before they are activated. See *id.*

<sup>19</sup> See *id.*

<sup>20</sup> See *id.*

<sup>21</sup> See *id.*

<sup>22</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>23</sup> *Id.*

<sup>24</sup> 15 U.S.C. 78f(b)(5).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NASDAQ-2017-088 and should be submitted by January 11, 2018. Rebuttal comments should be submitted by January 25, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2017-27464 Filed 12-20-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82338; File No. 265-30]

### Fixed Income Market Structure Advisory Committee

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Securities and Exchange Commission Fixed Income Market Structure Advisory Committee is providing notice that it will hold a public meeting on Thursday, January 11, 2018, in Multi-Purpose Room LL-006 at the Commission's headquarters, 100 F Street NE, Washington, DC. The meeting will begin at 9:30 a.m. (ET) and will be open to the public, except for the period during lunch when the committee will meet in an administrative work session. The public portions of the meeting will be webcast on the Commission's website at [www.sec.gov](http://www.sec.gov). Persons needing special

accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee. The meeting will focus on various administrative items and will include a discussion of liquidity in the bond markets.

**DATES:** The public meeting will be held on Thursday, January 11, 2018. Written statements should be received on or before January 8, 2018.

**ADDRESSES:** The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC. Written statements may be submitted by any of the following methods:

#### *Electronic Statements*

- Use the Commission's internet submission form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email message to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 265-30 on the subject line; or

#### *Paper Statements*

- Send paper statements in triplicate to Brent J. Fields, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File No. 265-30. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Commission's internet website at SEC website at (<http://www.sec.gov/comments/265-30/265-30.shtml>).

Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** David Dimitriou, Senior Special Counsel, at (202) 551-5131, or Benjamin Bernstein, Attorney-Adviser, at (202) 551-5354, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington DC 20549-3628.

**SUPPLEMENTARY INFORMATION:** In accordance with Section 10(a) of the Federal Advisory Committee Act, 5

U.S.C.-App. 1, and the regulations thereunder, Brett Redfearn, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: December 15, 2017.

**Brent J. Fields,**

*Committee Management Officer.*

[FR Doc. 2017-27444 Filed 12-20-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-251, OMB Control No. 3235-0256]

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

#### *Extension:*

Form F-3.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form F-3 (17 CFR 239.33) is used by foreign issuers to register securities pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Form F-3 takes approximately 167 hours per response and is filed by approximately 112 respondents. We estimate that 25% of the 167 hours per response (41.75 hours) is prepared by the registrant for a total annual reporting burden of 4,676 hours (41.75 hours per response × 112 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and

<sup>28</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(57).

Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta.Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA\_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 15, 2017.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-27461 Filed 12-20-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82334; File No. SR-NYSEArca-2017-111]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Approving on an Accelerated Basis a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the GraniteShares Silver Trust Under NYSE Arca Rule 8.201-E

December 15, 2017

#### I. Introduction

On September 12, 2017, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares of the GraniteShares Silver Trust under NYSE Arca Rule 8.201-E. The proposed rule change was published for comment in the **Federal Register** on September 29, 2017.<sup>3</sup> On October 24, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the proposed rule change as originally filed. On November 16, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which superseded the proposed rule change as modified by Amendment No. 1.<sup>4</sup> The Commission has not

received any comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

#### II. Description of the Proposed Rule Change, as Modified by Amendment No. 2

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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the GraniteShares Silver Trust (the “Trust”), under NYSE Arca Rule 8.201-E.<sup>5</sup> Under

net asset value (“NAV”) will be calculated; (6) increased the minimum number of Shares that the Exchange will require to be outstanding at the commencement of trading; (7) expanded the circumstances in which the Exchange would or might halt trading in the Shares; (8) specified that the Shares would trade in all of the Exchange’s trading sessions; (9) represented that silver futures trade on significant exchanges, including COMEX, which is (a) operated by Commodities Exchange, Inc., a subsidiary of NYMEX (as defined herein) and (b) regulated by the CFTC (as defined herein); (10) represented that NYMEX is a member of ISG (as defined herein); and (11) made certain technical corrections. Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-nysearca-2017-111/nysearca2017111-2693352-161501.pdf>.

<sup>5</sup> On September 8, 2017, the Trust submitted to the Commission its draft registration statement on Form S-1 (the “Registration Statement”) under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an “emerging growth company” may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than \$1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S-1 Registration Statement on a confidential basis with the Commission.

NYSE Arca Rule 8.201-E, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (“UTP”) Commodity-Based Trust Shares.<sup>6</sup>

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,<sup>7</sup> and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.<sup>8</sup>

The Sponsor of the Trust is GraniteShares LLC, a Delaware limited liability company. The Bank of New York Mellon is the trustee of the Trust (the “Trustee”)<sup>9</sup> and ICBC Standard Bank PLC is the custodian of the Trust (the “Custodian”).<sup>10</sup>

The Commission has previously approved listing on the Exchange under NYSE Arca Rule 8.201-E of other precious metals and silver-based commodity trusts, including the iShares

<sup>6</sup> Commodity-Based Trust Shares are securities issued by a trust that represents investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

<sup>7</sup> 15 U.S.C. 80a-1.

<sup>8</sup> 17 U.S.C. 1.

<sup>9</sup> The Trustee is responsible for the day-to-day administration of the Trust. The responsibilities of the Trustee include (1) processing orders for the creation and redemption of Baskets; (2) coordinating with the Custodian the receipt and delivery of silver transferred to, or by, the Trust in connection with each issuance and redemption of Baskets; (3) calculating the net asset value of the Trust on each business day; and (4) selling the Trust’s silver as needed to cover the Trust’s expenses. The Trust does not have a Board of Directors or persons acting in a similar capacity.

<sup>10</sup> The Custodian is responsible for safekeeping the silver owned by the Trust. The Custodian is appointed by the Trustee and is responsible to the Trustee under the Trust’s silver custody agreements. The Custodian will facilitate the transfer of silver in and out of the Trust through the unallocated silver accounts it may maintain for each Authorized Participant or unallocated silver accounts that may be maintained for an Authorized Participant by another silver-clearing bank approved by the London Bullion Market Association (“LBMA”), and through the loco London account maintained for the Trust by the Custodian on an unallocated basis pursuant to the Trust unallocated account agreement (the “Trust Unallocated Account”). The Custodian is responsible for allocating specific bars of silver to the loco London account maintained for the Trust by the Custodian on an allocated basis pursuant to the Trust agreement (the “Trust Allocated Account”). The Custodian will provide the Trustee with regular reports detailing the silver transfers in and out of the Trust Unallocated Account with the Custodian and identifying the silver bars held in the Trust Allocated Account.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 81699 (Sept. 25, 2017), 82 FR 45634.

<sup>4</sup> In Amendment No. 2, the Exchange: (1) Clarified the permitted investments of the Trust (as defined herein); (2) supplemented its description of the duties of the Trust Custodian (as defined herein); (3) provided information about silver futures and spot trades; (4) supplemented its description of the process of Share (as defined herein) redemptions; (5) supplemented its description of how the Trust’s

Silver Trust,<sup>11</sup> the ETFS Silver Trust,<sup>12</sup> and the Sprott Physical Silver Trust.<sup>13</sup>

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201-E and thereby qualify for listing on the Exchange.<sup>14</sup>

#### Operation of the Trust<sup>15</sup>

The investment objective of the Trust will be for the Shares to reflect the performance of the price of silver, less the expenses and liabilities of the Trust. The Trust will issue Shares which represent units of fractional undivided beneficial interest in and ownership of the Trust.

The Trust will not hold or trade in any instrument or asset on any futures exchange or over the counter ("OTC") other than physical silver bullion. The Trust will take delivery of physical silver bullion that complies with the silver delivery rules of the London Bullion Market Association ("LBMA").

The Shares are intended to constitute a simple and cost-effective means of making an investment similar to an investment in silver. Although the Shares are not the exact equivalent of an investment in silver, they provide investors with an alternative that allows a level of participation in the silver market through the securities market.

#### Operation of the Silver Market

The global trade in silver consists of OTC transactions in spot, forwards, and options and other derivatives, together with exchange traded futures and options.

The OTC silver market includes spot, forward, and option and other derivative transactions conducted on a principal-to-principal basis. While this is a global, nearly 24-hour per day market, its main centers are London (the biggest venue), New York and Zurich. The most significant silver futures exchanges are the COMEX, operated by Commodities Exchange, Inc., a subsidiary of the New York Mercantile Exchange, Inc. ("NYMEX"), and the

Tokyo Commodity Exchange.<sup>16</sup> U.S. futures exchanges are registered with the Commodities Futures Trading Commission ("CFTC") and seek to provide a neutral, regulated marketplace for the trading of derivatives contracts for commodities, such as futures, options and certain swaps. The silver contract market is of significant size and liquidity.

According to the LBMA, the trade association that acts as the coordinator for activities conducted on behalf of its members and other participants in the London bullion market, members of the LBMA act as OTC market makers and it is believed that most OTC market trades are cleared through London. The LBMA plays an important role in setting OTC silver trading industry standards. Members of the London bullion market typically trade with each other and with their clients on a principal-to-principal basis. All risks, including those of credit, are between the two parties to a transaction. This is known as an OTC market, as opposed to an exchange-traded environment. Unlike a futures exchange, where trading is based around standard contract units, settlement dates and delivery specifications, the OTC market allows flexibility. It also provides confidentiality, as transactions are conducted solely between the two principals involved.

The basis for settlement and delivery of a spot trade is payment (generally in U.S. dollars) two business days after the trade date against delivery. Delivery of the silver can either be by physical delivery or through the clearing systems to an unallocated account. The unit of trade in London is the troy ounce, whose conversion between grams is: 1,000 grams is equivalent to 32.1507465 troy ounces, and one troy ounce is equivalent to 31.1034768 grams.

A good delivery silver bar is acceptable for delivery in settlement of a transaction on the OTC market (a "London Good Delivery Bar"). A London Good Delivery Bar must contain between 750 troy ounces and 1,100 troy ounces of silver with a minimum fineness (or purity) of 999.0 parts per 1,000. A London Good Delivery Bar must also bear the stamp of one of the refiners who are on the LBMA-approved list. Unless otherwise specified, the silver spot price always refers to that of a London Good Delivery Bar.

#### Creation and Redemption of Shares

The Trust will create and redeem Shares on a continuous basis in one or

more blocks of 50,000 Shares (a block of 50,000 Shares is called a "Basket"). As described below, the Trust will issue Shares in Baskets to certain authorized participants ("Authorized Participants") on an ongoing basis. Baskets of Shares will only be issued or redeemed in exchange for an amount of silver represented by the aggregate number of Shares issued or redeemed. No Shares will be issued unless the Custodian has allocated to the Trust's account the corresponding amount of silver. Initially, a Basket will require delivery of 50,000 ounces of silver. The amount of silver necessary for the creation of a Basket, or to be received upon redemption of a Basket, will decrease over the life of the Trust, due to the payment or accrual of fees and other expenses or liabilities payable by the Trust.

Baskets may be created or redeemed only by Authorized Participants. Orders must be placed by 3:59 p.m. Eastern Time ("E.T."). The day on which a Trust receives a valid purchase or redemption order is the order date.

Each Authorized Participant must be a registered broker-dealer, a participant in Depository Trust Corporation ("DTC"), have entered into an agreement with the Trustee (the "Authorized Participant Agreement") and have established a silver unallocated account with the Custodian or another LBMA-approved silver clearing bank. The Authorized Participant Agreement provides the procedures for the creation and redemption of Baskets and for the delivery of silver in connection with such creations or redemptions.

According to the Registration Statement, Authorized Participants, acting on authority of the registered holder of Shares or on their own account, may surrender Baskets of Shares in exchange for the corresponding amount of silver (measured in ounces) announced by the Trustee (the "Basket Amount"). Upon surrender of such Shares and payment of the Trustee's applicable fee and of any expenses, taxes or charges (such as stamp taxes or stock transfer taxes or fees), the Trustee will deliver to the order of the redeeming Authorized Participant the amount of silver corresponding to the redeemed Baskets. Shares can only be surrendered for redemption in Baskets of 50,000 Shares each.

Before surrendering Baskets of Shares for redemption, an Authorized Participant must deliver to the Trustee a written request indicating the number of Baskets it intends to redeem. The date the Trustee receives that order

<sup>11</sup> See Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR-NYSEArca-2008-124).

<sup>12</sup> See Securities Exchange Act Release No. 59781 (April 17, 2009), 74 FR 18771 (April 24, 2009) (SR-NYSEArca-2009-28).

<sup>13</sup> See Securities Exchange Act Release No. 63043 (October 5, 2010), 75 FR 62615 (October 12, 2010) (SR-NYSEArca-2010-84).

<sup>14</sup> With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7).

<sup>15</sup> The description of the operation of the Trust, the Shares and the silver market contained herein are based, in part, on the Registration Statement. See note 5, *supra*.

<sup>16</sup> The NYMEX is a member of the Intermarket Surveillance Group ("ISG").

determines the Basket Amount to be received in exchange. However, orders received by the Trustee after 3:59 p.m. E.T. on a business day or on a business day when the LBMA Silver Price or other applicable benchmark price is not announced, will not be accepted.

The redemption distribution from the Trust will consist of a credit to the redeeming Authorized Participant's unallocated account representing the amount of the silver held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order.

#### Net Asset Value

The NAV of the Trust will be calculated by subtracting the Trust's expenses and liabilities on any day from the value of the silver owned by the Trust on that day; the NAV per Share will be obtained by dividing the NAV of the Trust on a given day by the number of Shares outstanding on that day. On each day on which the Exchange is open for regular trading, the Trustee will determine the NAV as promptly as practicable after 4:00 p.m. E.T. The Trustee will value the Trust's silver based on the most recently announced LBMA Silver Price. If there is no LBMA Silver Price on that day, the Trustee will value the Trust's silver based on the most recently announced LBMA Silver Price. If the Sponsor determines that such price is inappropriate to use, the Sponsor will identify an alternate basis for evaluation to be employed by the Trustee by consulting other public sources of pricing information. For instance, the Sponsor could use the spot silver price published by the LMEprecious platform, a trading platform developed and operated by the London Metal Exchange.

Authorized Participants will offer Shares in the secondary market at an offering price that will vary, depending on, among other factors, the price of silver and the trading price of the Shares on the Exchange at the time of offer. Authorized Participants will not receive from the Trust, the Sponsor, the Trustee or any of their affiliates any fee or other compensation in connection with the offering of the Shares.

#### Secondary Market Trading

While the Trust seeks to reflect generally the performance of the price of silver less the Trust's expenses and liabilities, Shares may trade at, above or below their NAV. The NAV of Shares will fluctuate with changes in the market value of the Trust's assets. The trading prices of Shares will fluctuate in accordance with changes in their NAV as well as market supply and demand.

The amount of the discount or premium in the trading price relative to the NAV may be influenced by non-concurrent trading hours between the major silver markets and the Exchange. While the Shares trade on the Exchange until 8:00 p.m. E.T., liquidity in the market for silver may be reduced after the close of the major world silver markets, including London, Zurich and COMEX. As a result, during this time, trading spreads, and the resulting premium or discount, on Shares may widen.

#### Availability of Information Regarding Silver

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as silver over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of silver price and market information available on public websites and through professional and subscription services.

Investors may obtain silver pricing information on a 24-hour basis based on the spot price for an ounce of silver from various financial information service providers, such as Reuters and Bloomberg. In addition, ICAP's EBS platform also provides an electronic trading platform to institutions such as bullion banks and dealers for the trading of spot silver, as well as a feed of live streaming prices to market data subscribers.<sup>17</sup>

Reuters and Bloomberg provide at no charge on their websites delayed information regarding the spot price of silver and last sale prices of silver futures, as well as information about news and developments in the silver market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on silver prices directly from market participants.

Complete real-time data for silver futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its website. There are a variety of other public websites providing information on silver, ranging from those specializing in precious metals to sites maintained by major newspapers, such as The Wall Street Journal. Current silver spot prices are

<sup>17</sup> See <http://www.icap.com>.

also generally available with bid/ask spreads from silver bullion dealers.<sup>18</sup>

#### Availability of Information

The intraday indicative value ("IIV") per Share for the Shares will be disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The IIV will be calculated based on the amount of silver held by the Trust and a price of silver derived from updated bids and offers indicative of the spot price of silver.<sup>19</sup>

The website for the Trust ([www.graniteshares.com](http://www.graniteshares.com)) will contain the following information, on a per Share basis, for the Trust: (a) The mid-point of the bid-ask price<sup>20</sup> at the close of trading ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Trust will also provide the Trust's prospectus. Finally, the Trust's website will provide the prior day's closing price of the Shares as traded in the U.S. market. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

#### Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Rule 8.201-E(e) for initial and continued listing of the Shares.

A minimum of two Baskets or 100,000 Shares will be required to be outstanding at the start of trading, which is equivalent to 100,000 ounces of silver. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

<sup>18</sup> The silver spot price is indicative only, constructed using a variety of sources to compile a spot price that is intended to represent a theoretical quote that might be obtained from a market maker from time to time.

<sup>19</sup> The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

<sup>20</sup> The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

## 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. Trading in the Shares on the Exchange will occur during all three trading sessions in accordance with NYSE Arca Rule 7.34–E(a). 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 quoting and order entry is \$0.0001.

Further, NYSE Arca Rule 8.201–E sets forth certain restrictions on ETP Holders<sup>21</sup> acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201–E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying silver, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3 requires an ETP Holder acting as a registered Market Maker in the Shares and its affiliates to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant

factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying silver market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's “circuit breaker” rule.<sup>22</sup> The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily or if not made available to all participants at the same time. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange will also consider halting trading on a business day when the LBMA Silver Price or other applicable benchmark price is not announced.

## 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.<sup>23</sup> 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 federal securities laws applicable to trading on the Exchange.

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 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 in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>24</sup>

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying silver, silver futures contracts, options on silver futures, or any other silver derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

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 or reference assets, (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 of the Trust on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust 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 Trust 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 ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

<sup>24</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org).

<sup>21</sup> An “ETP Holder” means a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that is a registered broker-dealer and has been issued an Equity Trading Permit by the Exchange. See NYSE Arca Rule 1.1(n) and (o).

<sup>22</sup> See NYSE Arca Rule 7.12–E.

<sup>23</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.



Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 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) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of silver trading during the Core and Late Trading Sessions after the close of the major world silver markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical silver, that the Commission has no jurisdiction over the trading of silver as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of silver futures contracts and options on silver futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>25</sup> 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 8.201–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange 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. The most significant silver futures exchange in the U.S. is the COMEX, operated by Commodities Exchange, Inc., a subsidiary of the NYMEX, which is an ISG member. U.S. futures exchanges are registered with the CFTC and seek to provide a neutral, regulated marketplace for the trading of derivatives contracts for commodities, such as futures, options and certain swaps. The silver contract market is of significant size and liquidity.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of silver price and silver market information available on public websites and through professional and subscription services. Investors may obtain silver pricing information on a 24-hour basis based on the spot price for an ounce of silver from various financial information service providers. ICAP's EBS platform also provides an electronic trading platform to institutions such as bullion banks and dealers for the trading of spot silver, as well as a feed of live streaming prices to market data subscribers.

The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The Trust's website will also provide the Trust's prospectus, as well as the two most recent reports to stockholders. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

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 exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares 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 silver pricing.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical silver.

### *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. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposed rule change, as modified by Amendment No. 2, to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>26</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,<sup>27</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Exchange

<sup>26</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>27</sup> 15 U.S.C. 78f(b)(5).

<sup>25</sup> 15 U.S.C. 78f(b)(5).



has represented that it will be able to share surveillance information with a significant, regulated market for trading futures on silver.<sup>28</sup> The Commission also notes that it previously approved the listing and trading on the Exchange of other silver-based commodity trusts.<sup>29</sup>

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>30</sup> which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The last-sale price of the Shares will be disseminated over the Consolidated Tape. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. NYSE Arca Rule 8.201-E(e)(2)(v) requires that an IIV (which is referred to in the rule as the "Indicative Trust Value") be made available at least every 15 seconds. The IIV will be calculated based on the amount of silver held by the Trust and a price of silver derived from updated bids and offers indicative of the spot price of silver.<sup>31</sup> The Exchange states that the IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.<sup>32</sup> According to the Exchange, there is a considerable amount of information about silver markets available on public websites and through professional and

subscription services. Investors may obtain silver pricing information on a 24-hour basis based on the spot price for an ounce of silver from various financial information service providers, such as Reuters and Bloomberg.<sup>33</sup>

Additionally, the NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website.<sup>34</sup> The Trust also will publish the following information on its website: (1) The mid-point of the bid-ask price at the close of trading, and a calculation of the premium or discount of such price against the NAV; (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Trust's prospectus, as well as the two most recent reports to stockholders; and (4) the prior day's closing price of the Shares as traded in the U.S. market.<sup>35</sup>

The Commission also believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying silver market have caused disruptions or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts

caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.<sup>36</sup> The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily or if not made available to all participants at the same time.<sup>37</sup> The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV; if the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.<sup>38</sup>

Additionally, the Commission notes that market makers in the Shares would be subject to the requirements of NYSE Arca Rule 8.201-E(g), which allow the Exchange to ensure that they do not use their positions to violate the requirements of Exchange rules or applicable federal securities laws.<sup>39</sup>

In support of this proposal, the Exchange has made the following additional representations:

(1) The Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E.<sup>40</sup>

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.<sup>41</sup>

(3) The Exchange deems the Shares to be equity securities.<sup>42</sup>

(4) The Exchange has a general policy prohibiting the distribution of material, non-public information by its employees.<sup>43</sup>

(5) 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, and that these procedures are adequate to properly

<sup>28</sup> Specifically, according to the Exchange, COMEX is operated by Commodities Exchange, Inc., a subsidiary of the NYMEX, and is regulated by the CFTC. The Exchange also states that the NYMEX is a member of the ISG, which will allow the Exchange to obtain surveillance information. See Amendment No. 2, *supra* note 4, at 6, 14.

<sup>29</sup> See, e.g., Securities Exchange Act Release Nos. 59781 (Apr. 17, 2009), 74 FR 18771 (Apr. 24, 2009) (SR-NYSEArca-2009-28) (approving the listing and trading of the ETPS Silver Trust); and 63043 (Oct. 5, 2010), 75 FR 62615 (Oct. 12, 2010) (SR-NYSEArca-2010-84) (approving the listing and trading of the Sprott Physical Silver Trust).

<sup>30</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>31</sup> See Amendment No. 2, *supra* note 4, at 10.

<sup>32</sup> See *id.*

<sup>33</sup> See Amendment No. 2, *supra* note 4, at 9. The Exchange states that Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of silver and last sale prices of silver futures, as well as information about news and developments in the silver market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on silver prices directly from market participants. ICAP's EBS platform provides an electronic trading platform to institutions such as bullion banks and dealers for the trading of spot silver, as well as a feed of live streaming prices to market data subscribers. Complete real-time data for silver futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its website. There are a variety of other public websites providing information on silver, ranging from those specializing in precious metals to sites maintained by major newspapers. See *id.*

<sup>34</sup> See *id.* at 15.

<sup>35</sup> See *id.* at 10 and 15.

<sup>36</sup> See *id.* at 12, n.20 and accompanying text.

<sup>37</sup> See *id.* at 12.

<sup>38</sup> See *id.*

<sup>39</sup> Commentary .04 of NYSE Arca Rule 11.3 requires that an ETP Holder acting as a registered market maker in the Shares, and its affiliates, establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

<sup>40</sup> See Amendment No. 2, *supra* note 4, at 14.

<sup>41</sup> See *id.* at 11.

<sup>42</sup> See *id.* The Commission notes that, as a result, trading of the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

<sup>43</sup> See *id.* at 13.

monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.<sup>44</sup>

(6) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares 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 in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>45</sup>

(7) 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. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 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) how information regarding the IIV is disseminated; (4) ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of silver trading during the Core and Late Trading Sessions after the close of the major world silver markets; and (6) trading information.<sup>46</sup>

(8) All statements and representations made in the Exchange's filing regarding (a) the description of the portfolio or reference assets, (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 of the Trust on the Exchange.<sup>47</sup>

(9) The issuer has represented to the Exchange that it will advise the

Exchange of any failure by the Trust to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor<sup>48</sup> for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the NYSE Arca Rule 5.5–E(m).<sup>49</sup>

This approval order is based on all of the Exchange's representations—including those set forth above and in Amendment No. 2—and the Exchange's description of the Trust.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act<sup>50</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2 to the proposed rule change. 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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2017–111 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–2017–111. 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

<sup>48</sup> The Commission notes that certain proposals for the listing and trading of exchange-traded products include a representation that the exchange will “surveil” for compliance with the continued listing requirements. See, e.g., Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that “monitor” and “surveil” both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or less stringent obligation than “surveil” with respect to the continued listing requirements.

<sup>49</sup> See Amendment No. 2, *supra* note 4, at 13.

<sup>50</sup> 15 U.S.C. 78f(b)(5).

post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–111 and should be submitted on or before January 11, 2018.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the 30th day after the date of publication of notice of Amendment No. 2 in the **Federal Register**. Amendment No. 2 supplements the proposal by providing additional information regarding the Trust and the silver futures market, and by expanding the circumstances in which the Exchange would or might halt trading in the Shares. These changes assisted the Commission in evaluating the Shares' susceptibility to manipulation, and in determining that the listing and trading of the Shares is consistent with the protection of investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,<sup>51</sup> to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>52</sup>

<sup>51</sup> 15 U.S.C. 78s(b)(2).

<sup>52</sup> *Id.*

<sup>44</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. See *id.* at 12, n.21.

<sup>45</sup> See *id.* at 12–13.

<sup>46</sup> See *id.* at 13.

<sup>47</sup> See *id.*

that the proposed rule change (SR–NYSEArca–2017–111), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>53</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017–27463 Filed 12–20–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–146, OMB Control No. 3235–0134]

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available*

From: U.S. Securities and Exchange Commission, Office of FOIA Services, Washington, DC 20549–2736

*Extension:*

Rule 15c1–7

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the existing collection of information provided for in Rule 15c1–7 (17 CFR 240.15c1–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (“Exchange Act”).

Rule 15c1–7 states that any act of a broker-dealer designed to effect securities transactions with or for a customer account over which the broker-dealer (directly or through an agent or employee) has discretion will be considered a fraudulent, manipulative, or deceptive practice under the federal securities laws, unless a record is made of the transaction immediately by the broker-dealer. The record must include (a) the name of the customer, (b) the name, amount, and price of the security, and (c) the date and time when such transaction took place. The Commission estimates that 394 respondents collect information related to approximately 400,000 transactions annually under Rule 15c1–7 and that each respondent would spend approximately 5 minutes on the collection of information for each transaction, for approximately 33,338 aggregate hours per year (approximately 84.6 hours per respondent).

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov).

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: December 15, 2017.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017–27460 Filed 12–20–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82339; File No. SR–NYSEAMER–2017–37]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE American Rule 8.700E To Add Futures and Swaps on the EURO STOXX 50 Volatility Index to the Financial Instruments That an Issue of Managed Trust Securities May Hold

December 15, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on December 6, 2017, NYSE American LLC (“Exchange” or “NYSE American”) 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 amend NYSE American Rule 8.700E to add EURO STOXX 50 Volatility Index (VSTOXX<sup>®</sup>) futures and swaps on VSTOXX to the financial instruments that an issue of Managed Trust Securities may hold. The proposed rule

change is available on the Exchange’s website at [www.nyse.com](http://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

NYSE American Rule 8.700E permits the trading of Managed Trust Securities either by listing or pursuant to unlisted trading privileges (“UTP”).<sup>3</sup> The Exchange proposes to amend NYSE American Rule 8.700E to add futures and swaps on the EURO STOXX 50 Volatility Index (“VSTOXX”) to the financial instruments in which an issue of Managed Trust Securities may hold long and/or short positions. (Futures on VSTOXX are referred to herein as “Futures Contracts.”)

<sup>3</sup> The term “Managed Trust Securities” as used in the NYSE American Rules will, unless the context otherwise requires, mean a security that is registered under the Securities Act of 1933, as amended (15 U.S.C. 77a), and (i) is issued by a trust (“Trust”), or any series thereof, that (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, is not registered or required to be registered as an investment company under the Investment Company Act of 1940, as amended, and is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts and/or swaps selected by the Trust’s advisor consistent with the Trust’s investment objectives, which will only include exchange-traded futures contracts involving commodities, commodity indices, currencies, currency indices, stock indices, fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies, and/or swaps on stock indices, fixed income indices, commodity indices, commodities, currencies, currency indices, or interest rates, each as disclosed in the Trust’s prospectus as such may be amended from time to time, and cash and cash equivalents; and (ii) is issued and redeemed continuously in specified aggregate amounts at the next applicable net asset value. See NYSE American Rule 8.700E(c).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>53</sup> 17 CFR 200.30–3(a)(12).

The Exchange proposes to amend NYSE American Rule 8.700E(c)(1) to add Futures Contracts and swaps on VSTOXX to the financial instruments in which an issue of Managed Trust Securities may hold long and/or short positions.<sup>4</sup>

The VSTOXX is based on EURO STOXX 50 Index (“Index”) real-time option prices that are listed on the Eurex Exchange (“Eurex”) and are designed to reflect the market expectations of near-term up to long-term volatility by measuring the square root of the implied variances across all options of a given time to expiration.<sup>5</sup> The Index includes 50 stocks that are among the largest free-float market capitalization stocks from 11 Eurozone countries.<sup>6</sup> Futures Contracts are cash settled and trade between the hours of 7:30 a.m. and 10:30 p.m. Central European Time (“CET”) (2:30 a.m. and 5:30 p.m. Eastern Time). The Futures Contract value is 100 Euros per index point of the underlying and it is traded to two decimal places with a minimum price change of 0.05 points (equivalent to a value of 5 Euros). The daily settlement price is determined during the closing auction of the respective Futures Contract. The last trading day and final settlement day is 30 calendar days prior to the third Friday of the expiration month of the underlying options, which is usually the Wednesday prior to the second to last Friday of the respective maturity month. Information regarding the VSTOXX and the Futures Contracts can be found on the STOXX Limited (“STOXX”) website and the Eurex website, respectively.<sup>7</sup>

STOXX computes the Index on a real-time basis throughout each trading day, from 8:50 a.m. until 5:30 CET (3:50 a.m. until 12:30 p.m. Eastern Time). VSTOXX levels will be calculated by

<sup>4</sup> The Commission has approved amendments to NYSE Arca Rule 8.700–E that are substantially identical to those proposed herein. See Securities Exchange Act Release No. 82066 (November 13, 2017), 82 FR 54434 (November 17, 2017) (SR–NYSEArca–2017–85) (order approving proposed rule change to amend NYSE Arca Rule 8.700–E and to list and trade shares of the ProShares European Volatility Futures ETF).

<sup>5</sup> The VSTOXX is a non-investable index that seeks to measure the volatility of the Index over a future time horizon as implied by the price of option contracts on the Index available on the Eurex. The VSTOXX does not measure the actual volatility of the Index. The Futures Contracts are denominated in Euros and are traded exclusively on the Eurex.

<sup>6</sup> These countries include Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain.

<sup>7</sup> Eurex is a member of the ISG and, as such, the Exchange may obtain information regarding trading in the Futures Contracts. For a list of the current members and affiliate members of ISG, see [www.isgportal.com](http://www.isgportal.com).

STOXX and widely disseminated by major market data vendors on a real-time basis throughout each trading day.

The Exchange believes that the proposed amendment to add Futures Contracts and swaps on VSTOXX to the financial instruments in which an issue of Managed Trust Securities may hold long and/or short positions will provide investors with the ability to better diversify and hedge their portfolios using an exchange traded security without having to trade directly in the underlying Futures Contracts, and will facilitate the listing and trading on the Exchange of additional Managed Trust Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

The Exchange believes that its surveillance procedures are adequate to continue to properly monitor the trading of Managed Trust Securities that hold Futures Contracts and swaps on VSTOXX in all trading sessions and to deter and detect violations of Exchange rules.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that ETP Holders or issuers would have in complying with the proposed change.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, because it is 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 change would facilitate the listing and trading of additional types of Managed Trust Securities, which would enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Managed Trust Securities would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 8.700E. The proposed amendments to NYSE American Rule 8.700E relating to Managed Trust Securities are substantially identical to amendments

to NYSE Arca Rule 8.700E previously approved by the Commission.<sup>10</sup>

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Managed Trust Securities in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. All Managed Trust Securities traded pursuant to NYSE American Rule 8.700E are included within the definition of “security” or “securities” as such terms are used in the Exchange rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange. Trading in the securities will be halted under the conditions specified in NYSE American Rule 8.700E(e)(2)(D).

For these reasons, the Exchange believes that the proposal is consistent with the Act.

## B. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>11</sup> the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change will encourage competition by enabling additional types of Managed Trust Securities to be traded on the Exchange.

## 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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b–4(f)(6) thereunder.<sup>13</sup> Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest, (ii) impose any significant burden on competition, and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

<sup>10</sup> See note 4, *supra*.

<sup>11</sup> 15 U.S.C. 78f(b)(8).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b–4(f)(6).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. As noted above, the proposed amendments to NYSE American Rule 8.700E relating to Managed Trust Securities are substantially identical to amendments to NYSE Arca Rule 8.700E previously approved by the Commission. The proposal raises no new or novel issues. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>16</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2017-37 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-NYSEAMER-2017-37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2017-37 and should be submitted on or before January 11, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Robert W. Errett,**  
Deputy Secretary.

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82337; File No. SR-CboeBYX-2017-001; SR-CboeBZX-2017-001; SR-CboeEDGA-2017-001; SR-CboeEDGX-2017-001]

### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change Relating to Its Director Nomination and Committee Appointment Process and Its Nominating and Governance Committee

December 15, 2017.

#### I. Introduction

On November 14, 2017, each of Cboe BYX Exchange, Inc. ("Cboe BYX"), Cboe BZX Exchange, Inc. ("Cboe BZX"), Cboe EDGA Exchange, Inc. ("Cboe EDGA"), Cboe EDGX Exchange, Inc. ("Cboe EDGX") (each an "Exchange" and collectively, "Exchanges") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to eliminate its Nominating and Governance Committee ("N&G Committee") and amend the process by which (i) directors are elected, (ii) committee appointments are made, and (iii) vacancies are filled.<sup>3</sup> The proposed rule changes were published for comment in the **Federal Register** on November 27, 2017.<sup>4</sup> The Commission received no comments on the proposals. This order approves the proposed rule changes on an accelerated basis.

#### II. Description of the Proposal

First, the Exchanges propose to eliminate their N&G Committees and provide that the sole stockholder of the Exchanges (Cboe Global Markets, Inc.) shall nominate and elect directors at the annual meetings of the sole stockholder,

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In addition, the Exchanges propose to make several formatting changes throughout the Bylaws as well as to change their names in the title and signature lines in their Certificates of Incorporation ("Certificates") to reflect recent changes to their legal names.

<sup>4</sup> See Securities Exchange Act Release Nos. 82122 (November 20, 2017), 82 FR 53076 (November 27, 2017) (SR-CboeBYX-2017-001) ("CboeBYX Notice"); 82123 (November 20, 2017), 82 FR 56065 (November 27, 2017) (SR-CboeBZX-2017-001) ("CboeBZX Notice"); 82125 (November 20, 2017), 82 FR 56079 (November 27, 2017) (SR-CboeEDGA-2017-001) ("CboeEDGA Notice"); 82126 (November 20, 2017), 82 FR 56072 (SR-CboeEDGX-2017-001) ("CboeEDGX Notice") (collectively, the "Notices").

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

except with respect to fair-representation directors (“Representative Directors”).<sup>5</sup> As a consequence of the elimination of the N&G Committee, the Exchanges propose conforming changes to reallocate its responsibility. Specifically, the Exchanges propose to amend the definition of “Representative Director Nominating Body” to provide that if an Exchange’s Board of Directors (“Board”) has two or more Industry Directors, excluding directors that are Exchange employees, those Industry Directors shall act as the Representative Director Nominating Body. If there are fewer than two Industry Directors on the Board (excluding directors that are employees of the Exchange), then the Exchange Member Subcommittee of the Advisory Board shall act as the Representative Director Nominating Body. The Exchanges further propose to amend their Bylaws and Certificates to provide that the sole stockholder is bound to nominate and elect the Representative Directors nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Lastly, the Exchanges each propose to amend Section 3.1 of their Bylaws to provide that the Board is responsible for determining whether a director candidate satisfies the applicable qualifications for election as a director.

Second, the Exchanges propose to transfer the N&G Committee’s current authority with respect to committee appointments to their Boards (or appropriate subcommittee of the Board).<sup>6</sup> Specifically, the Exchanges propose to amend Section 4.2 and 6.1 of their Bylaws to state that members of the Executive Committee and Advisory Board will now be appointed by the Board. The Exchanges also propose to amend Section 4.4 of their Bylaws to state that members of the Regulatory Oversight Committee (“ROC”) will be appointed by the Board on the recommendation of the Non-Industry Directors of the Board.

Third, the Exchanges propose to amend their Bylaws to alter the process for filling director vacancies.<sup>7</sup> Specifically, the Exchanges propose to amend Section 3.4 of their Bylaws to provide that in the event any Industry or Non-Industry Director fails to

maintain the required qualifications and the director’s term is accordingly terminated, the sole stockholder, instead of the Board, shall be able to fill the vacancy.<sup>8</sup> The Exchanges also propose to amend Section 3.5 of their Bylaws to provide the sole stockholder with authority to fill vacancies so long as the elected Director qualifies for the position. Additionally, with respect to vacancies among the Representative Directors, the Representative Director Nominating Body will recommend an individual, or provide a list of recommended individuals, to the sole stockholder who shall select and fill the position.

Finally, the Exchanges propose to change their names in the title and signature lines in their Certificates to reflect recent changes to their legal names.<sup>9</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of Section 6 of the Act<sup>10</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>11</sup> In particular, the Commission finds that the proposed rule changes are consistent with Sections 6(b)(1) the Act,<sup>12</sup> which require a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act, and to comply and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Commission also finds that the proposed rule changes are consistent with Section 6(b)(3) of the Act,<sup>13</sup> which requires that the rules of a national securities exchange assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors

<sup>8</sup> Amended Section 3.4 would also provide that if such terminated director requalified, the sole stockholder would have discretion to reappoint such director, including by increasing the size of the Board, should that be necessary.

<sup>9</sup> Other technical formatting changes occur throughout the Bylaws as a result of the Exchanges proposed changes. *See* Notices, *supra* note 4 at 56077; 56066; 56081 and 56073, respectively.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> In approving these proposed rule changes, the Commission has considered the proposed rules’ impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78f(b)(1).

<sup>13</sup> 15 U.S.C. 78f(b)(3).

and not be associated with a member of the exchange, broker, or dealer.

The Commission believes that the Exchanges’ proposals to eliminate their N&G Committees and reassign the N&G Committees’ responsibilities are consistent with the Act. In particular, with respect to vesting the authority to nominate and elect directors in the sole stockholder, the Exchanges cite to the rules of another Exchange that similarly does not maintain an exchange-level nominating committee and instead provides that the sole stockholder of the Exchange nominates and elects their non-fair representation directors.<sup>14</sup> Importantly, the Commission notes that the proposed rule changes do not substantively impact the provisions concerning the nomination and selection of fair representation directors that currently apply to the Exchanges. The sole stockholder will continue to be bound to nominate and elect the Representative Director nominees recommended by the Representative Director Nominating Body and there are no other changes to the process for the nomination and selection of Representative Directors. Accordingly, the Commission believes that members of the Exchanges should continue to have a voice in the governance of the Exchanges through Board representation and thus will have a voice in the Exchanges’ exercise of their self-regulatory authority. The Exchanges represent that they are not proposing to amend any of the compositional requirements currently set forth in the Bylaws and that such existing compositional requirements must continue to be satisfied, including the provision relating to the fair representation of members.<sup>15</sup>

In addition, with respect to providing the Board, as opposed to the N&G Committee, with the authority to recommend and approve members of the Executive Committee, Advisory Board, and ROC, the Commission notes that other exchanges provide that their Boards, without input from a nominating committee, may appoint members to committees.<sup>16</sup> While the internal Exchange delegations of the authority relating to the (i) nomination and election of directors, (ii) nominating body for Representative Directors, (iii)

<sup>14</sup> *See* Section 3.02(f) of the Amended and Restated NYSE Arca, Inc. Bylaws. *See also* Notices, *supra* note 4 at 56078; 56066–67; 56081; and 56074, respectively.

<sup>15</sup> *See* Notices, *supra* note 4 at 56078; 56067; 56081 and 56074, respectively.

<sup>16</sup> *See e.g.*, Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5–3.

<sup>5</sup> *See id.* at 56077; 56065; 56080; and 56072, respectively.

<sup>6</sup> *See id.* at 56077; 56066; 56080; and 56073, respectively.

<sup>7</sup> *See id.* at 56077; 56066; 56080–81 and 56073, respectively.

filling of director vacancies and (iv) appointment of committees are being amended, the Exchanges represent that the substantive requirements of the Exchanges applicable to those items will remain the same.<sup>17</sup>

Finally, the Commission believes that the proposals to update the exchanges' names in their Certificates are consistent with the Act as they may also serve to reduce potential confusion by ensuring the Exchanges' corporate documents reflect their recent name changes.

#### IV. Accelerated Approval of the Proposal

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> for approving the proposed rule changes, prior to the 30th day after publication of the Notices in the **Federal Register**.<sup>19</sup> The Commission believes that the proposed rule changes do not raise novel regulatory issues and are substantively similar to the existing rules of other national securities exchanges.<sup>20</sup> In particular, the Commission notes that the proposed rule changes do not substantively impact the provisions concerning the nomination and selection of fair representation directors that currently apply to the Exchanges. Members of the Exchanges should continue to have an opportunity to participate in the selection of Board representation and have input into the Exchanges' exercise of self-regulatory authority. In addition, the Commission did not receive any comment on the proposed changes. Accordingly, the Commission finds that good cause exists to approve the proposed rule changes on an accelerated basis.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>21</sup> that the proposed rule changes (SR-CboeBYX-2017-001; SR-CboeBZX-2017-001; SR-CboeEDGA-2017-001; SR-CboeEDGX-2017-001), be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-27466 Filed 12-20-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82341; File No. SR-Phlx-2017-79]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Amendment No. 2, Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 and Granting Accelerated Approval of Amendment No. 2, of a Proposed Rule Change To Establish a Nonstandard Expirations Pilot Program

December 15, 2017.

#### I. Introduction

On October 12, 2017, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish a Nonstandard Expirations Pilot Program. On October 26, 2017, the Exchange filed Amendment No.1 to the proposal to amend and replace the original filing in its entirety. The proposed rule change was published for comment in the **Federal Register** on November 2, 2017.<sup>3</sup> On December 6, 2017, the Exchange filed a partial amendment to the proposed rule change ("Amendment No. 2").<sup>4</sup> The Commission received no comments on the proposed rule change.

This order provides notice of filing of Amendment No. 2, approves the proposal, as modified by Amendment No. 1, and approves Amendment No. 2 on an accelerated basis, for a pilot period of twelve months.

<sup>22</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 81975 (Oct. 27, 2017), 82 FR 50921.

<sup>4</sup> In Amendment No. 2, the Exchange proposes to provide to the Commission, to the extent that data on other weekly or monthly p.m.-settled products from other exchanges is publicly available, a time series analysis of open interest in weekly expiration ("Weekly Expiration") and end of month ("EOM") series compared to open interest in weekly or monthly p.m.-settled products of other exchanges in order to determine whether users are shifting positions from other weekly or monthly p.m.-settled products to the Weekly Expiration and EOM series.

## II. Description of the Amended Proposal

The Exchange proposes to permit the listing and trading, on a pilot basis, of p.m.-settled options on broad-based indexes with nonstandard expiration dates for a period of twelve months (the "Nonstandard Expirations Pilot Program" or "Pilot Program") from the date of approval of this proposed rule change. The Pilot Program would permit both Weekly Expirations and EOM expirations similar to those of the a.m.-settled broad-based index options, except that the exercise settlement value will be based on the index value derived from the closing prices of component stocks. The proposal is substantially similar to Chicago Board Options Exchange ("CBOE") Rule 24.9(e), Nonstandard Expirations Pilot Program.<sup>5</sup>

#### A. Weekly Expirations

The Exchange proposes to add new subsection (b)(vii)(1), Weekly Expirations, to Rule 1101A, Terms of Options Contracts. Under the proposed new rule the Exchange would be permitted to open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations would be subject to all provisions of Rule 1101A and would be treated the same as options on the same underlying index that expire on the third Friday of the expiration month. Unlike the standard monthly options, however, Weekly Expirations would be p.m.-settled. New series in Weekly Expirations could be added up to and including on the expiration date for an expiring Weekly Expiration.

The maximum number of expirations that could be listed for each Weekly Expiration (*i.e.*, a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index. Weekly Expirations would not need to be for consecutive Monday, Wednesday, or

<sup>5</sup> See Securities Exchange Act Release Nos. 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (SR-CBOE-2016-046) (Order approving expansion of CBOE's Nonstandard Expirations Pilot Program to include Monday Expirations); 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (SR-CBOE-2015-106) (Order approving expansion of CBOE's Nonstandard Expirations Pilot Program to include Wednesday Expirations); 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (SR-CBOE-2009-075) (Order approving CBOE's Nonstandard Expirations Pilot Program).

<sup>17</sup> See Notices, *supra* note 4 at 56078; 56067; 56081 and 56074, respectively.

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> As noted above, the Notices were published for comment in the **Federal Register** on November 27, 2017 and the comment period closed on December 12, 2017. Accordingly, the 30th day after publication of the Notices is December 27, 2017.

<sup>20</sup> See notes 15 and 17, *supra*.

<sup>21</sup> 15 U.S.C. 78s(b)(2).



Friday expirations as applicable. However, the expiration date of a non-consecutive expiration would not be permitted beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weekly Expirations that are first listed in a given class could expire up to four weeks from the actual listing date.

If the last trading day of a month were a Monday, Wednesday, or Friday and the Exchange were to list EOMs and Weekly Expirations as applicable in a given class, the Exchange would list an EOM instead of a Weekly Expiration in the given class. Other expirations in the same class would not be counted as part of the maximum number of Weekly Expirations for a broad-based index class.

If the Exchange were not open for business on a respective Monday, the normally Monday expiring Weekly Expirations would expire on the following business day. If the Exchange were not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations would expire on the previous business day.

#### B. EOM Expirations

Under the proposal, the Exchange could open for trading EOMs on any broad-based index eligible for standard options trading to expire on the last trading day of the month. EOMs would be subject to all provisions of Rule 1101A and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOMs would be p.m.-settled and new series in EOMs could be added up to and including on the expiration date for an expiring EOM.

The maximum number of expirations that could be listed for EOMs in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index. EOM expirations would not need to be for consecutive end of month expirations. However, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. EOMs that are first listed in a given class could expire up to four weeks from the actual listing date. Other expirations would not be counted as part of the maximum numbers of EOM expirations for a broad-based index class.

#### C. Contract Terms and Trading Rules

The Exchange proposes that Weekly Expirations and EOMs would be subject to the same rules that currently govern the trading of standard monthly broad-based index options, including sales practice rules, margin requirements, and floor trading procedures. Contract terms for Weekly Expirations and EOMs would be the same as those for standard monthly broad-based index options, except that the exercise settlement value will be based on the index value derived from the closing prices of component stocks. Since Weekly Expirations and EOMs will be a new type of series, and not a new class, the Exchange proposes that Weekly Expirations and EOMs shall be aggregated for any applicable reporting and other requirements.<sup>6</sup> Pursuant to new subsection (b)(vii)(4) of Rule 1101A, transactions in Weekly Expirations and EOMs could be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:15 p.m. (Eastern Time).

The Exchange represents that it has analyzed its capacity and believes that it and the Options Price Reporting Authority have the necessary systems capacity to handle any additional traffic associated with the listing of the maximum number nonstandard expirations permitted under the Pilot Program.

#### D. Pilot Program Annual Report

As part of the Pilot Program, the Exchange proposes to submit a Pilot Program report to the Commission at least two months prior to the expiration date of the Pilot Program (the "annual report"). The annual report will contain an analysis of volume, open interest and trading patterns. In addition, for series that exceed certain minimum open interest parameters, the annual report will provide analysis of index price volatility and, if needed, share trading activity. The annual report will be provided to the Commission on a confidential basis.

#### Analysis of Volume and Open Interest

For all Weekly Expirations and EOM series, the annual report will contain the following volume and open interest data for each broad-based index overlying Weekly Expiration and EOM options:

(1) Monthly volume aggregated for all Weekly Expiration and EOM series,

(2) Volume in Weekly Expiration and EOM series aggregated by expiration date,

(3) Month-end open interest aggregated for all Weekly Expiration and EOM series,

(4) Month-end open interest for EOM series aggregated by expiration date and open interest for Weekly Expiration series aggregated by expiration date,

(5) Ratio of monthly aggregate volume in Weekly Expiration and EOM series to total monthly class volume, and

(6) Ratio of month-end open interest in EOM series to total month-end class open interest and ratio of open interest in each Weekly Expiration series to total class open interest.

In addition, the annual report will contain the information noted above for standard Expiration Friday, a.m.-settled series, if applicable, for the period covered in the annual report as well as for the six-month period prior to the initiation of the Pilot Program.

Upon request by the SEC, the Exchange will provide a data file containing: (1) Weekly Expiration and EOM option volume data aggregated by series, and (2) Weekly Expiration open interest for each expiring series and EOM month-end open interest for expiring series.

#### Monthly Analysis of Weekly Expiration and EOM Trading Patterns

In the annual report, the Exchange also proposes to identify Weekly Expiration and EOM trading patterns by undertaking a time series analysis of open interest in Weekly Expiration and EOM series aggregated by expiration date compared to open interest in near-term standard Expiration Friday a.m.-settled series in order to determine whether users are shifting positions from standard series to Weekly Expiration and EOM series. In addition, to the extent that data on other weekly or monthly p.m. settled products from other exchanges is publicly available, the annual report will also compare open interest with these options in order to determine whether users are shifting positions from other weekly or monthly p.m.-settled products to the Weekly Expiration and EOM series. Declining open interest in standard series or the weekly or monthly p.m.-settled products of other exchanges accompanied by rising open interest in Weekly Expiration and EOM series would suggest that users are shifting positions.

<sup>6</sup> See Rule 1001A(d) which sets forth the reporting requirements for certain market indexes that do not have position limits, including NDX. The Exchange is adding Nonstandard Expirations to Rule 1001A(e), Aggregation, to reflect the aggregation requirement. The Exchange notes that the proposed aggregation is consistent with the aggregation requirements for other types of option series (e.g. quarterly expiring options) that are listed on the Exchange and which do not expire on the customary "third Friday".

### Provisional Analysis of Index Price Volatility and Share Trading Activity

For each Weekly Expiration and EOM expiration that has open interest that exceeds certain minimum thresholds, the annual report will contain the following analysis related to index price changes and, if needed, underlying share trading volume at the close on expiration dates:

(1) A comparison of index price changes at the close of trading on a given expiration date with comparable price changes from a control sample. The data will include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by an appropriate index agreed by the Commission and the Exchange, will be provided; and

(2) if needed, a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money Weekly Expiration and EOM expirations. The data, if needed, will include a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for selecting the component securities, and sample periods will be determined by the Exchange and the Commission.

### III. Discussion and Commission's Findings

After careful review of the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.<sup>7</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in

<sup>7</sup> In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

While the Commission has had concerns about the adverse effects and impact of p.m.-settlement upon market volatility and the operation of fair and orderly markets on the underlying cash market at or near the close of trading, it has approved on a limited basis p.m.-settlement for cash-settled options.<sup>9</sup> More specifically, the Commission approved on a pilot basis CBOE's nearly identical Nonstandard Expirations Pilot Program.<sup>10</sup> Phlx's proposal includes one additional data element in the annual report: An analysis of publically available data concerning trading patterns with respect to other p.m.-settled products from other exchanges. In all other aspects, Phlx's proposal conforms to CBOE's Nonstandard Expirations Pilot Program.

The Commission believes that the proposal strikes a reasonable balance between the Phlx's desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series that may burden certain liquidity providers and further stress options quotation and transaction infrastructure. Phlx's proposed twelve-month Pilot Program will allow for both the Exchange and the Commission to continue monitoring the potential for adverse market effects of p.m.-settlement on the market, including the underlying cash equities markets, at the expiration of these options.

The Commission notes that Phlx will provide the Commission with the annual report analyzing volume and open interest of EOMs and Weekly Expirations that will also contain information and analysis of EOMs and Weekly Expirations trading patterns and index price volatility and share trading activity for series that exceed minimum parameters. This information should be

<sup>9</sup> See, e.g., Securities Exchange Act Release Nos. 31800 (February 1, 1993), 58 FR 7274 (February 5, 1993) (SR-CBOE-92-13) (Order approving CBOE's listing of p.m.-settled, cash-settled options on certain broad-based indexes); 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR-CBOE-2009-087) (Order approving CBOE's listing of p.m.-settled FLEX options on a pilot basis); 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR-CBOE-2013-055) (Order approving the addition of p.m.-settled mini-SPX index options to the SPXPM Pilot for p.m.-settled SPX index options); 81293 (August 2, 2017), 82 FR 37138 (August 8, 2017) (SR-Phlx-2017-04) (Order approving Phlx to list and trade of p.m.-Settled NASDAQ-100 Index(R) Options on a Pilot Basis).

<sup>10</sup> See *supra* note 5.

useful to the Commission as it evaluates whether allowing p.m.-settlement for EOMs and Weekly Expirations has resulted in increased market and price volatility in the underlying component stocks, particularly at expiration. The Pilot Program information should help the Commission and the Exchange assess the impact on the markets and determine whether changes to these programs are necessary or appropriate. Furthermore, the Exchange's ongoing analysis of the Pilot Program should help it monitor any potential risks from large p.m.-settled positions and take appropriate action, if warranted.

### IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2017-79 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2017-79. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2017-79, and should be submitted on or before January 11, 2018.

## V. Accelerated Approval of Amendment No. 2

The Commission finds good cause to approve Amendment No. 2 prior to the thirtieth day after the date of publication of notice of Amendment No. 2 in the **Federal Register**. As described above, the Exchange proposes to establish a Nonstandard Expirations Pilot Program based upon, and substantially similar to, CBOE's Rule 24.9(e), Nonstandard Expirations Pilot Program, previously approved by the Commission. Amendment No. 2 proposes to provide additional data to the Commission that was not applicable to CBOE's Nonstandard Expirations Pilot Program specifically because it would provide data to the Commission on the effect of a subsequent pilot program on the CBOE's existing pilot program. The Exchange's proposed Amendment No. 2 does not otherwise change its proposal. The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> to approve Amendment No. 2 on an accelerated basis.

## VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-Phlx-2017-79), as modified by Amendment No. 1, be approved, and Amendment No. 2 thereto be approved on an accelerated basis, for a pilot period of twelve months.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-27469 Filed 12-20-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82336; File No. SR-CBOE-2017-072; SR-C2-2017-030]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Cboe C2 Exchange, Inc.; Order Granting Accelerated Approval to a Proposed Rule Change Relating to Its Nominating and Governance Committee and Regulatory Oversight and Compliance Committee as Well as Its Director Nomination and Committee Appointment Process

December 15, 2017.

#### I. Introduction

On November 14, 2017, Cboe C2 Exchange, Inc. ("C2") and on November 15, 2017, Cboe Exchange, Inc. ("Cboe" and, together with C2, the "Exchanges") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposed rule changes to eliminate their Nominating and Governance Committees ("N&G Committee"); amend the process by which (i) directors are elected, (ii) committee appointments are made, and (iii) vacancies are filled; and rename their Regulatory Oversight and Compliance Committees ("ROCC").<sup>3</sup> The proposed rule changes were published for comment in the **Federal Register** on November 27, 2017.<sup>4</sup> The Commission received no comments on the proposals. This order approves the proposed rule changes on an accelerated basis.

#### II. Description of the Proposal

First, the Exchanges propose to eliminate their N&G Committees and provide that the sole stockholder of the Exchanges (Cboe Global Markets, Inc.) shall nominate and elect directors at the annual meetings of the sole stockholder, except with respect to fair-representation directors ("Representative Directors").<sup>5</sup> As a consequence of the elimination of the N&G Committee, the Exchanges propose

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b 4.

<sup>3</sup> In addition, the Exchanges propose to make several formatting changes throughout their Bylaws as well as to change their names in the title and signature lines in their Certificates of Incorporation ("Certificates") to reflect recent changes to their legal names.

<sup>4</sup> See Securities Exchange Act Release No. 82119 (November 20, 2017), 82 FR 56085 (SR-CBOE-2017-072); Securities Exchange Act Release No. 82120 (November 20, 2017), 82 FR 56069 (SR-C2-2017-030) ("Notices").

<sup>5</sup> See *id.* at 56086 and 56069, respectively.

conforming changes to reallocate its responsibility. Specifically, the Exchanges propose to amend the definition of "Representative Director Nominating Body" to provide that if an Exchange's Board of Directors ("Board") has two or more Industry Directors, excluding directors that are Exchange employees, those Industry Directors shall act as the Representative Director Nominating Body. If there are fewer than two Industry Directors on the Board (excluding directors that are employees of the Exchange), then the Trading Permit Holder Subcommittee of the Advisory Board shall act as the Representative Director Nominating Body. The Exchanges further propose to amend their Bylaws and Certificates to provide that the sole stockholder is bound to nominate and elect the Representative Directors nominees recommended by the Representative Director Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Lastly, the Exchanges each propose to amend Section 3.1 of their Bylaws to provide that the Board is responsible for determining whether a director candidate satisfies the applicable qualifications for election as a director.

Second, the Exchanges propose to transfer the N&G Committee's current authority with respect to committee appointments to their Boards (or appropriate subcommittee of the Board).<sup>6</sup> Specifically, the Exchanges propose to amend Section 4.2 and 6.1 of their Bylaws to state that members of the Executive Committee and Advisory Board will be appointed by the Board. The Exchanges also propose to amend Section 4.4 of their Bylaws to state that members of the ROCC will be appointed by the Board on the recommendation of the Non-Industry Directors of the Board. Lastly, Cboe proposes to amend its Rule 2.1 to provide that the Board shall appoint the Chairman, Vice Chairman (if any) and members to the Business Conduct Committee ("BCC") as well as fill any vacancies on the BCC.

Third, the Exchanges propose to amend their Bylaws to alter the process for filling director vacancies.<sup>7</sup> Specifically, the Exchanges propose to amend Section 3.4 of their Bylaws to provide that in the event any Industry or Non-Industry Director fails to maintain the required qualifications and the director's term is accordingly terminated, the sole stockholder, instead of the Board, shall be able to fill the

<sup>6</sup> See *id.* at 56086 and 56070, respectively.

<sup>7</sup> See *id.* at 56086 and 56070, respectively.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

vacancy.<sup>8</sup> The Exchanges also propose to amend Section 3.5 of their Bylaws to provide the sole stockholder with authority to fill vacancies so long as the elected director qualifies for the position. Additionally, with respect to vacancies among the Representative Directors, the Representative Director Nominating Body will recommend an individual, or provide a list of recommended individuals, to the sole stockholder who shall select and fill the position.

Fourth, the Exchanges propose to change the name of the ROCC to the “Regulatory Oversight Committee” (“ROC”).<sup>9</sup> As such, the Exchanges propose to remove the word “Compliance” from references to the “ROCC” in the Bylaws and, as applicable, Exchange rules.

Finally, the Exchanges propose to change their names in the title and signature lines in their Certificates to reflect recent changes to their legal names.<sup>10</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of Section 6 of the Act<sup>11</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>12</sup> In particular, the Commission finds that the proposed rule changes are consistent with Sections 6(b)(1) the Act,<sup>13</sup> which require a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act, and to comply and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Commission also finds that the proposed rule changes are consistent with Section 6(b)(3) of the Act,<sup>14</sup> which requires that the rules of

<sup>8</sup> Amended Section 3.4 would also provide that if such terminated director requalified, the sole stockholder would have discretion to reappoint such director, including by increasing the size of the Board, should that be necessary.

<sup>9</sup> The Exchanges note that the regulatory oversight committees of its affiliated exchanges does not use the term “Compliance” in their Committees’ name. See Notices, *supra* note 5 at 56087 n.8 and 56070 n.8, respectively.

<sup>10</sup> Other technical formatting changes occur throughout the Bylaws as a result of the Exchanges proposed changes. See Notices, *supra* note 5 at 56087 and 56070, respectively.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> In approving these proposed rule changes, the Commission has considered the proposed rules’ impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>13</sup> 15 U.S.C. 78f(b)(1).

<sup>14</sup> 15 U.S.C. 78f(b)(3).

a national securities exchange assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer.

The Commission believes that the Exchanges’ proposals to eliminate their N&G Committees and reassign the N&G Committees’ responsibilities are consistent with the Act. In particular, with respect to vesting the authority to nominate and elect directors in the sole stockholder, the Exchanges cite to the rules of another Exchange that similarly does not maintain an exchange-level nominating committee and instead provides that the sole stockholder of the Exchange nominates and elects their non-fair representation directors.<sup>15</sup> Importantly, the Commission notes that the proposed rule changes do not substantively impact the provisions concerning the nomination and selection of fair representation directors that currently apply to the Exchanges. The sole stockholder will continue to be bound to nominate and elect the Representative Director nominees recommended by the Representative Director Nominating Body and there are no other changes to the process for the nomination and selection of Representative Directors. Accordingly, the Commission believes that members of the Exchanges should continue to have a voice in the governance of the Exchanges through Board representation and thus will have a voice in the Exchanges’ exercise of their self-regulatory authority. The Exchanges represent that they are not proposing to amend any of the compositional requirements currently set forth in the Bylaws and that such existing compositional requirements must continue to be satisfied, including the provision relating to the fair representation of members.<sup>16</sup>

In addition, with respect to providing the Board, as opposed to the N&G Committee, with the authority to recommend and approve members of the Executive Committee, Advisory Board, ROC and BCC, the Commission notes that other exchanges provide that their Boards, without input from a nominating committee, may appoint members to committees.<sup>17</sup> While the

<sup>15</sup> See Section 3.02(f) of the Amended and Restated NYSE Arca, Inc. Bylaws. See also Notices, *supra* note 5 at 56086 and 56069, respectively.

<sup>16</sup> See *id.* at 56087 and 56071, respectively.

<sup>17</sup> See e.g., Eleventh Amended and Restated Operating Agreement of New York Stock Exchange, LLC, Section 2.03(h) and By-Laws of Nasdaq Phlx LLC, Section 5–3.

internal Exchange delegations of the authority relating to the (i) nomination and election of directors, (ii) nominating body for Representative Directors, (iii) filling of director vacancies and (iv) appointment of committees are being amended, the Exchanges represent that the substantive requirements of the Exchanges applicable to those items will remain the same.<sup>18</sup>

The Commission further believes that the proposals to change the name of the ROCC to the ROC are consistent with the Act as they may clarify the scope of the ROC’s activities. Moreover, the Exchanges note that changing the name of the committee would harmonize the names with the name of the regulatory oversight committee of their affiliated exchanges.<sup>19</sup>

Finally, the Commission believes that the proposals to update the exchanges’ names in their Certificates are consistent with the Act as they may also serve to reduce potential confusion by ensuring the Exchanges’ corporate documents reflect their recent name changes.

### IV. Accelerated Approval of Proposed Rule Changes

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>20</sup> to approve the proposed rule changes prior to the 30th day after the date of publication of the Notices in the **Federal Register**.<sup>21</sup> The Commission believes that the proposed rule changes do not raise novel regulatory issues and are substantively similar to the existing rules of other national securities exchanges.<sup>22</sup> In particular, the Commission notes that the proposed rule changes do not substantively impact the provisions concerning the nomination and selection of fair representation directors that currently apply to the Exchanges. Members of the Exchanges should continue to have an opportunity to participate in the selection of Board representation and have input into the Exchanges’ exercise of self-regulatory authority. In addition, the Commission did not receive any comment on the proposed changes. Accordingly, the Commission finds that good cause exists to approve the proposed rule changes on an accelerated basis.

<sup>18</sup> See *id.*

<sup>19</sup> See *supra* note 10.

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> As noted above, the Notices were published for comment in the **Federal Register** on November 27, 2017 and the comment period closed on December 12, 2017. Accordingly, the 30th day after publication of the Notices is December 27, 2017.

<sup>22</sup> See notes 15 and 17, *supra*.

## V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act<sup>23</sup> that the proposed rule changes (SR-CBOE-2017-072; SR-C2-2017-030) be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

Robert W. Errett,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82340; File No. SR-NYSEArca-2017-112]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Approving on an Accelerated Basis a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the GraniteShares Palladium Trust Under NYSE Arca Rule 8.201-E

December 15, 2017.

#### I. Introduction

On September 12, 2017, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares of the GraniteShares Palladium Trust under NYSE Arca Rule 8.201-E. The proposed rule change was published for comment in the **Federal Register** on October 3, 2017.<sup>3</sup> On October 24, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the proposed rule change as originally filed. On November 16, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which superseded the proposed rule change as modified by Amendment No. 1.<sup>4</sup> The Commission has not

received any comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No.2 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

#### II. Description of the Proposed Rule Change, as Modified by Amendment No. 2

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 Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the GraniteShares Palladium Trust (the “Trust”), under NYSE Arca Rule 8.201-E.<sup>5</sup> Under NYSE Arca Rule 8.201-E, the

asset value (“NAV”) will be calculated; (6) increased the minimum number of Shares that the Exchange will require to be outstanding at the commencement of trading; (7) expanded the circumstances in which the Exchange would or might halt trading in the Shares; (8) specified that the Shares would trade in all of the Exchange’s trading sessions; (9) represented that palladium futures trade on significant exchanges, including the NYMEX (as defined herein), which is regulated by the CFTC (as defined herein) and is a member of ISG (as defined herein); and (10) made certain technical corrections. Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-nysearca-2017-112/nysearca2017112-2693354-161503.pdf>.

<sup>5</sup> On September 8, 2017, the Trust submitted to the Commission its draft registration statement on Form S-1 (the “Registration Statement”) under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an “emerging growth company” may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than \$1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S-1 Registration Statement on a confidential basis with the Commission.

Exchange may propose to list and/or trade pursuant to unlisted trading privileges (“UTP”) Commodity-Based Trust Shares.<sup>6</sup>

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,<sup>7</sup> and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.<sup>8</sup>

The Sponsor of the Trust is GraniteShares LLC, a Delaware limited liability company. The Bank of New York Mellon is the trustee of the Trust (the “Trustee”)<sup>9</sup> and ICBC Standard Bank PLC is the custodian of the Trust (the “Custodian”).<sup>10</sup>

The Commission has previously approved listing on the Exchange under NYSE Arca Rule 8.201-E of other precious metals and palladium-based commodity trusts, including the ETFs Platinum Trust,<sup>11</sup> the ETFs Palladium

<sup>6</sup> Commodity-Based Trust Shares are securities issued by a trust that represents investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

<sup>7</sup> 15 U.S.C. 80a-1.

<sup>8</sup> 17 U.S.C. 1.

<sup>9</sup> The Trustee is responsible for the day-to-day administration of the Trust. The responsibilities of the Trustee include (1) processing orders for the creation and redemption of Baskets; (2) coordinating with the Custodian the receipt and delivery of palladium transferred to, or by, the Trust in connection with each issuance and redemption of Baskets; (3) calculating the net asset value of the Trust on each business day; and (4) selling the Trust’s palladium as needed to cover the Trust’s expenses. The Trust does not have a Board of Directors or persons acting in a similar capacity.

<sup>10</sup> The Custodian is responsible for safekeeping the palladium owned by the Trust. The Custodian is appointed by the Trustee and is responsible to the Trustee under the Trust’s palladium custody agreements. The Custodian will facilitate the transfer of palladium in and out of the Trust through the unallocated palladium accounts it may maintain for each Authorized Participant or unallocated palladium accounts that may be maintained for an Authorized Participant by another palladium-clearing bank approved by the London Palladium and Palladium Market (“LPPM”), and through the loco London account maintained for the Trust by the Custodian on an unallocated basis pursuant to the Trust unallocated account agreement (the “Trust Unallocated Account”). The Custodian is responsible for allocating specific bars of palladium to the loco London account maintained for the Trust by the Custodian on an allocated basis pursuant to the Trust agreement (the “Trust Allocated Account”). The Custodian will provide the Trustee with regular reports detailing the palladium transfers in and out of the Trust Unallocated Account with the Custodian and identifying the palladium bars held in the Trust Allocated Account.

<sup>11</sup> Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR-NYSEArca-2009-95).

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 81737 (Sept. 27, 2017), 82 FR 46106.

<sup>4</sup> In Amendment No. 2, the Exchange: (1) Clarified the permitted investments of the Trust (as defined herein); (2) supplemented its description of the duties of the Trust Custodian (as defined herein); (3) provided information about palladium futures; (4) supplemented its description of the process of Share (as defined herein) redemptions; (5) supplemented its description of how the Trust’s net

Trust,<sup>12</sup> and the Sprott Physical Platinum and Palladium Trust.<sup>13</sup>

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201-E and thereby qualify for listing on the Exchange.<sup>14</sup>

#### Operation of the Trust<sup>15</sup>

The investment objective of the Trust will be for the Shares to reflect the performance of the price of palladium, less the expenses and liabilities of the Trust. The Trust will issue Shares which represent units of fractional undivided beneficial interest in and ownership of the Trust.

The Trust will not hold or trade in any instrument or asset on any futures exchange or over the counter (“OTC”) other than physical palladium bullion. The Trust will take delivery of physical palladium bullion that complies with the LPPM palladium delivery rules.

The Shares are intended to constitute a simple and cost-effective means of making an investment similar to an investment in palladium. Although the Shares are not the exact equivalent of an investment in palladium, they provide investors with an alternative that allows a level of participation in the palladium market through the securities market.

#### Operation of the Palladium Market

The global trade in palladium consists of OTC transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options. According to the Registration Statement, most trading in physical palladium is conducted on the OTC market, predominantly in Zurich and London. The LPPM coordinates various OTC market activities, including clearing and vaulting, acts as the principal intermediary between physical palladium market participants and the relevant regulators, promotes good trading practices and develops standard market documentation. In addition, the LPPM promotes refining standards for the palladium market by maintaining the “London/Zurich Good Delivery List,” which are the lists of LPPM accredited melters and assayers of palladium.

<sup>12</sup> Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR-NYSEArca-2009-94).

<sup>13</sup> Securities Exchange Act Release No. 68430 (December 13, 2012), 77 FR 75239 (December 13, 2012) [sic] (SR-NYSEArca-2012-111).

<sup>14</sup> With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7).

<sup>15</sup> The description of the operation of the Trust, the Shares and the palladium market contained herein are based, in part, on the Registration Statement. See note 5, *supra*.

The most significant palladium futures exchanges are the New York Mercantile Exchange, Inc. (“NYMEX”), a subsidiary of the Chicago Mercantile Exchange Group (the “CME Group”), and the Tokyo Commodity Exchange.<sup>16</sup> U.S. futures exchanges are registered with the Commodities Futures Trading Commission (“CFTC”) and seek to provide a neutral, regulated marketplace for the trading of derivatives contracts for commodities, such as futures, options and certain swaps. The palladium contract market is of significant size and liquidity.

The basis for settlement and delivery of a spot trade is payment (generally in U.S. dollars) two business days after the trade date against delivery. Delivery of the palladium can either be by physical delivery or through the clearing systems to an unallocated account. The unit of trade in London and Zurich is the troy ounce, whose conversion between grams is: 1,000 grams is equivalent to 32.1507465 troy ounces, and one troy ounce is equivalent to 31.1034768 grams.

A good delivery palladium plate or ingot is acceptable for delivery in settlement of a transaction on the OTC market (a “Good Delivery Palladium Plate or Ingot”). A Good Delivery Palladium Plate or Ingot must contain between 32 and 192 troy ounces of palladium with a minimum fineness (or purity) of 999.5 parts per 1,000 (99.95%), be of good appearance, and be easy to handle and stack. A Good Delivery Palladium Plate or Ingot must also bear the stamp of one of the melters and assayers who are on the LPPM approved list. Unless otherwise specified, the palladium spot price always refers to the “Good Delivery Standards” set by the LPPM.

#### Creation and Redemption of Shares

The Trust will create and redeem Shares on a continuous basis in one or more blocks of 15,000 Shares (a block of 15,000 Shares is called a “Basket”). As described below, the Trust will issue Shares in Baskets to certain authorized participants (“Authorized Participants”) on an ongoing basis. Baskets of Shares will only be issued or redeemed in exchange for an amount of palladium represented by the aggregate number of Shares issued or redeemed. No Shares will be issued unless the Custodian has allocated to the Trust’s account the corresponding amount of palladium. Initially, a Basket will require delivery of 1,500 ounces of palladium. The amount of palladium necessary for the

creation of a Basket, or to be received upon redemption of a Basket, will decrease over the life of the Trust, due to the payment or accrual of fees and other expenses or liabilities payable by the Trust.

Baskets may be created or redeemed only by Authorized Participants. Orders must be placed by 3:59 p.m. Eastern Time (“ET”). The day on which a Trust receives a valid purchase or redemption order is the order date.

Each Authorized Participant must be a registered broker-dealer, a participant in Depository Trust Corporation (“DTC”), have entered into an agreement with the Trustee (the “Authorized Participant Agreement”) and have established a palladium unallocated account with the Custodian or another LPPM-approved palladium clearing bank. The Authorized Participant Agreement provides the procedures for the creation and redemption of Baskets and for the delivery of palladium in connection with such creations or redemptions.

According to the Registration Statement, Authorized Participants, acting on authority of the registered holder of Shares or on their own account, may surrender Baskets of Shares in exchange for the corresponding amount of palladium (measured in ounces) announced by the Trustee (the “Basket Amount”). Upon surrender of such Shares and payment of the Trustee’s applicable fee and of any expenses, taxes or charges (such as stamp taxes or stock transfer taxes or fees), the Trustee will deliver to the order of the redeeming Authorized Participant the amount of palladium corresponding to the redeemed Baskets. Shares can only be surrendered for redemption in Baskets of 15,000 Shares each.

Before surrendering Baskets of Shares for redemption, an Authorized Participant must deliver to the Trustee a written request indicating the number of Baskets it intends to redeem. The date the Trustee receives that order determines the Basket Amount to be received in exchange. However, orders received by the Trustee after 3:59 p.m. ET on a business day or on a business day when the London Bullion Market Association (“LBMA”) Palladium Price PM or other applicable benchmark price is not announced, will not be accepted.

The redemption distribution from the Trust will consist of a credit to the redeeming Authorized Participant’s unallocated account representing the amount of the palladium held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order.

<sup>16</sup> NYMEX is a member of the Intermarket Surveillance Group (“ISG”).

### Net Asset Value

The NAV of the Trust will be calculated by subtracting the Trust's expenses and liabilities on any day from the value of the palladium owned by the Trust on that day; the NAV per Share will be obtained by dividing the NAV of the Trust on a given day by the number of Shares outstanding on that day. On each day on which the Exchange is open for regular trading, the Trustee will determine the NAV as promptly as practicable after 4:00 p.m. ET. The Trustee will value the Trust's palladium on the basis of LBMA Palladium Price PM. If there is no LBMA Palladium Price PM on any day, the Trustee is authorized to use the LBMA Palladium Price AM announced on that day. If neither price is available for that day, the Trustee will value the Trust's palladium based on the most recently announced LBMA Palladium Price PM or LBMA Palladium Price AM. If the Sponsor determines that such price is inappropriate to use, the Sponsor will identify an alternate basis for evaluation to be employed by the Trustee by consulting other public sources of pricing information. For instance, the Sponsor could use the palladium spot price published by Bloomberg.

Authorized Participants will offer Shares in the secondary market at an offering price that will vary, depending on, among other factors, the price of palladium and the trading price of the Shares on the Exchange at the time of offer. Authorized Participants will not receive from the Trust, the Sponsor, the Trustee or any of their affiliates any fee or other compensation in connection with the offering of the Shares.

### Secondary Market Trading

While the Trust seeks to reflect generally the performance of the price of palladium less the Trust's expenses and liabilities, Shares may trade at, above or below their NAV. The NAV of Shares will fluctuate with changes in the market value of the Trust's assets. The trading prices of Shares will fluctuate in accordance with changes in their NAV as well as market supply and demand. The amount of the discount or premium in the trading price relative to the NAV may be influenced by non-concurrent trading hours between the major palladium markets and the Exchange. While the Shares trade on the Exchange until 8:00 p.m. ET, liquidity in the market for palladium may be reduced after the close of the major world palladium markets, including London, Zurich and NYMEX. As a result, during this time, trading spreads, and the

resulting premium or discount, on Shares may widen.

### Availability of Information Regarding Palladium

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as palladium over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about palladium and palladium markets available on public websites and through professional and subscription services.

Investors may obtain palladium pricing information on a 24-hour basis based on the spot price for an ounce of palladium from various financial information service providers, such as Reuters and Bloomberg.

Reuters and Bloomberg provide at no charge on their websites delayed information regarding the spot price of palladium and last sale prices of palladium futures, as well as information about news and developments in the palladium market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on palladium prices directly from market participants. ICAP plc provides an electronic trading platform called EBS for the trading of spot palladium, as well as a feed of real-time streaming prices, delivered as record-based digital data from the EBS platform to its customer's market data platform via Bloomberg or Reuters.

Complete real-time data for palladium futures and options prices traded on the NYMEX are available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its website. There are a variety of other public websites providing information on palladium, ranging from those specializing in precious metals to sites maintained by major newspapers, such as The Wall Street Journal.

### Availability of Information

The intraday indicative value ("IIV") per Share for the Shares will be disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The IIV will be calculated based on the amount of palladium held by the Trust and a price of palladium

derived from updated bids and offers indicative of the spot price of palladium.<sup>17</sup>

The website for the Trust ([www.graniteshares.com](http://www.graniteshares.com)) will contain the following information, on a per Share basis, for the Trust: (a) The mid-point of the bid-ask price<sup>18</sup> at the close of trading ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Trust will also provide the Trust's prospectus. Finally, the Trust's website will provide the prior day's closing price of the Shares as traded in the U.S. market. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

### Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Equities Rule 8.201(e) for initial and continued listing of the Shares.

A minimum of two Baskets or 30,000 Shares will be required to be outstanding at the start of trading, which is equivalent to 3,000 ounces of palladium. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

### 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. Trading in the Shares on the Exchange will occur during all three trading sessions in accordance with NYSE Arca Rule 7.34-E(a). 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

<sup>17</sup> The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

<sup>18</sup> The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.



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 quoting and order entry is \$0.0001.

Further, NYSE Arca Rule 8.201–E sets forth certain restrictions on ETP Holders<sup>19</sup> acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201–E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying palladium, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 11.3 requires an ETP Holder acting as a registered Market Maker in the Shares and its affiliates to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying palladium market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be

subject to trading halts caused by extraordinary market volatility pursuant to the Exchange’s “circuit breaker” rule.<sup>20</sup> The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily or if not made available to all participants at the same time. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange will also consider halting trading on a business day when the LBMA Palladium Price PM or other applicable benchmark price is not announced.

#### 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.<sup>21</sup> 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 federal securities laws applicable to trading on the Exchange.

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 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 in the Shares from such markets and other entities. In addition, the Exchange may obtain information

regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>22</sup>

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying palladium, palladium futures contracts, options on palladium futures, or any other palladium derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders’ proprietary or customer trades through ETP Holders which they effect on any relevant market.

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 or reference asset, (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 of the Trust on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust 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 Trust 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 ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 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) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or

<sup>19</sup> An “ETP Holder” means a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that is a registered broker-dealer and has been issued an Equity Trading Permit by the Exchange. See NYSE Arca Rules 1.1(n) and (o).

<sup>20</sup> See NYSE Arca Rule 7.12–E.

<sup>21</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

<sup>22</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org).

concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of palladium trading during the Core and Late Trading Sessions after the close of the major world palladium markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical palladium, that the Commission has no jurisdiction over the trading of palladium as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of palladium futures contracts and options on palladium futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>23</sup> 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 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange 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. The most significant palladium futures exchange in the U.S. is the NYMEX, which is a member of ISG. U.S. futures exchanges are registered with the CFTC and seek to provide a neutral, regulated marketplace for the trading of derivatives contracts for commodities, such as futures, options and certain swaps. The palladium contract market is of significant size and liquidity.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of palladium price and palladium market information available on public websites and through professional and subscription services. Investors may obtain palladium pricing information on a 24-hour basis based on the spot price for an ounce of palladium from various financial information service providers. Delayed information regarding the spot price of palladium and last sale prices of palladium futures, as well as information about news and developments in the palladium market, are also available from financial information service providers. Information on palladium prices directly from market participants is also available from financial information service providers. An electronic trading platform called EBS for the trading of spot palladium, as well as a feed of real-time streaming prices, is also available from information service providers.

The NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. The Trust's website will also provide the Trust's prospectus, as well as the two most recent reports to stockholders. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

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 exchange-traded product that will enhance competition

among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares 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 palladium pricing.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical palladium.

### *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. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposed rule change, as modified by Amendment No. 2 to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>24</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,<sup>25</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Exchange has represented that it will be able to share surveillance information with a significant, regulated market for trading futures on palladium.<sup>26</sup> The

<sup>24</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>25</sup> 15 U.S.C. 78f(b)(5).

<sup>26</sup> Specifically, according to the Exchange, NYMEX, which is regulated by the Commodity

<sup>23</sup> 15 U.S.C. 78f(b)(5).

Commission also notes that it previously approved the listing and trading of shares of another issue of Commodity-Based Trust Shares overlying palladium.<sup>27</sup>

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,<sup>28</sup> which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The last-sale price of the Shares will be disseminated over the Consolidated Tape. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately. NYSE Arca Rule 8.201–E(e)(2)(v) requires that an IIV (which is referred to in the rule as the “Indicative Trust Value”) be made available at least every 15 seconds. The IIV will be calculated based on the amount of palladium held by the Trust and a price of palladium derived from updated bids and offers indicative of the spot price of palladium.<sup>29</sup> The Exchange states that the IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.<sup>30</sup> According to the Exchange, there is a considerable amount of information about palladium markets

Futures Trading Commission, is a member of the ISG, which will allow the Exchange to obtain surveillance information. See Amendment No. 2, *supra* note 4, at 6, 14.

<sup>27</sup> See Securities Exchange Act Release No. 61220 (Dec. 22, 2009), 74 FR 68895 (Dec. 29, 2009) (SR–NYSEArca–2009–94) (approving the listing and trading of the ETFS Physical Palladium Trust). See also Securities Exchange Act Release Nos. 62692 (Aug. 11, 2010), 75 FR 50789 (Aug. 17, 2010) (SR–NYSEArca–2010–56) (approving the listing and trading of the ETFS Physical Precious Metals Basket Trust); 62875 (Sept. 9, 2010), 75 FR 56156 (Sept. 15, 2010) (SR–NYSEArca–2010–71) (approving the listing and trading of the ETFS Physical White Metals Basket Trust); and 68101 (Oct. 24, 2012), 77 FR 65732 (Oct. 30, 2012) (SR–NYSEArca–2012–111) (approving the listing and trading of the Sprott Physical Platinum and Palladium Trust).

<sup>28</sup> 15 U.S.C. 78k–1(a)(1)(C)(iii).

<sup>29</sup> See Amendment No. 2, *supra* note 4, at 9–10.

<sup>30</sup> See *id.* at 9.

available on public websites and through professional and subscription services. Investors may obtain palladium pricing information on a 24-hour basis based on the spot price for an ounce of palladium from various financial information service providers.<sup>31</sup>

Additionally, the NAV of the Trust will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website.<sup>32</sup> The Trust also will publish the following information on its website: (1) The mid-point of the Bid/Ask Price as of close of trading, and a calculation of the premium or discount of such price against the NAV; (2) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters; (3) the Trust's prospectus, as well as the two most recent reports to stockholders; and (4) the prior day's closing price of the Shares as traded in the U.S. market.<sup>33</sup>

The Commission also believes that the proposal is reasonably designed to prevent trading when a reasonable degree of transparency cannot be assured. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying palladium market have caused disruptions or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly

<sup>31</sup> See Amendment No. 2, *supra* note 4, at 9. The Exchange states that Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of palladium and last sale prices of palladium, as well as information about news and developments in the palladium market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on palladium prices directly from market participants. ICAP plc provides an electronic trading platform called EBS for the trading of spot palladium, as well as a feed of real-time streaming prices, delivered as record-based digital data from the EBS platform to its customer's market data platform via Bloomberg or Reuters. Complete real-time data for palladium futures and options prices traded on the New York Mercantile Exchange, Inc. (“NYMEX”) are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on palladium, ranging from those specializing in precious metals to sites maintained by major newspapers. See *id.*

<sup>32</sup> See *id.* at 14.

<sup>33</sup> See *id.* at 10, 14.

market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's “circuit breaker” rule.<sup>34</sup> The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily or if not made available to all participants at the same time.<sup>35</sup> The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV; if the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.<sup>36</sup>

Additionally, the Commission notes that market makers in the Shares would be subject to the requirements of NYSE Arca Rule 8.201–E(g), which allow the Exchange to ensure that they do not use their positions to violate the requirements of Exchange rules or applicable federal securities laws.<sup>37</sup>

In support of this proposal, the Exchange has made the following additional representations:

(1) The Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E.<sup>38</sup>

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.<sup>39</sup>

(3) The Exchange deems the Shares to be equity securities.<sup>40</sup>

(4) The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.<sup>41</sup>

(5) 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

<sup>34</sup> See *id.* at 11, n.18 and accompanying text.

<sup>35</sup> See *id.* at 11.

<sup>36</sup> See *id.* at 11–12.

<sup>37</sup> Commentary .04 of NYSE Arca Equities Rule 11.3 requires that an ETP Holder acting as a registered market maker in the Shares, and its affiliates, establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments.

<sup>38</sup> See Amendment No. 2, *supra* note 4, at 14.

<sup>39</sup> See *id.* at 10.

<sup>40</sup> See *id.* The Commission notes that, as a result, trading of the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.

<sup>41</sup> See *id.* at 12–13.

Exchange rules and applicable federal securities laws, and 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 federal securities laws applicable to trading on the Exchange.<sup>42</sup>

(6) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares 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 in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>43</sup>

(7) 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. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(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) how information regarding the IIV is disseminated; (4) ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of palladium trading during the Core and Late Trading Sessions after the close of the major world palladium markets; and (6) trading information.<sup>44</sup>

(8) All statements and representations made in the Exchange's filing regarding (a) the description of the portfolio or reference asset, (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

<sup>42</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. *See id.* at 12, n.19.

<sup>43</sup> *See id.* at 12.

<sup>44</sup> *See id.* at 13.

requirements for listing the Shares of the Trust on the Exchange.<sup>45</sup>

(9) The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor<sup>46</sup> for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the NYSE Arca Rule 5.5–E(m).<sup>47</sup>

This approval order is based on all of the Exchange's representations—including those set forth above and in Amendment No. 2—and the Exchange's description of the Trust.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act<sup>48</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2 to the proposed rule change. 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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2017–112 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–2017–112. This

<sup>45</sup> *See id.*

<sup>46</sup> The Commission notes that certain proposals for the listing and trading of exchange-traded products include a representation that the exchange will “surveil” for compliance with the continued listing requirements. *See, e.g.*, Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428, 20432 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that “monitor” and “surveil” both mean ongoing oversight of compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or less stringent obligation than “surveil” with respect to the continued listing requirements.

<sup>47</sup> *See id.*

<sup>48</sup> 15 U.S.C. 78f(b)(5).

file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–112 and should be submitted on or before January 11, 2018.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the 30th day after the date of publication of notice of Amendment No. 2 in the **Federal Register**. Amendment No. 2 supplements the proposal by providing additional information regarding the Trust and the palladium futures market, and by expanding the circumstances in which the Exchange would or might halt trading in the Shares. These changes assisted the Commission in evaluating the Shares' susceptibility to manipulation, and in determining that the listing and trading of the Shares is consistent with the protection of investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,<sup>49</sup> to approve the proposed rule change, as

<sup>49</sup> 15 U.S.C. 78s(b)(2).

modified by Amendment No. 2, on an accelerated basis.

## VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>50</sup> that the proposed rule change (SR-NYSEArca-2017-112), as modified by Amendment No. 2 be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>51</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-27468 Filed 12-20-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SMALL BUSINESS ADMINISTRATION

### Interest Rates

The Small Business Administration publishes an interest rate called the optional “peg” rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.375 percent for the January–March quarter of FY 2018.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender’s commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

**Dianna L. Seaborn,**

*Director, Office of Financial Assistance.*

[FR Doc. 2017-27500 Filed 12-20-17; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2017-100]

#### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**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, this aspect of the FAA’s regulatory activities. 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 involved and must be received on or before January 10, 2018.

**ADDRESSES:** Send comments identified by docket number FAA-2017-1156 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, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lynette Mitterer, AIR-673, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98057-3356, email [Lynette.Mitterer@faa.gov](mailto:Lynette.Mitterer@faa.gov), phone (425) 227-1047; or Alphonso Pendergrass, ARM-200, Office of Rulemaking, Federal Aviation Administration, 800 Independence

Avenue SW, Washington, DC 20591, email [alphonso.pendergrass@faa.gov](mailto:alphonso.pendergrass@faa.gov), phone (202) 267-4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on December 15, 2017.

**Victor Wicklund,**

*Manager, Transport Standards Branch.*

#### Petition for Exemption

*Docket No.:* FAA-2017-1156.

*Petitioner:* Hillwood Airways LLC.

*Sections of 14 CFR Affected:* §§ 25.855(a), 25.857(e), and 25.1447(c)(1).

*Description of Relief Sought:* Allow the carriage of up to five non-crewmembers (commonly known as supernumeraries), to support humanitarian relief efforts on Boeing 737-700C airplanes.

[FR Doc. 2017-27446 Filed 12-20-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2017-0122]

#### Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that on October 17, 2017, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA-2017-0122.

*Applicant:* Union Pacific Railroad, Mr. Kevin D. Hicks, AVP Engineering—Design, 1400 Douglas Street, MS 0910, Omaha, NE 68179.

Union Pacific seeks to retire the absolute signals at control point (CP) E003 and CP E008 and install back to back intermediate signals on main tracks #1 and #2, at milepost (MP) 7.90, on the Kenosha Subdivision in Chicago, IL. The switch machines and crossovers at both CP E003 and CP E008 have been removed and the stations are no longer utilized for their original functions. The purpose of this retirement is to expedite train movements in the area.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation’s (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

<sup>50</sup> 15 U.S.C. 78s(b)(2).

<sup>51</sup> 17 CFR 200.30-3(a)(12).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Communications received by February 5, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety  
Chief Safety Officer.*

[FR Doc. 2017-27476 Filed 12-20-17; 8:45 am]

**BILLING CODE 4910-06-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

[Docket Number FRA-2017-0101]

**Petition for Modification of Single Car Air Brake Test Procedures**

Under part 232 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on September 21, 2017, the Long Island Rail Road (LIRR) requested the Federal Railroad Administration (FRA) grant a modification of the single car air brake test procedures as prescribed in 49 CFR 232.305(a). FRA assigned the request Docket Number FRA-2017-0101.

As described in its request, LIRR has modified several M1/M3 Multiple Unit passenger cars for use as Alcohol-Sandite (ALSA) cars for third rail ice removal and running rail adhesion conditioning. These cars were originally equipped with RT-5A brake equipment for Electric Multiple unit operation and D-1-A triple valve brake system (D-1-A) for use with conventional locomotives. As converted, the ALSA cars will operate exclusively with the original D-1-A system. With these modifications, the ALSA cars will fall under the definition of freight cars and will be subject to the single car brake testing requirements of 49 CFR 232.305.

Section 232.305 requires testing in accordance with the Association of American Railroads (AAR) procedure S-486-04 or a modified procedure approved by FRA pursuant to 49 CFR 232.307. The tests in AAR S-486-04 are intended for freight cars with systems significantly different from the D-1-A system used on the ALSA cars and cannot be used for testing this equipment. LIRR has developed an alternative single car brake test procedure customized to the D-1-A system for use on the ALSA cars. The procedure, specified in LIRR's posted Maintenance Instruction Letter MIL-2097-M4, closely conforms to all applicable sections of S-486-04 and LIRR asserts that it provides an equivalent level of safety. LIRR requests that it be granted special approval to use MIL-2097-M4 for single car brake testing on ALSA cars.

A copy of these documents and the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m.

to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Docket Number FRA-2017-0101) and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 20, 2018 will be considered by FRA before final action is taken. Pursuant to 49 CFR 232.307(d), if no comment objecting to the requested modification is received during the 60-day comment period, or if FRA does not issue a written objection to the requested modification, the modification will become effective on March 6, 2018.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

[FR Doc. 2017-27475 Filed 12-20-17; 8:45 am]

**BILLING CODE 4910-06-P**

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD-2017-0198]****Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SILVERGIRL; Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.  
**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 January 22, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2017-0198. 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](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel SILVERGIRL is:

—Intended Commercial Use of Vessel: “Sailboat charters”  
—Geographic Region: “Florida”

The complete application is given in DOT docket MARAD-2017-0198 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](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://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: December 15, 2017.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2017-27471 Filed 12-20-17; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD-2017-0197]****Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ALOHA SWIM; Invitation for Public Comments****AGENCY:** Maritime Administration, DOT.  
**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 January 22, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2017-0197. 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](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel ALOHA SWIM is:

—Intended Commercial Use of Vessel: 6 pack tour boat

—Geographic Region: “Hawaii”

The complete application is given in DOT docket MARAD-2017-0197 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](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14



FDMS, accessible through [www.dot.gov/privacy](http://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: December 15, 2017.

**T. Mitchell Hudson, Jr.,**  
*Secretary, Maritime Administration.*

[FR Doc. 2017-27473 Filed 12-20-17; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

[Docket No. MARAD-2017-0195]

**Requested Administrative Waiver of the Coastwise Trade Laws: Vessel THE FRANCES MAE; Invitation for Public Comments**

**AGENCY:** Maritime Administration, DOT.  
**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 January 22, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2017-0195. 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](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel THE FRANCES MAE is:

- Intended Commercial Use of Vessel: “12 or fewer passengers for hire”
- Geographic Region: “California, Oregon, Washington State, Eastern Florida, South Carolina, North Carolina, Virginia, Massachusetts, New York, Maine”

The complete application is given in DOT docket MARAD-2017-0195 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](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://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: December 15, 2017.

**T. Mitchell Hudson, Jr.,**  
*Secretary, Maritime Administration.*

[FR Doc. 2017-27470 Filed 12-20-17; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

[Docket No. MARAD-2017-0196]

**Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEAFOOD; Invitation for Public Comments**

**AGENCY:** Maritime Administration, DOT.  
**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 January 22, 2018.

**ADDRESSES:** Comments should refer to docket number MARAD-2017-0196. 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](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel SEAFOOD is:

- Intended Commercial Use of Vessel: Six-pack OUPV passenger-for hire operation operating weekend excursions and overnight trips predominantly in the Mid-Atlantic

area, to include occasional sport fishing but no commercial fishing—Geographic Region: “Maryland, Virginia, Delaware, New Jersey, Florida”

The complete application is given in DOT docket MARAD–2017–0196 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](http://www.regulations.gov), as described in the system of records notice, DOT/ALL–14 FDMS, accessible through [www.dot.gov/privacy](http://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: December 15, 2017.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2017–27472 Filed 12–20–17; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Notice of Intent To Re-Establish the Information Reporting Program Advisory Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** The Internal Revenue Service intends to re-establish the Information Reporting Program Advisory Committee for a period of one year. The final conference report for the Omnibus Budget Reconciliation Act of 1989 (H.R. 3299) recommended that the Internal Revenue Service establish a federal advisory committee to discuss improvement to the information reporting program (IRP). The first IRPAC was created in 1991. The IRPAC is the only advisory committee designed to

focus on information reporting issues. IRPAC members usually come from the tax professional community, small and large businesses, financial institutions, state tax administration agencies, colleges and universities, and securities and payroll organizations. Specific subject matter and technical expertise in information reporting administration issues, such as knowledge and expertise in producing and using information reporting returns, are generally required to accomplish the tasks of the IRPAC.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Tonjua Menefee, National Public Liaison, CL:NPL:BSRM, Rm. 7559, 1111 Constitution Avenue NW, Washington, DC 20224.

*Phone:* 202–317–6851 (not a toll-free number).

*Email address:* [PublicLiaison@irs.gov](mailto:PublicLiaison@irs.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that IRS intends to re-establish the Information Reporting Program Advisory Committee (IRPAC) January 5, 2018.

Should you wish to contact IRPAC, please call 202–317–6851, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:SRM, Room 7559, 1111 Constitution Avenue NW, Washington, DC 20224 or email: [PublicLiaison@irs.gov](mailto:PublicLiaison@irs.gov).

Dated: December 15, 2017.

**Darlene Frank,**

*Designated Federal Official, Branch Chief, National Public Liaison.*

[FR Doc. 2017–27457 Filed 12–20–17; 8:45 am]

**BILLING CODE 4830–01–P**



# FEDERAL REGISTER

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Vol. 82

Thursday,

No. 244

December 21, 2017

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Part II

The President

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Proclamation 9686—Wright Brothers Day, 2017



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# Presidential Documents

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Title 3—

Proclamation 9686 of December 15, 2017

The President

Wright Brothers Day, 2017

**By the President of the United States of America****A Proclamation**

On December 17, 1903, a handcrafted biplane lifted off the soft sand of a windswept beach in Kitty Hawk, North Carolina, ushering in the age of aviation. The flight lasted a mere 12 seconds, and covered only 120 feet, but it changed the course of history. On Wright Brothers Day, we honor the two American pioneers from Dayton, Ohio, who first achieved powered flight, one of the most remarkable triumphs of the 20th century.

Orville and Wilbur Wright shared a fascination with flight and a desire to push the limits of the possible. They were bicycle mechanics by trade, and though they lacked formal education and resources, they excelled in aviation through determination and tenacity. They built their own research facilities, learned and tested principles of engineering and aerodynamics, and endured years of failure as they improved on their designs.

Aviation has transformed modern life. The Golden Age of Flight during the 1920s and 1930s captured the imagination of the American people, and soon opened commercial opportunities for transport and trade. Two world wars led to the development of the modern U.S. Air Force, strengthening our national security and enabling us to command the battlefield and protect our homeland from the sky. Aviation has also connected far-away nations, changing the way we conduct business, spend our leisure time, and spread new ideas. In only 60 years' time, aviation expanded from the familiar to a new unknown—from speeding us through the clouds to launching us into space.

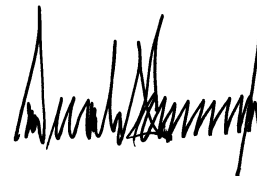
The same spirit that fueled Orville and Wilbur Wright ignited a passion in other aviation visionaries. In July 1969, American pioneers, Neil Armstrong, Buzz Aldrin, and Michael Collins, completed the first manned mission to the Moon on Apollo 11. To acknowledge aviation's humble beginnings, their spacecraft left Earth's orbit with pieces of wood and a swath of muslin from the left wing of the biplane that made history at Kitty Hawk. The innovative spirit of the Wright brothers also inspired the legendary Joe Sutter who, in just over 2 years, designed and built the iconic 747 jetliner. This glamorous jumbo plane, and the first ever wide-body aircraft, transformed travel through the sky. It has been the aircraft of five United States presidents and was the basis for Sutter receiving the Wright Brothers Memorial Trophy in 1986.

More than a century after conquering flight, the Wright brothers continue to motivate and inspire Americans, who never tire of exploration and innovation. This great American spirit can be found in the design of every new supersonic jet and next-generation unmanned aircraft. Their revolutionary legacy lives on in each airplane take-off and spacecraft launch. On Wright Brothers Day, we celebrate their extraordinary contribution to the strength and success of our Nation.

The Congress, by a joint resolution approved December 17, 1963, as amended (77 Stat. 402; 36 U.S.C. 143), has designated December 17 of each year as "Wright Brothers Day" and has authorized and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim December 17, 2017, as Wright Brothers Day.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of December, 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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