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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS–SC–16–0041; SC16–929–1]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Order Amending Marketing Order 929

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of disposition.

SUMMARY: Notice is hereby given that a referendum to amend Marketing Order and Agreement No. 929 (order), which regulates the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, did not meet the minimum voting requirements for approval. The Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the ''Act'' requires, in part, that a proposed amendment to the cranberries order must be approved by two-thirds of producers voting, or by those voting in the referendum representing at least two-thirds of the volume of cranberries, as well as by processors who have frozen or canned more than 50 percent of the volume of cranberries within the production area. Processors representing only 18 percent of the volume of cranberries within the production area voted in the referendum. Because a minimum of 50 percent of the volume of cranberries processed within the production area is required in order to pass, the referendum did not pass and the proposed amendment will not be implemented. The amendment, which was proposed by the Cranberry Marketing Committee (Committee), would have authorized the Committee to receive and expend voluntary contributions from domestic sources.

DATES: This action is effective August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Julie Santoboni, Rulemaking Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Julie.Santoboni@ams.usda.gov.*

ADDRESSES: Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Order and Agreement No. 929 (order) regulates the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act''. Section 608c(17) of the Act and the applicable rules of practice and procedure (7 CFR part 900) authorize the use of informal rulemaking to amend the order.

A proposed rule and referendum order was issued on December 14, 2016, and published in the **Federal Register** on December 21, 2016 (81 FR 93642). This document directed that a referendum among cranberry producers and processors be conducted during the period of January 23, 2017 through February 13, 2017, to determine whether they favored the proposed amendment to the order. The proposed amendment would authorize the Cranberry Marketing Committee (Committee) to receive and expend voluntary contributions from domestic sources. To become effective, the Act requires that the amendment be approved by two-thirds of producers voting, or by those voting in the referendum representing at least two-thirds of the volume of cranberries. Processors who have processed over 50 percent of the total volume of cranberries processed during a representative period must also approve the amendment.

After tabulation of the ballots, the amendment was approved by 89 percent of the number of producers voting and by 96 percent of the volume voted in the referendum, which exceeds the required two-thirds approval of the producers voting in the referendum or two-thirds of the volume represented in the referendum. Of the processors voting, 89 percent voted in favor of the proposed amendment. However, those processors only represented 18 percent of the total 2015–16 processed production volume. Because a minimum of 50 percent of the total volume of cranberries processed must be represented by the processors voting to approve an amendment, the referendum did not pass. Consequently, the proposed amendment will not be implemented.

Authority: 7 U.S.C. 601–674.

Dated: August 2, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–16656 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 161219999–7708–02]

RIN 0648–BG54

Fisheries of the Exclusive Economic Zone Off Alaska; Integrating Electronic Monitoring Into the North Pacific Observer Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS hereby issues regulations to implement Amendment 114 to the Fishery Management Plan for

Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 104 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (collectively referred to as the FMPs). Amendments 114/104 and this final rule integrate electronic monitoring (EM) into the North Pacific Observer Program (Observer Program). This final rule establishes a process for owners or operators of vessels using nontrawl gear to request to participate in the EM selection pool and the requirements for vessel owners or operators while in the EM selection pool. This action is necessary to improve the collection of data needed for the conservation, management, and scientific understanding of managed fisheries. Amendments 114/104 are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMPs, and other applicable laws.

DATES: Effective September 7, 2017.

ADDRESSES: Electronic copies of Amendments 114/104 and the Environmental Assessment/Regulatory Impact Review prepared for this action (collectively the ''Analysis'') may be obtained from *www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* All public comment letters submitted during the comment periods may be obtained from *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0154.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to *OIRA_Submission@omb.eop.gov;* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington or Jennifer Watson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement, the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), which was signed in Ottawa, Canada, on March 2, 1953, and was amended by the Protocol Amending the Convention, signed in Washington, DC, on March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982.

This final rule implements Amendments 114/104 to the FMPs. The Council submitted Amendments 114/104 for review by the Secretary of Commerce, and NMFS published the Notice of Availability of these amendments in the **Federal Register** on March 10, 2017, with comments invited through May 9, 2017 (82 FR 13302). The Secretary of Commerce approved Amendments 114/104 on June 5, 2017.

NMFS published the proposed rule to implement Amendments 114/104 on March 23, 2017 (82 FR 14853), with comments invited through May 22, 2017. The proposed rule and Amendments 114/104 to the FMPs amend the Council's fisheries research plan prepared under the authority of section 313 of the Magnuson-Stevens Act. The Secretary implemented the fisheries research plan through the North Pacific Observer Program. Its purpose is to collect data necessary for the conservation, management, and scientific understanding of the groundfish and halibut fisheries off Alaska. Magnuson-Stevens Act section 313 requires NMFS to provide a 60-day public comment period on the proposed rule and conduct a public hearing in each state represented on the Council for the purpose of receiving public comment on the proposed regulations. The states represented on the Council are Alaska, Oregon, and Washington.

Per section 313 of the Magnuson-Stevens Act, NMFS conducted public hearings to accept oral and written comments on the proposed rule in Oregon, Washington, and Alaska during the public comment period. The first public hearing was held in conjunction with the April meeting of the Council on April 6, 2017, in Anchorage, AK. The second public hearing was on April 18, 2017, in Seattle, WA. The third public hearing was held on April 19, 2017, in Newport, OR.

NMFS received seven unique relevant comment letters. NMFS received one comment that was outside the scope of this action. NMFS considered 18 unique relevant written and oral comments received by the end of the applicable comment period or at a public hearing, whether specifically directed to the FMP amendments, this proposed rule, or both, in the approval decision for Amendments 114/104 and in this final rule. NMFS summarizes and responds to each comment under the heading Response to Comments below.

A detailed review of the provisions of Amendments 114/104, the proposed regulations to implement Amendments 114/104, and the rationale for these regulations is provided in the preamble to the proposed rule (82 FR 14853, March 23, 2017) and are briefly summarized in this final rule.

Integrating Electronic Monitoring Into the North Pacific Observer Program

The Observer Program is an integral component in the management of North Pacific fisheries. In 2013, the Council and NMFS restructured the Observer Program to address longstanding concerns about statistical bias of observer-collected data and cost inequality among fishery participants with the funding and deployment structure under the previous Observer Program (77 FR 70062, November 21, 2012). The restructured Observer Program established two observer coverage categories: Partial and full. This final rule applies to the partial coverage category and will not change the full coverage category.

The partial coverage category includes fishing sectors (vessels and processors) that are not required to have an observer at all times. The partial coverage category includes catcher vessels, shoreside processors, and stationary floating processors when they are not participating in a catch share program with a transferrable bycatch limit, referred to in regulations as a prohibited species catch limit. Small catcher/processors that meet certain criteria may also be assigned to the partial coverage category.

The restructured Observer Program expanded the vessels subject to observer coverage to include groundfish vessels less than 60 ft in length overall (LOA) and halibut vessels that had not been previously required to carry an observer. Expanding observer coverage to the approximately 950 previously unobserved vessels improved NMFS' ability to estimate total catch in all Federal fisheries in the North Pacific.

The restructured Observer Program created a new system of fees to pay for the cost of implementing observer coverage in the partial coverage category. Vessels and processors included in the partial coverage category pay a fee of 1.25 percent of the ex-vessel value of fishery landings to NMFS to fund the deployment of observers in the partial coverage category. Under section 313 of the

Magnuson-Stevens Act, the fees shall not exceed 2 percent of the fishery ex-vessel value.

Even before implementing the restructured Observer Program, many vessel owners and operators new to the Observer Program were opposed to carrying an observer (77 FR 70062, November 21, 2012). Vessel owners and operators explained that there is limited space on board for an additional person or limited space in the vessel's life raft. Some vessel owners, operators, and industry representatives, particularly those active in nontrawl fisheries (*i.e.,* hook-and-line and pot fisheries), advocated for the use of EM instead of having an observer on board their vessels (77 FR 70062, November 21, 2012).

To address their concerns, the Council and NMFS have been actively engaged in developing EM as a tool to collect fishery data in the nontrawl fisheries. Over the past several years, NMFS and industry participants have undertaken cooperative research to test the applicability and reliability of EM systems. An EM system uses cameras, video storage devices, and associated sensors to record and monitor fishing activities.

This final rule establishes the process and structure for owners and operators of vessels using nontrawl gear in the partial coverage category of the Observer Program to choose to be in the EM selection pool and to use an EM system to monitor catch and bycatch. EM data will supplement observer data from other nontrawl gear vessels. Some data necessary for catch estimation, fishery management, and stock assessment that observers collect cannot be collected from EM systems. NMFS will obtain this data from observers on board other nontrawl gear vessels that are fishing in similar areas and at similar time periods.

To implement EM, NMFS will contract with one or multiple EM service providers to install and service EM equipment, and to collect and review EM data. The contract will specify hardware and field service specifications, EM data review requirements, and data and archiving requirements. ''EM service provider'' means any person, including their employees or agents, that NMFS contracts with to provide EM services, or to review, interpret, or analyze EM data.

Annual Deployment Plan and Annual Report

Each year, NMFS develops an annual deployment plan (ADP) that describes how NMFS plans to deploy observers to vessels and processors in the partial coverage category in the upcoming year. The ADP describes the scientific sampling design NMFS uses to randomly deploy observers to generate unbiased estimates of total and retained catch, and catch composition in the groundfish and halibut fisheries. The ADP provides flexibility to improve deployment to meet scientifically based estimation needs while accommodating the realities of a dynamic fiscal environment. Each year, NMFS conducts a scientific evaluation of observer data collected to understand the impact of changes in observer deployment and to identify areas where improvements are needed to collect the data necessary to conserve and manage the groundfish and halibut fisheries. NMFS adjusts the ADP in response to this evaluation.

After consultation with the Council, NMFS will make EM system and observer deployment decisions following the sampling design in the ADP. Through this scientific process for EM system deployment, NMFS will gather reliable data necessary for the conservation, management, and scientific understanding of the fisheries covered by the fisheries research plan.

In the ADP, NMFS and the Council will define the criteria for vessels to be eligible to participate in EM. The criteria for placement in the EM selection pool may include, but are not limited to, gear type, vessel length, area fished, number of fishing trips or total catch, sector, target fishery, home or landing port, and availability of EM systems. The ADP will specify the EM selection rate—the portion of trips that are sampled—for each calendar year. NMFS and the Council may change the EM selection rate from one calendar year to the next to achieve efficiency, cost savings, and data collection goals. NMFS may adjust the EM selection rate set in the ADP to respond to new information inseason. NMFS posts the ADP on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

NMFS will use the fees collected under section 313 of the Magnuson-Stevens Act to deploy EM systems. The amount of fee revenues NMFS collects will determine the level of costs that NMFS could incur to deploy EM systems and to deploy observers. In consultation with the Council, NMFS will allocate funds between EM and observers to achieve the most precision for the least cost. Since the fee is based on the ex-vessel value of harvested fish, which fluctuates annually, the amount of funding available for deploying observers and EM systems will also fluctuate. NMFS will need to adjust observer coverage and EM coverage levels to align anticipated annual costs with available fee revenues.

The Analysis provides a detailed discussion of the potential costs of EM system deployment (see **ADDRESSES**). NMFS, in consultation with the Council, may also modify the criteria for participating or limit the number of participants in the EM selection pool to control costs. The specific deployment decisions, including the eligibility criteria for vessels to participate in EM, could vary from year to year based on the analysis conducted through the ADP process.

An important part of the ADP analysis will be identifying and understanding gaps in observer data when a portion of the partial coverage vessels participates in the EM selection pool. Appendix 1 of the Analysis (see **ADDRESSES**) provides an example of the type of analysis that will be conducted annually to ensure that sufficient observers are deployed to maintain representative data (such as biological samples and average weights) that cannot be collected with an EM system.

Each year, NMFS also develops an annual report that evaluates how well various aspects of the program are achieving program goals, identifies areas where improvements are needed, and includes preliminary recommendations regarding the upcoming ADP. The Council and its Scientific and Statistical Committee review the annual report in June. This timing allows NMFS and the Council to consider the results of past performance in developing the ADP for the following year. NMFS posts the annual report on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

New Requirements for EM Participants

This final rule implements the requirements to allow an owner or operator of a vessel using nontrawl gear to choose to use an EM system in place of an observer.

Participation in the EM program and entry into the EM selection pool will be voluntary. Any owner or operator of a vessel that meets the EM selection pool criteria could annually request to be in the EM selection pool using the process established in this rule if they are willing to comply with the provisions established under this rule. While there are additional responsibilities for the owner or operator of a vessel in the EM selection pool to install and maintain the EM system, NMFS' intent is to allow the vessel to continue its normal fishing practice and allow the cameras to capture data observations that an EM

service provider then extracts onshore through video review.

The vessel owner or operator will work with the EM service provider to develop a vessel monitoring plan (VMP). The VMP will describe how fishing operations on the vessel are conducted, including how gear is set, how catch is brought on board, and where catch is retained and discarded. The VMP will also describe how the EM system and associated equipment will be configured to meet the data collection objectives and purpose of the EM program, including camera locations to cover all fishing activities, any sensors to detect fishing activities, and any special catch handling requirements to ensure the data collection objectives can be met. The VMP will also include methods to troubleshoot the EM system and instructions for ensuring the EM system is functioning properly. These required components of the VMP will be detailed in the VMP template and in the contract between NMFS and the EM service provider. Once the VMP is complete and the vessel owner or operator agrees to comply with the components of the VMP, the vessel owner or operator must sign and submit the VMP to NMFS for approval.

NMFS will provide a VMP template for guidance to the EM service provider and the vessel owner or operator on the elements NMFS will require in the final approved VMP. NMFS will make this VMP template available on the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/* to allow vessel owners and operators an opportunity to review the VMP requirements and components for the upcoming year.

Once in the EM selection pool and after the vessel has an approved VMP, the vessel operator will register fishing trips in the Observer Declare and Deploy System (ODDS). ODDS will notify the vessel operator when the vessel is selected to use the EM system and guide the vessel operator to the requirements for using an EM system.

Vessel owners or operators will be required to maintain the EM system in working order, including ensuring the EM system is powered and functioning throughout the trip, keeping cameras clean and unobstructed, and ensuring the system is not tampered with. The vessel owner or operator will also need to ensure that power is maintained to the EM system at all times when the vessel is underway or the engine is operating. The vessel operator will also be required to conduct a system function test before each trip to ensure the EM system is working properly before departing.

At the end of the fishing trip selected for EM coverage, the vessel operator will close the trip in ODDS and submit the video data storage device to NMFS.

Previously, a vessel was prohibited from retaining halibut or sablefish in excess of the total amount of unharvested individual fishing quota (IFQ) or community development quota (CDQ) applicable to that vessel for the IFQ regulatory area in which the vessel was operating and that was currently held by all IFQ or CDQ permit holders aboard the vessel, unless that vessel had an observer aboard and maintained the applicable daily logbook. This final rule expands this exception to the prohibition to include when a vessel is in the EM selection pool and complies with the applicable requirements. This final rule provides that the owner or operator of a vessel in the EM selection pool, who complies with the regulations and maintains the applicable daily logbook, can retain halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating and that is currently held by all IFQ or CDQ permit holders aboard the vessel. If a vessel is not part of the EM selection pool and is not selected for observer coverage for that fishing trip, the vessel owner or operator will continue to be prohibited from retaining halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating.

If a vessel owner or operator in the EM selection pool intends to use this expanded exception to fish in multiple IFQ/CDQ areas, the vessel owner or operator will use ODDS to identify when he or she intends to fish in multiple areas and to commit to using a functioning EM system on the whole trip, even if the vessel was not selected for EM coverage. The vessel owner or operator will be required to meet all the same responsibilities as if the vessel's fishing trip had been selected for EM coverage in ODDS. These include having a copy of a valid NMFS-approved VMP on board before the vessel starts a fishing trip, maintaining the EM system in working order, and submitting the required information at the end of the trip. Because the EM system in this instance will be used as a compliance monitoring tool, some additional regulatory requirements will also apply to the vessel owner and operator (see § 679.51(f)(6)).

Changes From Proposed to Final Rule

NMFS made the following changes to this final rule in response to comments received on the proposed rule. All of the specific regulation changes, and the reasons for making these changes, are explained under Response to Comments, below. NMFS revised:

- The definition of a fishing trip at § 679.2, paragraph (3)(iv), for a vessel in the EM selection pool of the partial coverage category to include delivery to a tender vessel;
- § 679.7(j)(2) and § 679.51(f)(5)(iii) to clarify that these paragraphs only apply to vessels when directed fishing in a fishery subject to EM coverage;
- § 679.7(j)(9) to clarify that it applies only to vessels when directed fishing in a fishery subject to EM coverage, and it applies unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP;
- § 679.51(f)(2)(i) to remove the 72-hour requirement to register each fishing trip in ODDS;
- § 679.51(f)(3)(ii) to remove the requirement for fishing trips to be closed within 24 hours of the end of a trip and add the requirement that, at the end of a fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip following the instructions in the VMP; and
- § 679.51(f)(5)(vii) to add that, if the fishing trip ends in a remote port with limited postal service or at a tender vessel, the vessel operator must ensure the video data storage device and associated documentation is postmarked as soon as possible but no later than two weeks after the end of the fishing trip.

Response to Comments

NMFS received 18 unique substantive comments, which are summarized and responded to below. The commenters consisted of individuals, representatives of vessels using hook-and-line and pot gear, and the Council.

Comment 1: We support integrating electronic monitoring into the Observer Program. This action provides flexibility to the Observer Program particularly for the small boats that for a variety of reasons have difficulty in carrying an observer.

Response: NMFS acknowledges the comment.

Comment 2: We appreciate the provisions of the proposed rule to accommodate a vessel with an existing EM system. A vessel that already has an EM system from another NMFS EM program should not have the added burden of installing a new, substantially similar system for use in Alaska, nor should the Observer Program purchase a new EM system for a vessel if its

existing EM system meets management needs.

Response: NMFS acknowledges the comment.

Comment 3: The proposed rule preamble states that a vessel can use an EM system it already has on board or it could modify that EM system as necessary to meet the specifications in the VMP. To ensure that management needs are met, clarify that the EM system must also meet the specifications for data quality and data output required in the EM service provider contract.

Response: NMFS agrees that all EM systems must meet the required specifications for data quality and data output in the EM service provider contract. NMFS will provide these EM specifications to fishery participants on our Web site (*http://alaskafisheries.noaa.gov*). The EM specifications will contain the same specifications for an EM system as the EM service provider contract.

Comment 4: Clarify (1) how the development and vetting process outlined in the Analysis will be integrated into the contracting process to ensure that any EM equipment installed on a vessel has been properly tested and vetted, (2) how existing EM systems that have not undergone this vetting process will be vetted and integrated into the EM program, and (3) how future research and development work on EM systems will be integrated into the program.

The Analysis identified a clear process for EM technology development, maturation, and vetting prior to being deployed in the operational EM program. This process is necessary to ensure that the EM hardware and software meet reliability standards, are compatible with normal operating procedures on board fishing vessels, and provide data of sufficient reliability, quality, and formats capable of meeting management needs.

From an industry perspective, it is critical that any EM system be thoroughly vetted prior to being installed on a vessel in the EM program. During pre-implementation, several volunteer vessels experienced costly damage to hydraulic systems, VHF radio interference, and significant delays due to EM systems under development. The proposed rule preamble indicates the EM service provider, not the vessel owner, determines which EM hardware to install on a vessel. However, the vessel operator bears the cost of malfunctioning EM systems because a malfunction may require trips to be delayed for up to 72 hours, a malfunction may cause damage to the vessel systems, or a vessel operator may be required to terminate a fishing trip if that vessel is fishing IFQ in multiple areas. This proposed EM service provider based approach is only workable if the EM systems have undergone a thorough vetting process.

Response: The EM service provider will install an EM system that meets the EM specifications that NMFS includes in the contract. NMFS will follow the process for EM technology development, maturation, and vetting described in Section 3.5 of the Analysis for substantive changes in EM technology. Once the specifications and requirements for new technology are developed and vetted, these changes will be included in the EM service provider contract and in the EM specifications provided to EM participants.

Comment 5: Clearly articulate how NMFS envisions funding future research and development work for EM systems. The cost of new EM system research and development should not be paid for through the use of fees. The allocation of fees between EM deployment and observer deployment should be focused on maximizing data quality and meeting management objectives.

Response: As explained in Section 3.5 of the Analysis, NMFS will not use fees to fund EM system development. The Council did not explicitly include EM development as a component of its research plan when it recommended this action to integrate EM into the Observer Program.

Future EM development may be funded with NMFS funds or through grants, such as from the National Fish and Wildlife Foundation, similar to how the EM system development under pre-implementation has been funded since 2014.

Comment 6: Consider allowing a vessel that enters a fishery in the partial coverage category for the first time mid-year to join the EM selection pool if it meets the criteria and does not have sufficient raft space or bunk space on board for an observer.

Response: NMFS will place a vessel entering a nontrawl fishery mid-year in the observer selection pool for the remainder of that year. A vessel cannot enter the EM selection pool mid-year because prior to the fishing year NMFS needs to have an accurate count of the number of new vessels in the EM selection pool to determine the budget and number of vessels that will be equipped with EM systems. It is expensive to equip a vessel with an EM system for the first time and that money would not be available mid-year because it would have already been allocated to EM deployment for that year. The vessel owner or operator will have the opportunity to volunteer for the EM selection pool in the following year.

Comment 7: Electronic monitoring must be accompanied by a plan to detect fraud and other abuse of the EM system. Misuse of the EM system should carry significant penalties designed to proactively discourage fraud and misuse. The EM program should (1) be designed to prevent fraud or tampering with the EM system; (2) carefully consider vessel logistics, including consideration of the placement of cameras, lighting, and camera quality; (3) ensure that the EM system can detect the same violations that an observer may uncover; (4) provide sufficient time and training for analysts to review EM data; (5) ensure adequate protocols to back up EM data in the event of technical failures; (6) ensure protection of the integrity of fishery data; and (7) potential costs savings should not be primary consideration when weighing decisions to use an EM system or an observer.

Response: The Analysis provides detailed discussions of the issues raised in this comment. This final rule includes regulations to prevent fraud or tampering with the EM systems, as described in response to comment 9.

NMFS, the Council, and the fishing industry spent four years on the careful implementation of EM, called ''pre-implementation.'' This work is discussed in detail in the Analysis, is reflected in this final rule, and will be reflected in the EM service provider contract and in the VMP prepared for each vessel.

In 2014, the Council appointed the EM Workgroup to develop an EM program to integrate into the Observer Program. The EM Workgroup provides a forum for stakeholders, including the commercial fishery participants, NMFS, Alaska Department of Fish and Game, and EM service providers to cooperatively and collaboratively design, test, and develop EM systems, and to identify key decision points related to operationalizing and integrating EM systems into the Observer Program in a strategic manner.

The EM Workgroup developed a cooperative research program to inform evaluation of multiple EM program design options and consider various EM integration approaches to achieve management needs. The cooperative research includes analytical and fieldwork components to address the following four elements: deployment of EM systems for operational testing, research and development of EM

technologies, development of infrastructure to support EM implementation, and analyses to support EM implementation. This approach enabled the EM Workgroup to identify and resolve implementation issues associated with integrating EM into the Observer Program. Data and analysis produced on costs, data quality, risks, operational procedures, and vessel compatibility informed decisions on implementation phases, future investments in technology, and the tools that will best meet NMFS, Council, and stakeholder management objectives. The cooperative research program was implemented through research projects and pre-implementation plans in 2015, 2016, and 2017. The cooperative research to date has shown that data from EM systems can effectively identify almost all of the species or species groupings required for management, that the systems are sufficiently reliable, and that image quality is generally high. Additional information on the work of the EM Workgroup is provided in the Analysis (see **ADDRESSES**).

An important part of pre-implementation was determining the types of compliance actions that can be detected by the EM system, including compliance with seabird avoidance regulations. Also during pre-implementation, NMFS worked with the Pacific States Marine Fisheries Commission on the video review and extracting the necessary data from the video. All the work done during pre-implementation and to integrate EM into the Observer Program protects the integrity of fishery data.

Additionally, the ADP analysis will identify and evaluate gaps in observer data when a portion of the partial coverage vessels participates in the EM selection pool. Appendix 1 of the Analysis (see **ADDRESSES**) provides an example of the type of analysis that will be conducted annually to ensure that sufficient observers are deployed to maintain representative data (such as biological samples and average weights) that cannot be collected with an EM system.

Comment 8: The proposed rule at § 679.2, includes the definition of a ''fishing trip.'' Paragraph (3)(iv) of that definition defines a fishing trip for a vessel in the EM selection pool as beginning and ending in a shore-based port. This means that if a vessel participates in the EM selection pool, a ''fishing trip'' could include multiple deliveries to a tender vessel. The proposed definition of a fishing trip for purposes of the EM selection pool appears to mirror the definition of a fishing trip for vessels in the observer pool. However, the same conditions that apply to observers do not apply to EM systems. NMFS has indicated that transferring observers to a tender vessel to begin or end a fishing trip was a potential safety concern.

Change the definition of a ''fishing trip'' for vessels in the EM selection pool so that a fishing trip begins when the vessel leaves a port or tender vessel with an empty hold and ends when the vessel returns to a port or tender vessel and all fish are delivered. When the vessel is delivering to a tender, the vessel operator can provide the video storage device to crew on the tender that can then submit the storage device. This change would result in more timely submission of EM data. The safety concerns of transferring a person do not apply to video storage devices.

Response: Based on this comment, NMFS revised the definition of a fishing trip for a vessel in the EM selection pool of the partial coverage category. NMFS revised the definition of ''fishing trip'' at § 679.2, paragraph (3)(iv) to state that fishing trip means the period of time that begins when the vessel leaves a shore-based port or tender vessel with an empty hold until the vessel returns to a shore-based port or tender vessel and all fish are delivered. A vessel operator delivering to a tender vessel will still need to close the trip in ODDS and will be responsible for ensuring the video storage device is submitted to NMFS, even when a tender vessel operator is mailing the device on the vessel's behalf.

Vessels participating in the pre-implementation program that delivered to tender vessels were required to submit their video storage devices when they returned to a shore-based port. Most of these vessels fished for the duration of the season without returning to a shore-based port. The season was closed before these vessels submitted their video storage devices. This decreased the timeliness and value of the data collected for inseason management. Additionally, the EM video reviewers were challenged with long hours of review and were unable to provide vessels or the EM service providers with timely feedback to modify the EM system to improve data quality.

Changing the definition of a fishing trip to allow vessels in the EM selection pool to begin or end a trip at a tender vessel could increase the timeliness of data collection data for in-season management, provide the opportunity for timely feedback to vessels to reconfigure the EM system to improve data quality, and potentially decrease costs by reducing the length of the trip to be reviewed.

As the commenter states, there are no safety concerns with transferring a video storage device between a vessel and a tender vessel. There is the potential for a video storage device to be lost during a transfer, but transferring mail, groceries, and other goods to and from a tender is a common practice, and the potential to lose a video storage device is low.

Comment 9: The proposed rule at § 679.7(j)(9) states that a person may not tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system. Add a provision in the regulations or the VMP to allow a vessel owner or operator to reconfigure the vessel's deck (for example, for participation in salmon fisheries) or make vessel repairs without triggering a violation.

Response: NMFS agrees that a vessel owner or operator may need to disconnect or change the EM system configuration during the fishing season as the commenter states. However, these changes will be limited to when a vessel operator is reconfiguring the vessel to enter a fishery that is not subject to EM coverage, such as salmon fisheries; or when directed to make changes by the EM service provider, NMFS, or as directed in the troubleshooting guide of the VMP.

Based on this comment, NMFS revised § 679.7(j)(9) to state that a vessel operator may not tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system when the vessel is directed fishing in a fishery subject to EM coverage, unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP.

Comment 10: The proposed rule at § 679.7(j)(2) and § 679.51(f)(5)(iii) states that to use an EM system, the vessel owner or operator must maintain a copy of a NMFS-approved VMP on board the vessel at all times when the vessel is fishing. Clarify that the VMP is only required on board when the vessel is fishing in fisheries that are subject to observer regulations, and not, for example, when fishing in State of Alaska fisheries. A vessel owner or operator may reconfigure their vessel, for operations in salmon fisheries or

other fisheries that do not require the use of an EM system, in which case it could be out of compliance with the VMP.

Response: The intent of requiring a VMP aboard the vessel is to ensure the vessel owner and operator understand the requirements and procedures to follow when an EM system is required aboard the vessel. In cases where an EM system is not required, such as when the vessel is not directed fishing for halibut with hook-and-line gear or directed fishing in a federally managed or parallel groundfish fishery, requiring a VMP aboard the vessel is not needed.

Based on this comment, NMFS revised § 679.7(j)(2) to prohibit vessels from fishing without an approved VMP when directed fishing in a fishery subject to EM coverage. NMFS also revised § 679.51(f)(5)(iii) to clarify that a VMP must be aboard while the vessel is directed fishing in a fishery subject to EM coverage.

Comment 11: The proposed rule at § 679.51(f)(1)(x) establishes a November 1 deadline each year for vessel owners or operators to notify NMFS of their intent to leave the EM pool and be returned to the observer selection pool. Major considerations in the decision to stay or leave the EM pool are the selection rate in the ADP and the catch handling requirements that will be contained in the VMP. The draft ADP is released early October each year providing sufficient time for a vessel operator to review proposed changes to the selection rate and make a decision by the November 1 deadline.

NMFS did not identify a similar timeline for changes to the VMP template and catch handling procedures. In order for a vessel operator to make an informed decision about remaining in the EM pool, NMFS must make the major catch handling procedures for EM vessels public with sufficient time for vessel operators to evaluate them prior to the November 1 opt-out date. NMFS should not make major changes to the VMP template after November 1 because the vessel operator will no longer have the opportunity to evaluate them and opt-out if needed. It is NMFS' responsibility to finalize major provisions of the VMP template with sufficient advance notice for vessel operators to make an informed decision by the November 1 deadline.

Response: NMFS intends to provide the public with a final VMP template in early October of each year when the draft ADP for the upcoming year is available. Vessel operators will be able to review both documents to inform their decision on whether to participate in the EM selection pool for the upcoming fishing year. NMFS will also inform the public of the agency's recommendations for potential changes to the VMP template for the upcoming year in the annual report presented to the Council each June.

NMFS agrees that it is important to allow vessel owners and EM service providers the opportunity to review the provisions required in the VMP for the upcoming year. As stated by the commenter, vessel owners may wish to review the requirements of the VMP template prior to determining if they will participate in the EM selection pool. EM service providers will want to review the requirements of the VMP template and the draft ADP to plan their equipment and installation services for the upcoming year.

Comment 12: The proposed rule at § 679.51(f)(2)(i) states that the operator of a vessel must register their anticipated trip in ODDS a minimum of 72 hours prior to embarking on the fishing trip. The proposed regulations separately specify the conditions that must be met for EM vessels to leave on an EM selected trip, and as long as these are clear, the additional 72-hour notice requirement seems unnecessary and onerous.

Response: NMFS revised § 679.51(f)(2)(i) to remove the requirement to register a fishing trip a minimum of 72 hours prior to embarking on each fishing trip. A vessel will not be required to wait 72 hours to embark on a fishing trip after registering the fishing trip in ODDS. For EM, the vessel will be unable to log a trip in ODDS unless the vessel has allowed the EM service provider to install the EM system and the vessel owner or operator has reviewed, signed, and received the NMFS-approved VMP. The EM system consists of cameras, recording devices, sensors, and associated wiring. All these components must be installed and functioning prior to disembarking on a fishing trip. The vessel operator is required to complete a system function test prior to departing on a fishing trip to ensure the system is functioning properly. If a high priority malfunction is detected, the vessel operator will be required to remain in port for up to 72 hours to allow an EM service provider time to conduct repairs.

Comment 13: The proposed rule at § 679.51(f)(3)(ii) requires a vessel operator to close the EM selected trip in ODDS within 24 hours of the end of the fishing trip. This is a new requirement that was not analyzed in the Analysis and has not been field tested to determine if it is feasible. Discussions with NMFS staff indicate that there may be future video review sampling methods that need a rapid trip closure provision to work best, but these video review methods are speculative and have not been recommended by the EM workgroup, the Council, or considered in the Analysis. If a future video review methodology requires rapid trip closure in ODDS, that requirement could be included in the VMP.

The proposed 24-hour requirement would also create different standards for trip closure on EM vessels vs. observed vessels. If the need for timely trip closing in ODDS applies to both observed and EM vessels, NMFS should address the issue and find a solution for both observed vessels and EM vessels.

Response: Based on this comment, NMFS removed the requirement for fishing trips to be closed within 24 hours of the end of a trip. Instead, as suggested by the commenter, NMFS revised § 679.51(f)(3)(ii) to state that at the end of a fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip following the instructions in the VMP. For the first year of EM, NMFS anticipates that the VMP would specify that vessel operators are required to close their trips prior to logging another trip or within 2 weeks of the end of the trip, whichever is sooner. This modification to the regulation retains the requirement to close the trip but allows flexibility in the time limit to be determined in the VMP.

There is currently no requirement for an operator of a vessel carrying an observer to close the fishing trip in ODDS. However, there are inherent differences between the EM pool and the observer pool, and it is reasonable that there are regulatory requirements that are specific to each monitoring approach.

The requirement to close a trip in ODDS is unique to EM and provides the ability to instruct the vessel to send the video storage device after the trip to ensure the timeliness of EM data for inseason management. Also, requiring a vessel operator to close the trip will give NMFS a mechanism to avoid monitoring bias by allowing NMFS to require 100 percent recording of trips and use a post-trip selection process through ODDS to randomly select trips for video review. If NMFS, in consultation with the Council, modifies the timeframe for closing a trip when using an EM system, NMFS would make the change through the ADP process and in the annual VMP template.

The overall burden on a vessel operator to close a trip when using an EM system would be minimal. Section 5.5 of the Analysis describes the demographics of fixed-gear vessels and

found that over 70 percent of the vessels operating out of the 10 largest ports take less than 6 fishing trips per year, and the average number of fishing trips per year is 5.8. Using this information, NMFS calculated the burden of requiring a vessel to log into ODDS to close a fishing trip under the Paperwork Reduction Act (see the Classification heading in this preamble). NMFS estimated that it will take 5 minutes for a vessel to close the trip, thus the average burden for a vessel to close all fishing trips in ODDS will be less than 30 minutes per year.

Comment 14: Remove the requirement in the proposed rule at § 679.51(f)(4)(i) which states that a vessel owner or operator is required to sign and submit the VMP to NMFS each year. We anticipate that after a short initial period, a vessel's VMP will remain largely unchanged from year to year once workable procedures and camera views have been established. The requirement for an annual signature for an unchanging document for 100 to 200 vessels each year has the potential to add unnecessary costs and administrative burden to NMFS, vessel operators, and EM service providers. If NMFS modifies the VMP template, then and only then should the vessel owner or operator be required to sign and submit a new VMP.

A more streamlined approach would be to have the EM service provider submit to NMFS an electronic copy of all current VMPs by November 15 each year. NMFS could then review and approve them prior to the start of the season on January 1. The fisherman could then review and digitally sign an electronic copy when logging the first trip into ODDS to certify that he or she has read the VMP and it is consistent with the VMP carried on the vessel per the proposed rule at § 679.51(f)(5)(iii) and § 679.7(j)(2). This provision would apply only to renewing an existing VMP as a new vessel would go through the VMP process upon initial install.

Response: NMFS disagrees. Annual submission of a VMP is essential to ensure vessel owners or operators understand and comply with the requirements for the upcoming year. The VMP template may be adjusted annually, and it will be important for vessels to understand and agree to these changes, even if they are only minor modifications. If the VMP template modifications are minor, the vessel owner or operator may electronically submit a signed copy of the VMP as early as the commenter suggests. Section 679.51(f)(4) allows the vessel owner or operator to work with the EM service provider to develop the VMP once the vessel is in the EM selection pool.

Digital signatures are currently accepted by NMFS. NMFS currently does not have the ability to create digital signatures on its Web site. However, digital signatures created from an outside Web site or other program, like Adobe, can be accepted. NMFS envisions that the EM service provider could email the vessel owner or operator an electronic copy of the vessel's VMP that could be digitally signed. The vessel owner or operator could email this digitally signed VMP to NMFS for approval. Once NMFS approves the VMP, the approval will be sent via email to the vessel owner or operator. This will reduce the need for an EM service provider to physically visit each boat to provide copies of VMPs and obtain signatures.

NMFS agrees that the process should be streamlined in the future to increase efficiency and is actively pursuing electronic solutions to streamline the process that would meet the needs of the vessel operator and minimize the administrative burden for NMFS and the EM service provider, but these solutions may not be available in the first year of the program. Once these electronic solutions have been developed, changing the method for submitting a VMP would not require a regulatory change. NMFS would notify the public as part of the ADP process and provide updated instructions in the annual VMP template.

Comment 15: The proposed rule at § 679.51(f)(5)(vii) requires the video data storage device from an EM selected trip to be postmarked no later than 2 business days after the end of the fishing trip. We understand the principle that data needs to get to NMFS as quickly as possible for in-season management, but we are concerned about the burden it would place on vessels operating in areas with very limited post office hours, no resident postmaster, or delivering to tender vessels. For example, some communities only have postal service a few days per week when the mail plane flies. Tender vessels may stay on the grounds for two to three days buying fish before returning to port. Also, the proposed rule covers a broad range of fisheries and fixed-gear vessels. Some new applications of EM may not require a 2-day data submission, and the inclusion of this as a regulation will drive up costs unnecessarily.

The video data storage device submission requirement is better addressed as a provision of the VMP rather than in regulation. The VMP can consider the specifics of a vessel's delivery pattern, local infrastructure, and the need for data timeliness to develop specific procedures for each vessel that meets management needs.

Response: NMFS understands that there may delays in postmarking a video storage device when a vessel ends a fishing trip in a remote port, such as limited post office hours, the availability of a postmaster, or when a trip ends at a tender vessel. However, timely data is essential and extensive delays could result in delayed fishery closures and openings. Delays in submitting video storage devices could also result in lost or overwritten data, if the vessel does not send in a video storage device prior to embarking on another fishing trip selected for EM coverage and forgets to replace the video storage device.

Moving this requirement to the VMP would not be appropriate because requiring a vessel owner or operator to record each location the vessel may deliver to during the year would be onerous. Also, tracking and verifying the location of delivery and whether the time frame for submission was appropriate for that location, would be a large administrative burden to NMFS.

Therefore, NMFS will continue to require submission of video storage devices no later than 2 business days after the end of a fishing trip, but will provide flexibility for circumstances outside the vessel owner's or operator's control that do not allow for postmarking the video storage devices within the time frame. NMFS revised § 679.51(f)(5)(vii) to add that, if the fishing trip ends in a remote port with limited postal service or at a tender vessel, the vessel operator must ensure the video data storage device and associated documentation is postmarked as soon as possible but no later than two weeks after the end of the fishing trip.

Comment 16: The proposed rule at § 679.51(f)(6)(iv) states that when a vessel is fishing IFQ in multiple areas, the vessel must cease fishing and contact the NOAA Office of Law Enforcement (OLE) immediately if an EM system malfunction occurs during that fishing trip.

Clarify in the regulations or the VMP that (1) if the vessel operator is unable to contact OLE (for example, because they are not in range of communication), the vessel operator is not required to abandon gear before proceeding to a location from which they can contact OLE; and (2) vessel operators are prohibited from deploying any additional fishing gear until they contact OLE, but would be allowed to retrieve deployed gear before proceeding to a location from which

they can contact OLE for further instructions. Include information on the ways to contact OLE in the VMP template.

Response: NMFS requires the vessel operator to cease fishing immediately and to contact OLE when an EM system malfunction occurs that does not allow recording of essential information about where the vessel was fishing and what amount of halibut or sablefish catch was coming aboard in this final rule at § 679.51(f)(6)(iv). This requirement is necessary because information about the location of fishing and the amount caught in each area is paramount to allowing vessels to fish in multiple areas using the exception at § 679.7(f)(4). However, these regulations do not require that a vessel abandon its gear to contact OLE.

The VMP template will provide instructions about how and when to contact OLE as well as the procedures to follow if the vessel is unable to contact OLE if an EM system malfunction occurs that does not allow the recording of essential information about catch and fishing location. The VMP template will also provide guidance on what type of malfunctions will require the vessel operator to cease fishing and contact OLE. For example, failure of a camera that showed catch coming aboard will require a vessel operator to cease fishing and contact OLE. Conversely, failure of a camera that showed the streamer line being set will not require the vessel operator to cease fishing and contact OLE.

The VMP template will also include methods to troubleshoot the EM system while at sea that may repair the problem and allow the vessel to continue fishing without the need to contact OLE. If an EM system malfunction occurs that does not allow the recording of catch and fishing location information and the vessel operator has used the troubleshooting guide in the VMP but the problem persists, the vessel operator must cease fishing and contact OLE immediately.

There are several methods a vessel operator could use to contact OLE while at sea. The vessel operator could use a cell phone or satellite phone. The vessel operator could also contact the U.S. Coast Guard via VHF or single side band radio to request the Coast Guard to contact OLE. The vessel operator should make every effort available to contact OLE, but if the vessel operator is unable to reach OLE while at sea, NMFS will not require a vessel operator to abandon fishing gear to return to port to contact OLE. The vessel operator must not set additional gear once an EM system malfunction is detected and must return to port immediately if unable to contact OLE at sea.

Comment 17: Please do not change any regulations that have been written to protect our fragile environment.

Response: This final rule will not change any regulations that protect the environment. NMFS analyzed the environmental impacts of this action to integrate EM into the Observer Program in the Analysis (see **ADDRESSES**).

Comment 18: Weather is a major factor in a fishing vessel being able fish. Weather can change with very little notice, creating safety issues for the observer if NMFS is requiring a human observer on every vessel and every fishing trip.

Response: NMFS does not require an observer on every vessel and every fishing trip in the partial coverage category. NMFS uses a random selection process to select which fishing trips will carry an observer. Per section 313(b)(1)(D) of the Magnuson-Stevens Act, the Council and NMFS have taken into consideration the operating requirements of the fisheries and the safety of observers and fishermen in developing this action to integrate EM into the Observer Program.

Classification

The Administrator, Alaska Region, NMFS, has determined that Amendments 114/104 to the FMPs and this rule are necessary for the conservation and management of the groundfish fishery and that they are consistent with the Magnuson-Stevens Act and other applicable law.

This rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The preambles to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule and this final rule are available from the NMFS Web site at *http://alaskafisheries.noaa.gov.*

Final Regulatory Flexibility Analysis (FRFA)

This FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support this action.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a FRFA. Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Descriptions of this action, its purpose, and the legal basis are contained in the preamble to the proposed rule (82 FR 14853, March 23, 2017) and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published the proposed rule on March 23, 2017 (82 FR 14853). An IRFA was prepared and summarized in the ''Classification'' section of the preamble to the proposed rule. The comment period closed on May 22, 2017. NMFS received 7 letters of public comment on the proposed rule and Amendments 114/1104. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

Summary of Significant Issues Raised During Public Comment

NMFS received no comments on the IRFA.

Number and Description of Small Entities Regulated by Action

This action directly regulates those entities that harvest groundfish and halibut using nontrawl gear and are subject to observer coverage in the partial coverage category of the Observer Program. These directly regulated entities include vessels that fish with nontrawl gear in State waters only if those vessels have a Federal Fisheries Permit (FFP), which makes them subject to Federal observer regulations. Since participation in the EM selection pool is voluntary, only those vessels that choose to participate in the EM selection pool will be directly regulated by this rule.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The estimated number of vessels that use nontrawl gear in the partial coverage category that are small entities might be overstated. Conversely, the number of non-small entities might be understated. The RFA requires a consideration of affiliations between entities for the purpose of assessing whether an entity is classified as small. The estimates below do not take into account all affiliations between entities. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership are otherwise affiliated with each other. Vessels that have types of affiliation that are not tracked in available data (*i.e.,* ownership of multiple vessels or affiliation with processors) may be misclassified as a small entity.

In 2015, the most recent data available at the time of the analysis, 981 vessels (*i.e.,* harvesting entities) participated in the groundfish and halibut fisheries directly regulated by this action. Those 981 catcher vessels include 255 vessels that only operated in State waters and possessed an FFP; all of those 255 vessels are classified as small entities. According to data provided by the Alaska Fisheries Information Network, the analysts estimate that 950 of the 981 harvesting entities are classified as small entities. All 31 vessels that are classified as non-small entities were members of harvesting cooperatives whose combined gross receipts were greater than $11.0 million in 2015, the most recent year for which complete revenue data is available. Each of the 31 vessels classified as non-small entities is affiliated with a crab cooperative, six are affiliated with a Central Gulf of Alaska Rockfish Program cooperative, two are affiliated with an American Fisheries Act cooperative, and one is affiliated through ownership with the freezer longline cooperative (some entities are affiliated with more than one cooperative across different North Pacific fisheries).

Table 1 provides a count of small and non-small entities (*i.e.,* vessels). The first row shows all vessels with FFPs that fished with nontrawl gear in 2015. The second row is limited to vessels that fished in Federal waters. Rows three through six show the number of entities by gear type and area fished. Those rows should not be summed vertically to avoid double counting vessels that fished with both gear types or in both management areas. No vessel less than 40 ft LOA is classified as a non-small entity, and only one vessel less than 57.5 ft LOA is classified as a non-small entity.

TABLE 1—COUNT OF SMALL AND NON-SMALL ENTITIES IN THE UNIVERSE OF DIRECTLY REGULATED VESSELS IN 2015

	Small entity	Non-small entity	Total
Nontrawl catcher vessels (Federal and State waters)	950	31	981
Nontrawl catcher vessels (Federal waters only)	695	31	726
Hook-and-line catcher vessels in Federal waters in the Gulf of Alaska	584	7	591
Hook-and-line catcher vessels in Federal waters in the Bering Sea/Aleutian Islands	114	7	121
Pot catcher vessels in Federal waters in the Gulf of Alaska	86	4	90
Pot catcher vessels in Federal waters in the Bering Sea/Aleutian Islands	22	21	43

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule adds additional reporting, recordkeeping, and other compliance requirements for vessels that request to participate in the EM selection pool and vessels that use the exemption in § 679.7(f)(4) to harvest IFQ or CDQ halibut and sablefish. No small entity is subject to reporting requirements that are in addition to or different from the requirements that apply to all directly regulated entities.

No unique professional skills are needed for the vessel owners or operators to comply with the reporting and recordkeeping requirements associated with this final rule. Vessel owners or operators will request to be placed in the EM selection pool using ODDS, a tool already used by directly regulated small entities. If they choose to participate in the EM selection pool, vessel owners and operators will be required to assist with the installation of the EM system and conduct basic maintenance to ensure the EM equipment remains functional. Vessel operators would meet with the EM service provider to develop a VMP for their vessel, in which the operator's responsibilities will be clearly defined. These responsibilities can generally be fulfilled by a crewmember of the vessel who already is fulfilling similar functions during fishing activity. The vessel owner or operator will be required to submit the VMP to NMFS for approval.

Vessel owners or operators in the EM selection pool that choose to use the

exemption in § 679.7(f)(4) will need to notify NMFS using ODDS when they intend to fish in multiple areas and commit to using a functioning EM system on the whole trip, even if the vessel was not selected for EM coverage. The vessel owner or operator will be required to meet the same responsibilities as if the vessel had been selected for EM system coverage for that trip in ODDS. Because the EM system in this instance will be used as a compliance monitoring tool, some additional requirements will apply. If an EM system malfunction occurs during a fishing trip in a manner that does not allow essential information about where the vessel was fishing and what amount of IFQ or CDQ catch was coming aboard to be recorded, the vessel operator will be required to cease fishing immediately and to contact NOAA OLE. Information about the locations fished and the amount caught in each area is paramount to allowing vessels to fish in multiple areas using this exception; therefore, such a requirement is necessary.

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

No significant alternatives were identified that would accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of this rule on small entities.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0318 (North Pacific Observer Program).

The public reporting burden for these collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This rule will allow vessel owners or operators to use the existing ODDS to submit a request to be placed in the EM selection pool. In addition, this rule will allow vessel owners or operators in the EM selection pool to submit a request to be removed from the EM selection pool. Public reporting burden per response for these new options in ODDS is estimated to average 5 minutes. If NMFS denies a request to place a vessel in the EM selection pool, the vessel owner may submit an administrative appeal to NMFS. Public reporting burden per response for an administrative appeal is estimated to average 4 hours.

This rule will require all vessel owners or operators in the EM selection pool to register a fishing trip in ODDS. Public reporting burden per response to register a fishing trip in ODDS if a vessel is assigned to the EM selection pool is estimated to average 15 minutes.

This rule will require vessel owners or operators who request to be placed in the EM selection pool to submit a VMP to NMFS. Public reporting burden per response for the VMP is estimated to average 48 hours.

This rule will require a vessel operator in the EM selection pool to close the fishing trip in ODDS. Public reporting burden per response to close a fishing trip in ODDS is estimated to average 5 minutes.

This rule will require vessel owners or operators selected to carry EM to submit video data storage devices and associated documentation to the EM data reviewer within 2 business days of the end of the fishing trip. Public reporting burden per response is estimated to average 1 hour.

Vessel owners or operators wanting to use EM to fish under the exception in § 679.7(f)(4) will be required to notify NMFS through ODDS under § 679.51(f)(6). Public reporting burden per response to register a fishing trip in ODDS is estimated to average 15 minutes. The addition of the option to indicate that the vessel will use EM to fish under the exception in § 679.7(f)(4) during an upcoming fishing trip is not expected to increase the average response time to register a trip in ODDS.

Send comments on this data collection, including suggestions for reducing the burden, to NMFS Alaska Region (see **ADDRESSES**), or by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 3, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR,'' revise the entry for ''679.51'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
679.51	–0206, –0269, –0272, –0318, –0401, –0513, –0545, –0565.
* * * * *	

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

■ 4. In § 679.2:

■ a. Add in alphabetical order definitions for ''Electronic Monitoring system or EM system,'' ''EM selection pool,'' and ''EM service provider'';

■ a. In the definition of ''Fishing trip,'' revise paragraph (3) heading and add paragraph (3)(iv); and

■ b. Add in alphabetical order a definitions for ''Vessel Monitoring Plan (VMP)''.

The additions and revsion read as follows:

§ 679.2 Definitions.

* * * * *

Electronic Monitoring system or EM system means a network of equipment that uses a software operating system connected to one or more technology components, including, but not limited to, cameras and recording devices to collect data on catch and vessel operations.

* * * * *

EM selection pool means the defined group of vessels from which NMFS will randomly select the vessels required to use an EM system under § 679.51(f).

EM service provider means any person, including their employees or agents, that NMFS contracts with to provide EM services, or to review, interpret, or analyze EM data, as required under § 679.51(f).

* * * * *

Fishing trip means: * * *

* * * * *

(3) *North Pacific Observer Program.* * * *

* * * * *

(iv) *For a vessel in the EM selection pool of the partial coverage category,* the period of time that begins when the vessel leaves a shore-based port or tender vessel with an empty hold until the vessel returns to a shore-based port or tender vessel and all fish are delivered.

* * * * *

Vessel Monitoring Plan (VMP) means the document that describes how fishing operations on the vessel will be conducted and how the EM system and associated equipment will be configured to meet the data collection objectives and purpose of the EM program. VMPs are required under § 679.51(f).

* * * * *

■ 5. In § 679.7, revise paragraph (f)(4), the paragraph (g) heading, and paragraph (j) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ permit holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part or the vessel participates in the EM selection pool and complies with the requirements at § 679.51(f), and maintains the applicable daily fishing log prescribed in the annual management measures published in the **Federal Register** pursuant to § 300.62 of this title and § 679.5.

* * * * *

(g) *North Pacific Observer Program—Observers.* * * *

* * * * *

(j) *North Pacific Observer Program—EM Systems.* (1) Fish without an EM system when a vessel is required to carry an EM system under § 679.51(f).

(2) Fish with an EM system without a copy of a valid NMFS-approved VMP on board when directed fishing in a fishery subject to EM coverage.

(3) Fail to comply with a NMFS-approved VMP.

(4) Fail to conduct a function test prior to departing port on a fishing trip as required at § 679.51(f)(5)(vi)(A).

(5) Depart on a fishing trip selected for EM coverage without a functional EM system, unless procedures at § 679.51(f)(5)(vi)(A)(*1*) and § 679.51(f)(5)(vi)(A)(*2*) have been followed.

(6) Fail to follow procedures at § 679.51(f)(5)(vi)(B) prior to each set on a fishing trip selected for EM coverage.

(7) Fail to make the EM system, associated equipment, logbooks, and other records available for inspection upon request by NMFS, OLE, or other NMFS-authorized officer.

(8) Fail to submit a video data storage device as specified under § 679.51(f)(5)(vii).

(9) Tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system when the vessel is directed fishing in a fishery subject to EM coverage, unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP.

(10) Assault, impede, intimidate, harass, sexually harass, bribe, or interfere with an EM service provider.

(11) Interfere or bias the sampling procedure employed in the EM selection pool, including either mechanically or manually sorting or discarding catch outside of the camera view or inconsistent with the NMFS-approved VMP.

(12) Fail to meet vessel owner and operator responsibilities specified at § 679.51(f)(5).

* * * * *

■ 6. In § 679.21, revise paragraphs (a)(2)(ii) and (a)(3) to read as follows:

§ 679.21 Prohibited species bycatch management.

(a) * * *

(2) * * *

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS pollock fisheries and GOA groundfish fisheries under paragraph (f) or (h) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

(3) *Rebuttable presumption.* Except as provided under paragraphs (f) and (h) of this section and § 679.26, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

* * * * *

§ 679.23 [Amended]

■ 7. In § 679.23 remove paragraphs (d)(4) and (5).

■ 8. In § 679.51:

■ a. Revise the section heading, the paragraph (a)(1) heading, and paragraphs (a)(1)(i) introductory text, (a)(1)(i)(C), (a)(1)(ii) introductory text, (a)(1)(ii)(B), (a)(1)(ii)(D), and (a)(4)(iii); and

■ b. Add paragraph (f).

The revisions and addition read as follows:

§ 679.51 Observer and Electronic Monitoring System requirements for vessels and plants.

(a) * * *

(1) *Groundfish and halibut fishery partial coverage category*—(i) *Vessel classes in partial coverage category.* Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels and catcher/processors are in the partial coverage category when fishing for halibut with hook-and-line gear or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

* * * * *

(C) A catcher/processor placed in the partial coverage category under paragraph (a)(3) of this section; or

* * * * *

(ii) *Registration and notification of observer deployment.* The Observer Declare and Deploy System (ODDS) is the communication platform for the partial coverage category by which NMFS receives information about

fishing plans subject to randomized observer deployment. Vessel operators provide fishing plan and contact information to NMFS and receive instructions through ODDS for coordinating with an observer provider for any required observer coverage. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

* * * * *

(B) *Notification.* Upon entry into ODDS, NMFS will notify the owner or operator of his or her vessel's selection pool. Owners and operators must comply with all further instructions set forth by ODDS.

* * * * *

(D) *Vessel selection pool.* A vessel selected for observer coverage is required to have an observer on board for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) of this section for the time period indicated by ODDS.

* * * * *

(4) * * *

(iii) *Deadline to request full observer coverage.* A full observer coverage request must be submitted by October 15 of the year prior to the calendar year in which the catcher vessel would be placed in the full observer coverage category.

* * * * *

(f) *Electronic monitoring system requirements for vessels that use nontrawl gear.* Vessels that use nontrawl gear in the partial coverage category in paragraph (a)(1)(i) of this section may be eligible for EM coverage instead of observer coverage.

(1) *Vessel placement in the EM selection pool*—(i) *Applicability.* The owner or operator of a vessel that uses nontrawl gear in the partial coverage category under paragraph (a)(1)(i) of this section may request to be placed in the EM selection pool.

(ii) *How to request placement in the EM selection pool.* A vessel owner or operator must complete an EM request and submit it to NMFS using ODDS. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* ODDS is described in paragraph (a)(1)(ii) of this section.

(iii) *Deadline to submit an EM request.* A vessel owner or operator must submit an EM request in ODDS by November 1 of the year prior to the calendar year in which the catcher vessel would be placed in the EM selection pool.

(iv) *Approval for placement in the EM selection pool.* NMFS will approve a nontrawl gear vessel for placement in the EM selection pool based on criteria specified in NMFS' Annual Deployment Plan, available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Criteria may include, but are not limited to, availability of EM systems, vessel gear type, vessel length, area fished, number of trips or total catch, sector, target fishery, and home or landing port.

(v) *Notification of approval for placement in the EM selection pool.* (A) NMFS will notify the vessel owner or operator through ODDS of approval for the EM selection pool for the next calendar year. The vessel remains subject to observer coverage under paragraph (a)(1)(i) of this section unless NMFS approves the request for placement of the vessel in the EM selection pool.

(B) Once the vessel owner or operator receives notification of approval from NMFS, the vessel owner or operator must comply with the vessel owner or operator responsibilities in paragraphs (f)(4) and (5) of this section and all further instructions set forth by ODDS.

(vi) *Initial Administrative Determination (IAD).* If NMFS denies a request to place a vessel in the EM selection pool, NMFS will provide an IAD to the vessel owner, which will explain the basis for the denial.

(vii) *Appeal.* If the vessel owner wishes to appeal NMFS' denial of a request to place the vessel in the EM selection pool, the owner may appeal the determination under the appeals procedure set out at 15 CFR part 906.

(viii) *Duration.* Once NMFS approves a vessel for the EM selection pool, that vessel will remain in the EM selection pool until—

(A) NMFS disapproves the VMP under paragraph (f)(4) of this section;

(B) The vessel owner or operator notifies NMFS that the vessel intends to leave the EM selection pool in the following fishing year under paragraph (f)(1)(ix) of this section; or

(C) The vessel no longer meets the EM selection pool criteria specified by NMFS.

(ix) *How to leave the EM selection pool.* A vessel owner must complete a request to leave the EM selection pool and submit it to NMFS using ODDS. ODDS is described in paragraph (a)(1)(ii) of this section.

(x) *Deadline to submit a request to leave the EM selection pool.* A vessel owner or operator must submit a request to leave the EM selection pool by November 1 of the year prior to the calendar year in which the vessel would be placed in observer coverage.

(2) *Notification of EM selection*—(i) Prior to embarking on each fishing trip, the operator of a vessel in the EM selection pool with a NMFS-approved VMP must register the anticipated trip with ODDS.

(ii) ODDS will notify the vessel operator whether the trip is selected for EM coverage and provide a receipt number corresponding to this notification. Trip registration is complete when the vessel operator receives the receipt number.

(iii) An operator may embark on a fishing trip registered with ODDS:

(A) *Not selected trip.* At any time if ODDS indicates that the fishing trip is not selected for EM coverage.

(B) *Selected trip.* After the vessel operator follows the instructions in ODDS and complies with the responsibilities under paragraphs (f)(4) and (5) of this section, if ODDS indicates that the fishing trip is selected for EM coverage.

(3) *EM coverage duration.* If selected, a vessel is required to use the EM system for the entire fishing trip.

(i) A fishing trip selected for EM coverage may not begin until all previously harvested fish have been offloaded.

(ii) At the end of the fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip following the instructions in the VMP and submit the video data storage devices and associated documentation as outlined in paragraph (f)(5)(vii) of this section.

(4) *Vessel Monitoring Plan (VMP).* Once approved for the EM selection pool and prior to registering a fishing trip in ODDS under paragraph (f)(2) of this section, the vessel owner or operator must develop a VMP with the EM service provider following the VMP template available through the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/.*

(i) The vessel owner or operator must sign and submit the VMP to NMFS each calendar year.

(ii) NMFS will approve the VMP for the calendar year if it meets all the requirements specified in the VMP template available through the NMFS Alaska Region Web site *https://alaskafisheries.noaa.gov/.*

(iii) If the VMP does not meet all the requirements specified in the VMP template, NMFS will provide the vessel owner or operator the opportunity to submit a revised VMP that meets all the requirements specified in the VMP template.

(iv) If NMFS does not approve the revised VMP, NMFS will issue an IAD to the vessel owner or operator that will explain the basis for the disapproval. The vessel owner or operator may file

an administrative appeal under the administrative appeals procedures set out at 15 CFR part 906.

(v) If changes are required to the VMP to improve the data collection of the EM system or address fishing operation changes, the vessel owner or operator must work with NMFS and the EM service provider to alter the VMP. The vessel owner or operator must sign the updated VMP and submit these changes to the VMP to NMFS prior to departing on the next fishing trip selected for EM coverage.

(5) *Vessel owner or operator responsibilities.* To use an EM system under this section, the vessel owner or operator must:

(i) Make the vessel available for the installation of EM equipment by an EM service provider.

(ii) Provide access to the vessel's systems and reasonable assistance to the EM service provider.

(iii) Maintain a copy of a NMFS-approved VMP aboard the vessel at all times when the vessel is directed fishing in a fishery subject to EM coverage.

(iv) Comply with all elements of the VMP when selected for EM coverage in ODDS.

(v) Maintain the EM system, including the following:

(A) Ensure power is maintained to the EM system at all times when the vessel is underway.

(B) Ensure the system is functioning for the entire fishing trip, camera views are unobstructed and clear in quality, and catch and discards may be completely viewed, identified, and quantified.

(C) Ensure EM system components are not tampered with, disabled, destroyed, or operated or maintained improperly.

(vi) Complete pre-departure function test and daily verification of EM system.

(A) Prior to departing port, the vessel operator must conduct a system function test following the instructions from the EM service provider. The vessel operator must verify that the EM system has adequate memory to record the entire fishing trip.

(*1*) If the EM system function test detects a malfunction identified as a high priority in the vessel's VMP or does not allow the data collection objectives to be achieved, the vessel must remain in port for up to 72 hours to allow an EM service provider time to conduct repairs. If the repairs cannot be completed within the 72-hour time frame, the vessel is released from EM coverage for that fishing trip and may depart on the scheduled fishing trip. A malfunction must be repaired prior to departing on a subsequent fishing trip. The vessel will automatically be selected for EM coverage for the subsequent fishing trip after the malfunction has been repaired.

(*2*) If the EM system function test detects a malfunction identified as a low priority in the vessel's VMP, the vessel operator may depart on the scheduled fishing trip following the procedures for low priority malfunctions described in the vessel's VMP. At the end of the trip the vessel operator must work with the EM service provider to repair the malfunction. The vessel operator may not depart on another fishing trip selected for EM coverage with this system malfunction unless the vessel operator has contacted the EM service provider.

(B) During a fishing trip selected for EM coverage, before each set is retrieved the vessel operator must verify all cameras are recording and all sensors and other required EM system components are functioning as instructed in the vessel's VMP.

(*1*) If a malfunction is detected, prior to retrieving the set the vessel operator must attempt to correct the problem using the instructions in the vessel's VMP.

(*2*) If the malfunction cannot be repaired at sea, the vessel operator must notify the EM service provider of the malfunction at the end of the fishing trip. The malfunction must be repaired prior to departing on a subsequent fishing trip selected for EM coverage.

(vii) At the end of a fishing trip selected for EM coverage, the vessel operator must submit the video data storage device and associated documentation identified in the vessel's VMP to NMFS using a method that requires a signature for delivery and provides a return receipt or delivery notification to the sender. The vessel operator must postmark the video data storage device and associated documentation no later than 2 business days after the end of the fishing trip. If the fishing trip ends in a remote port with limited postal service or at a tender vessel, the vessel operator must ensure the video data storage device and associated documentation is postmarked as soon as possible but no later than two weeks after the end of the fishing trip.

(viii) Make the EM system and associated equipment available for inspection upon request by OLE, a NMFS-authorized officer, or other NMFS-authorized personnel.

(6) *EM for fishing in multiple regulatory areas.* If a vessel owner or operator intends to fish in multiple regulatory areas using an EM system under the exception provided at § 679.7(f)(4), the vessel owner or operator must:

(i) Meet the requirements described in paragraph (f) of this section.

(ii) Register in ODDS that he or she intends to fish in multiple regulatory areas using the exception in § 679.7(f)(4).

(iii) Ensure the EM system is powered continuously during the fishing trip. If the EM system is powered down during periods of non-fishing, the VMP must describe alternate methods to ensure location information about the vessel is available for the entire fishing trip, as specified in the VMP template available through the NMFS Alaska Region Web site *https://alaskafisheries.noaa.gov/.*

(iv) If an EM system malfunction occurs during a fishing trip that does not allow the recording of retrieval location information and imagery of catch as described in the vessel's VMP, the vessel operator must cease fishing and contact OLE immediately.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1015

[Docket No. CPSC–2016–0030]

Procedures for Disclosure or Production of Information Under the Freedom of Information Act

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission (Commission, CPSC, or we) is issuing a final rule to update its Freedom of Information Act (FOIA) rule. The final rule revises the rule to conform to the amendments of the FOIA Improvement Act of 2016 (the 2016 FOIA) to the FOIA. The final rule is also updated to reflect changes in Commission procedures; updates Commission contact information, including current methods of submitting requests for records to the Commission; revises employee titles; and makes various technical changes and corrections.

DATES: The rule is effective on September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Renee McCune, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7673; or Todd A. Stevenson, Chief Freedom of Information Officer, Consumer Product Safety Commission, 4330 East West

Highway, Bethesda, MD 20814, (301) 504–6836.

SUPPLEMENTARY INFORMATION: The Commission amends the agency's procedures for disclosure or production of information under the Freedom of Information Act. 16 CFR part 1015.

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I. Background Information

On June 30, 2016, the President signed into law the 2016 FOIA, Public Law 114–185 (2016). The 2016 FOIA amends the Freedom of Information Act, 5 U.S.C. 552, requiring an agency to review its FOIA regulations and issue regulations on procedures for the disclosure of records under the new amendments. Specifically, the 2016 FOIA requires: Certain records be available for public inspection in an electronic format; agencies to make available for public inspection in an electronic format records that have been requested three or more times; that an agency not withhold information under FOIA unless the agency reasonably foresees that disclosure would harm an interest protected by a FOIA Exemption or disclosure is prohibited by law; extending the number of days for an administrative appeal of an adverse determination from 30 to 90 days; the assessment of fees be limited in certain circumstances; and requesters be notified of available dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services.

The Commission amends its regulations to implement the 2016 FOIA, 16 CFR part 1015, by incorporating these new statutory requirements. The amendments revise the Commission's FOIA regulations to comply with the FOIA, as amended by the 2016 FOIA, and update Commission procedures, contact information, and methods of submitting requests for records to the Commission, in addition to other conforming and technical revisions. Updating Commission procedures and Commission contact information provides clarity for requesters seeking records from the Commission.

II. Response to Comments

On January 3, 2017, the Commission published a Notice of Proposed Rulemaking (NPR) in the **Federal Register**. 82 FR 59. CPSC received two comments in response to the NPR. The comments addressed seven separate issues. Comments submitted in response to the NPR are available at: *www.regulations.gov,* by searching under the docket number of the rulemaking, CPSC–2016–0030.

A. Purpose and Scope (§ 1015.1)

Based on informal input from the Office of Information Policy (''OIP'') within the U.S. Department of Justice, we clarified the Privacy Act discussion in § 1015.1(a) to reflect current practices and provided further guidance to first and third party requesters. With respect to an individual's request for records about himself or herself, we clarified that we would process such a request under the Privacy Act and then under the FOIA. Thus, if a request is denied under the Privacy Act, the records will be processed under the FOIA. This change is consistent with the FOIA and allows a requester access to the greatest number of records.

Additionally, with respect to a request by a third party for records under the Privacy Act, we removed the sentence on third party requests (not including a request on behalf of a first party for Privacy Act records) because such requests are only processed under the FOIA. Therefore the reference to third party requests being processed under the Privacy Act is not required.

One commenter asserted that the Commission's policy regarding requests for records in § 1015.1(b) should not characterize disclosure as a ''rule'' and withholding as an ''exception.'' The commenter stated that ''disclosure'' and ''withholding'' are ''prescribed equally by rules'' and suggested that the Commission's policy should indicate that the Commission will apply a presumption of disclosure when processing responsive records.

We believe that a presumption of disclosure is already reflected in the Commission's policy statement in § 1015.1(b), which states that the Commission's policy regarding requests for records is that disclosure is the rule and withholding is the exception. The Commission's policy is further clarified by the next two sentences in the rule, which incorporate a presumption of disclosure in explaining the limited circumstances under which records that are exempted from disclosure will not be made available. Accordingly, we decline to revise the sentence.

B. Time Limitation on Responses to Requests for Records and Requests for Expedited Processing (§ 1015.5)

One commenter observed that the time limitations as written in §§ 1015.5(a) and 1015.7(b) of the NPR could result in unintended consequences. The commenter suggested that, under this formulation, a request or an appeal submitted at, for example, 7:59 a.m., would begin running the next work day, instead of one minute later, at 8 a.m. Additionally, the commenter noted that the phrase ''to requests for records'' should be added after the word ''responses'' at the end of the sentence and a comma should be added after the word ''received.''

We agree with the commenter. If an electronic submission occurs during non-working hours, we intend for time limitations to begin to run when working hours resume. Accordingly, we have revised the sentence, which also takes into account the grammatical concerns the commenter raised. For example, if a request is submitted electronically at 7:59 a.m. EST on a working day, the time limitations will begin to run at 8 a.m. EST on that day when working hours resume. In response to the comment addressing § 1015.7(b) we made the same conforming changes to § 1015.7(b).

One commenter stated that, to be consistent with other provisions in the rule that expressly state whether time periods are measured in calendar days or working days, the Commission should clarify § 1015.5(g)(3) to reflect that the Secretariat or delegate of the Secretariat will determine whether to grant a request for expedited processing within 10 *calendar* days of receipt of the request.

The rule does not indicate whether the 10 days are calendar days or working days. For clarity and consistency with other provisions in the rule that specify ''calendar days'' or ''working days'' we have amended the sentence to refer to ''ten (10) calendar days.'' This amendment is consistent with the Commission's current practice of treating the 10 day time period as calendar days. It is also consistent with the FOIA, which does not specify ''working days.'' 5 U.S.C. 552(a)(6)(E)(ii)(I).

C. Responses: Form and Content (§ 1015.6)

One commenter remarked that neither party may be able to definitively prove the date of receipt of the Commission's denial of a request for records under § 1015.6(b)(4) if the Commission sends the denial by regular mail. The rule

states that the requester has 90 calendar days from the receipt of the denial or partial denial to make an appeal. To avoid this problem, the commenter suggested that the Commission calculate the 90-day deadline from the date the Commission issues its denial.

In response to the comment, we have revised §§ 1015.6(b)(4) and 1015.7(a) to state that an appeal must be made within 90 calendar days of the Commission's response. The Commission's practice is to send certified letters of denial, which allow the Commission to determine the date that the requester received the letter. This revision simplifies the process, eliminates any ambiguity, and allows the Commission flexibility to implement future changes electronically where feasible. This change also tracks the FOIA, which provides that, in the case of an adverse determination, there is a right to appeal ''within a period determined by the head of the agency that is not less than 90 days after the date of such adverse determination.'' 5 U.S.C. 552(a)(6)(A)(i)(III)(aa). The revisions also revise §§ 1015.6(b), (b)(4), and 1015.7(a) to state that denials include partial denials, for consistency with the current language in § 1015.7(a), which refers to denials of requests for records ''in whole or in part.'' The Commission's practice is to include a date on denial letters, but we have amended § 1015.6(b) to explicitly require that a denial letter be dated.

D. Appeals From Initial Denials; Reconsideration by the Secretariat (§ 1015.7)

As noted above, one commenter identified that proposed § 1015.7(b), which sets forth time limits for responding to appeals, would add an extra day for responding to an appeal received just before the start of a working day.

As stated in our above response, we agree that the sentence should be revised. Accordingly, for the same reasons we noted above, we have similarly revised the sentence, except that we refer to ''appeals'' instead of ''requests'' (an error in the NPR). For that same reason, we also revised the preceding sentence to correct ''request'' to state ''appeal.'' Finally, we updated a parenthetical citation at the end of § 1015.7.

E. Fees for Production of Records (§ 1015.9)

One commenter asserted that the definition of a ''representative of the news media'' at § 1015.9(c)(8) should be amended because it is outdated and conflicts with the FOIA, as amended, and to conform to judicial authorities, *citing Cause of Action* v. *Federal Trade Commission,* 799 F.3d 1108 (D.C. Cir. 2015). Additionally, the commenter suggested that we consider other elements of the *Cause of Action* decision with respect to the news media requester fee category. Specifically, the commenter stated that the news media requester fee category should focus on the nature of the requester, not its request. With respect to the requirement that a news media requester use ''editorial skills'' to turn ''raw materials'' into a ''distinct work,'' the commenter asserted that even a simple press release commenting on records satisfies this criterion. Finally, the commenter stated that the *Cause of Action* court indicated that the statutory definition of a ''representative of the news media'' includes ''alternative media'' and evolving news media formats, and therefore, we should state that any examples of news media entities we may include in the rule are non-exhaustive.

We agree with the commenter that the definition of ''representative of the news media,'' which is used to determine fee waivers in § 1015.9, is outdated and should be amended to track the definition in the FOIA at 5 U.S.C. 552(a)(4)(A)(ii). Therefore, we have revised the first sentence of the definition to follow the FOIA definition. Additionally, to provide further clarification and guidance for this definition, we have incorporated some additional language from the FOIA definition and the template guidelines for agency FOIA regulations provided by the OIP.

This additional language encompasses the OIP guidance and addresses the commenter's suggestions. First, the additional language added to the definition of news media focuses on the nature of the requester as opposed to the content of the request. Second, the commenter's observation that a press release should meet the distinct work standard would be permissible under the revised definition as long as it meets the requirement that it is about current events or of current interest to the public. Finally, we explain that the revised definition uses examples of news media entities that are not all-inclusive.

One commenter suggested clarifying that the ''10 additional days'' in § 1015.9(f)(6)(i) are working days. We agree with the commenter and for clarity have amended § 1015.9(f)(6)(i) accordingly. This section is an exception to the requirement that the Commission waive certain fees if it fails to meet certain time limits. Although the ''10 additional days'' language we proposed in the NPR tracks the language used in the 2016 FOIA at 5 U.S.C. 552(a)(4)(A)(viii)(ll), the 10 days are in addition to the 20 *working days* that the Commission has to respond to the request for records per 5 U.S.C. 552(a)(6)(A)(i) and therefore also are calculated as working days. This revision is consistent with 5 U.S.C. 552(a)(6)(B)(i), which refers to the extension for unusual circumstances as no more than 10 *working* days, and the revision is also consistent with the Commission's current practices.

Additionally, on our own initiative, we made some clarifications and corrections to § 1015.9(f)(6). Specifically, we added or corrected citations to other sections in the rule and made other conforming changes to the 2016 FOIA. First, we added or corrected some references to sections in the rule that had previously been omitted or needed to be revised. Second, we revised the first sentence to remove ''and notice'' to track the language of the 2016 FOIA at 5 U.S.C. 552(a)(4)(A)(viii), which only refers to ''any time limits.'' The notice portion is instead a requirement of the exceptions at § 1015.9(f)(6)(i) and (ii), as stated in the 2016 FOIA at 5 U.S.C. 552(a)(4)(A)(viii)(ll)(aa) and (bb). Finally, we corrected two citation errors in § 1015.9(f)(6)(iii).

F. Commission Report of Actions to Congress (§ 1015.10)

Based on informal OIP input on this section we removed § 1015.10 because it unnecessarily repeats the requirements stated in the FOIA at 5 U.S.C. 552(e)(1), and, at the same time, is incomplete and lacks various other requirements listed in the FOIA. *See* 5 U.S.C. 552(e)(1)(B)(2), (C), and (F)–(M). Amending this section to restate all of the requirements from the FOIA would make the rule unnecessarily dense and provides no additional guidance about the requirement.

G. Exemptions (5 U.S.C. 552(b)) (§ 1015.16)

Also based on informal OIP input on this section, we removed § 1015.16 for similar reasons. Because the requirements are already specified in the FOIA at 5 U.S.C. 552(b), it is unnecessary to repeat them in the rule. Moreover, § 1015.16(c) is incomplete. *See* 5 U.S.C. 552(b)(3). In making this revision, we revised § 1015.15(d) and § 1015.20 to reference the exemptions contained in the FOIA at 5 U.S.C. 552(b) instead of the exemptions contained in § 1015.16.

III. Environmental Considerations

The Commission's regulations address whether the Commission is required to prepare an environmental assessment or an environmental impact statement. 16 CFR part 1021. These regulations provide a categorical exclusion for certain CPSC actions that normally have ''little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(1). This final rule falls within the categorical exclusion.

IV. Regulatory Flexibility Act

Under section 603 of the Regulatory Flexibility Act (RFA), when the Administrative Procedure Act (APA) or another law requires an agency to publish a general notice of proposed rulemaking, the agency must prepare an initial regulatory flexibility analysis and a final regulatory flexibility analysis assessing the economic impact of the rule on small entities or certify that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603(a), 604(a), and 605. As noted in the NPR, the Commission chose to provide notice and comment for this rulemaking. However, because this is a ''rule of agency organization, procedure, or practice,'' the APA does not require an NPR. 5 U.S.C. 553. Thus, the RFA requirement does not apply to this rulemaking. We further noted in the NPR that the rule would merely set out in a regulation the procedural requirements stated in the FOIA of 2016, update Commission procedures, and make other technical changes and corrections. We expect that the final rule will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) establishes certain requirements when an agency conducts or sponsors a ''collection of information.'' 44 U.S.C. 3501–3520. The final rule amends the Commission's rule to conform to the 2016 FOIA, to update Commission procedures, and make other technical changes and corrections. The final rule would not impose any information collection requirements. The existing rule and the amendment do not require or request information from firms, but rather, explain the Commission's FOIA procedures. Thus, this rulemaking does not implicate the PRA.

VI. Executive Order 12988 (Preemption)

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. Section 26 of the Consumer Product Safety Act (CPSA) explains the preemptive effect of consumer product safety standards issued under the CPSA. 15 U.S.C. 2075. The final rule is not a consumer product safety standard. The final rule revises a rule of agency practice and procedure by implementing the FOIA of 2016 and making technical revisions or corrections. Therefore, section 26 of the CPSA would not apply to this rule.

VII. Effective Date

The Commission proposed that the final rule would become effective 30 days after the final rule is published in the **Federal Register** in accordance with the APA's general requirement that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). We received no comments regarding the effective date. Therefore, the final rule will become effective 30 days after the final rule is published in the **Federal Register**.

List of Subjects in 16 CFR Part 1015

Administrative practice and procedure, Consumer protection, Disclosure of information, Freedom of information.

Accordingly, the Commission amends 16 CFR part 1015 as follows:

PART 1015—PROCEDURES FOR DISCLOSURE OR PRODUCTION OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 1015 is revised to read as follows:

Authority: 15 U.S.C. 2051–2084; 15 U.S.C. 1261–1278; 15 U.S.C. 1471–1476; 15 U.S.C. 1211–1214; 15 U.S.C. 1191–1204; 15 U.S.C. 8001–8008; Pub. L. 110–278, 122 Stat. 2602; 5 U.S.C. 552.

■ 2. Revise § 1015.1 to read as follows:

1015.1 Purpose and scope.

(a) The regulations of this subpart provide information concerning the procedures by which Consumer Product Safety Commission records may be made available for inspection and the procedures for obtaining copies of records from the Consumer Product Safety Commission. Official records of the Consumer Product Safety Commission consist of all documentary material maintained by the Commission in any format, including an electronic format. These records include those maintained in connection with the Commission's responsibilities and functions under the Consumer Product Safety Act, as well as those responsibilities and functions transferred to the Commission under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, the Refrigerator Safety Act, the Flammable Fabrics Act, the Children's Gasoline Burn Prevention Act, the Virginia Graeme Baker Pool and Spa Safety Act, and the Child Nicotine Poisoning Prevention Act, and those maintained under any other authorized activity. Official records do not, however, include objects or articles such as tangible exhibits, samples, models, equipment, or other items of valuable property; books, magazines, or other reference material; or documents routinely distributed by the Commission in the normal course of business such as copies of Federal Register notices, pamphlets, and laws. Official records include only existing records. Official records of the Commission made available under the requirements of the Freedom of Information Act (5 U.S.C. 552) shall be furnished to the public as prescribed by this part 1015. A request by an individual for records about himself or herself that are contained in the Commission's system of records under the Privacy Act (5 U.S.C. 552a) will be processed under the Privacy Act and the FOIA. Documents routinely distributed to the public in the normal course of business will continue to be furnished to the public by employees of the Commission informally and without compliance with the procedures prescribed herein.

(b) The Commission's policy with respect to requests for records is that disclosure is the rule and withholding is the exception. All records or portions of records not exempt from disclosure will be made available. Records which may be exempted from disclosure will be made available unless: Disclosure is prohibited by law; the Commission reasonably foresees that disclosure would harm an interest protected by an exemption described in 5 U.S.C. 552(b); or disclosure is exempted under 5 U.S.C. 552(b)(3). See § 1015.15(b). Section 6(a)(2) of the Consumer Product Safety Act, 15 U.S.C. 2055(a)(2), prohibits the disclosure of trade secrets or other matters referred to in 18 U.S.C. 1905; section 6(b) and section 25(c) of the CPSA. The Commission will consider the record's age, content, and character in assessing whether it reasonably foresees that disclosure of the document would harm an interest protected by an exemption. Additionally, the Commission will consider whether partial disclosure of information is possible whenever the Commission determines that a full disclosure of a requested record is not possible and will take reasonable steps

necessary to segregate and release nonexempt information.

(c) The Secretariat of the Commission is the designated Chief Freedom of Information Officer who, subject to the authority of the Chairman, is responsible for compliance with and implementation of 5 U.S.C. 552(j).

■ 3. Revise § 1015.2 to read as follows:

§ 1015.2 Public inspection.

(a) The Consumer Product Safety Commission will maintain in a public reference room or area the materials relating to the Consumer Product Safety Commission that are required by 5 U.S.C. 552(a)(2) and 552(a)(5) to be made available for public inspection in an electronic format. The principal location will be in the Office of the Secretariat of the Commission. The address of this office is: Office of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814.

(b) This public reference facility will maintain and make available for public inspection in an electronic format a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

(c) The Consumer Product Safety Commission will maintain an ''electronic reading room'' on the World-Wide Web at *https://www.cpsc.gov* for those records that are required by 5 U.S.C. 552(a)(2) to be available by ''computer telecommunications.'' Records that the FOIA requires the Commission to make available for public inspection in an electronic format may be accessed through the e-FOIA Public Access Link at *https://www.cpsc.gov*.

(d) Subject to the requirements of Section 6 of the CPSA, the Commission will make available for public inspection in an electronic format copies of all records, regardless of form or format, that:

(1) Have been released to any person under 5 U.S.C. 552(a)(3); and

(2) Because of the nature of their subject matter, the Commission determines have become or are likely to become the subject of subsequent requests for substantially the same records or that have been requested three or more times.

■ 4. Amend § 1015.3 by:

■ a. Revising the section heading;

■ b. Revising the first sentence of paragraph (a);

■ c. Adding a sentence at the end of paragraph (b); and

■ d. Removing the word ''Secretary'' from paragraphs (d) and (e), wherever it appears, and adding, in its place, the word ''Secretariat''.

The revisions and additions read as follows:

§ 1015.3 Requests for records.

(a) A request for access to records of the Commission shall be in writing addressed to the Secretariat and shall be submitted through any of the following methods: The e-FOIA Public Access Link at *https://www.cpsc.gov;* email to *cpsc-foia@cpsc.gov;* mail to Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, MD 20814; or facsimile to 301–504–0127. * * *

(b) * * * Before submitting their requests, requesters may contact the Commission's FOIA contact or FOIA Public Liaison to discuss the records they seek and to receive assistance in describing the records.

* * * * *

§ 1015.4 [Amended]

■ 5. Amend § 1015.4 by removing the word ''Secretary'' wherever it appears, and adding, in its place, the word ''Secretariat''.

■ 6. Amend § 1015.5 by:

■ a. Revising paragraph (a);

■ b. Removing the word ''Secretary'' in paragraphs (b) introductory text, (b)(1), (d), and (d)(2) wherever it appears, and adding, in its place, the word ''Secretariat'';

■ c. Redesignating paragraphs (e) through (g) as paragraphs (f) through (h), respectively;

■ d. Adding new paragraph (e);

■ e. Removing the word ''Secretary'' in redesignated paragraphs (f), (g) introductory text, (g)(5), and (h) wherever it appears, and adding, in its place, the word ''Secretariat''; and

■ f. Revising redesignated paragraphs (g)(2) and g(3).

The revisions and additions read as follows:

§ 1015.5 Time limitation on responses to requests for records and requests for expedited processing.

(a) The Secretariat or delegate of the Secretariat shall respond to all written requests for records within twenty (20) working days (excepting Saturdays, Sundays, and legal public holidays). The time limitations on responses to requests for records submitted by mail shall begin to run at the time a request for records is received and date stamped by the Office of the Secretariat. The Office of the Secretariat shall date stamp the request the same day that it receives the request. The time limitations on responses to requests for records submitted electronically during working hours (8 a.m. to 4:30 p.m. EST) shall begin to run at the time the request was electronically received, and the time limitations on responses to requests for records submitted electronically during non-working hours will begin to run when working hours resume.

* * * * *

(e) If an extension of time greater than ten (10) working days is necessary, the Commission shall make available its FOIA Public Liaison for this purpose. A list of the Commission FOIA Public Liaisons is available at *https://www.cpsc.gov/Newsroom/FOIA.* The Commission will also notify requesters in writing to the availability of the Office of Government Information Services of the National Archives and Records Administration to provide dispute resolution services.

(g) * * *

(2) Requesters for expedited processing must include in their requests, which may be submitted through any of the methods described in § 1015.3(a), a statement setting forth the basis for the claim that a ''compelling need'' exists for the requested information, certified by the requester to be true and correct to the best of his or her knowledge and belief.

(3) The Secretariat or delegate of the Secretariat will determine whether to grant a request for expedited processing and will notify the requester of such determination within ten (10) calendar days of receipt of the request.

* * * * *

■ 7. Amend § 1015.6 by:

■ a. Revising paragraphs (a), (b) introductory text, and (b)(4);

■ b. Adding paragraph (b)(5); and

■ c. Removing the word ''Secretary'' from paragraph (c) wherever it appears, and adding, in its place, the word ''Secretariat''.

The revisions and additions read as follows:

§ 1015.6 Responses: Form and content.

(a) When a requested record has been identified and is available for disclosure, the requester shall be supplied with a copy or notified as to where and when the record will be made available for public inspection in an electronic format. If the payment of fees is required the requester shall be advised by the Secretariat in writing of any applicable fees under § 1015.9 hereof. The requester will be notified of the right to seek assistance from the Commission's FOIA Public Liaison.

(b) A response denying or partially denying a written request for a record shall be in writing, dated, and signed by the Secretariat or delegate of the Secretariat and shall include:

* * * * *

(4) A statement that the denial may be appealed to the Commissioners of the Consumer Product Safety Commission. Any such appeal must be made within 90 calendar days after the date of the denial or partial denial of the Commission's response to a request for records.

(5) A statement that the requester has the right to seek dispute resolution services from the Commission's FOIA Public Liaison or the Office of Government Information Services.

* * * * *

■ 8. Amend § 1015.7 by:
■ a. Revising the section heading;
■ b. Revising paragraphs (a) and (b);
■ c. Removing the word ''Secretary'' in paragraphs (c) and (g) wherever it appears, and adding, in its place, the word ''Secretariat'';
■ d. Revising paragraph (e); and
■ e. Revising the sectional authority citation following paragraph (g).

The revisions read as follows:

§ 1015.7 Appeals from initial denials; reconsideration by the Secretariat.

(a) When the Secretariat or delegate of the Secretariat has denied a request for records in whole or in part, the requester may, within 90 calendar days after the date of the denial or partial denial, appeal the denial to the General Counsel of the Consumer Product Safety Commission, attention of the Secretariat. Appeals may be submitted through any of the following methods: the e-FOIA Public Access Link at *https://www.cpsc.gov;* email to *cpsc-foia@cpsc.gov;* mail to 4330 East West Highway, Room 820, Bethesda, MD 20814; or facsimile to 301–504–0127.

(b) The General Counsel, or the Secretariat upon reconsideration, will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal submitted by mail shall begin to run at the time an appeal is received and date stamped by the Office of the Secretariat. The Office of the Secretariat will date stamp the appeal the same day that it receives the appeal. The time limitations on an appeal submitted electronically during working hours (8 a.m. to 4:30 p.m. EST) shall begin to run at the time the appeal was electronically received, and the time limitations on appeals submitted electronically during non-working hours will begin to run when working hours resume.

* * * * *

(e) The General Counsel's action on appeal shall be in writing, shall be signed by the General Counsel, and shall constitute final agency action. A denial in whole or in part of a request on appeal shall set forth the exemption relied upon; a brief explanation, consistent with the purpose of the exemption, of how the exemption applies to the records withheld; and the reasons for asserting it. The decision will inform the requester of the right to seek dispute resolution services from the Commission's FOIA Liaison or the Office of Government Information Services. A denial in whole or in part shall also inform the requester of his/her right to seek judicial review of the Commission's final determination in a United States district court, as specified in 5 U.S.C. 552(a)(4)(B).

* * * * *

(5 U.S.C. 552(a)(6)(A); 5 U.S.C. 553; 15 U.S.C. 2076(b)(10))

■ 9. Amend § 1015.9 by:
■ a. Removing the word ''Secretary'' in paragraphs (a), (e)(9), (f)(4), and (5), and adding, in its place, the word ''Secretariat'';
■ b. Revising paragraphs (b), (c)(2), (3), and (8);
■ c. Adding a sentence at the end of paragraph (e)(1);
■ d. Redesignating paragraph (f)(6) as paragraph (f)(7);
■ e. Adding new paragraph (f)(6); and
■ f. Removing the word ''Secretary'' in newly redesignated paragraph (f)(7) and adding, in its place, the word ''Secretariat''.

The revisions and additions read as follows:

§ 1015.9 Fees for production of records.

* * * * *

(b) Fees shall be paid to the Treasury of the United States according to the directions provided by the Commission.

(c) * * *

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents and the reasonable efforts expended to locate and retrieve information from electronic records.

(3) *Duplication* refers to the process of making a copy of a document, including electronically, necessary to respond to a FOIA request. The Commission will honor the requester's preference for receiving a record in a particular format when it can readily reproduce it in the form or format requested.

* * * * *

(8) *Representative of the news media* refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations that broadcast ''news'' to the public at large and publishers of periodicals that disseminate ''news'' and make their products available through a variety of means to the general public, including news organizations that disseminate solely on the Internet. A request for records supporting the news-dissemination function of the requester will not be considered to be for a commercial use. ''Freelance'' journalists who demonstrate a solid basis for expecting publication through a news media entity will be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, the Commission can also consider a requester's past publication record in making this determination. These examples are not all-inclusive.

* * * * *

(e) * * *

(1) * * * Where paper documents must be scanned in order to comply with a requester's preference to receive records in an electronic format, the requester must also pay the direct costs associated with scanning those materials.

* * * * *

(f) * * *

(6) Search fees shall be waived for all requests and duplication fees shall be waived for requests from educational institutions, non-commercial scientific institutions, and representatives of the news media if the Commission fails to comply with any time limit under §§ 1015.5(a), (g)(3), 1015.7(b), and 5 U.S.C. 552(a)(6) other than those exceptions stated in 5 U.S.C. 552(a)(4)(A)(viii)(ll). Those exceptions include:

(i) If the Commission has determined that unusual circumstances as defined in § 1015.5(b) apply and the Commission provided timely written notice to the requester as required by § 1015.5(c) or § 1015.7(f), then failure to comply with the time limit in §§ 1015.5(a), (g)(3), 1015.7(b), and 5 U.S.C. 552(a)(6) is excused for 10 additional working days; or

(ii) If the Commission has determined that unusual circumstances as defined in § 1015.5(b) apply and more than 5,000 pages are necessary to respond to the request, and the Commission has provided timely written notice in accordance with § 1015.5(c) and (e) and the Commission has discussed with the requester via written mail, email, or telephone (or made not less than three

good-faith efforts to do so) how the requester could effectively limit the scope of the request; or

(iii) If a court has determined that exceptional circumstances exist as defined in 5 U.S.C. 552(a)(6)(C), then failure to comply with §§ 1015.5(a), (g)(3), 1015.7(b), and 5 U.S.C. 552(a)(6) shall be excused for the length of time provided by the court order.

* * * * *

§ 1015.10 [Removed and Reserved]

■ 10. Remove and reserve § 1015.10.

■ 11. Revise § 1015.11 to read as follows:

§ 1015.11 Disclosure of trade secrets to consultants and contractors; nondisclosure to advisory committees and other government agencies.

(a) In accordance with section 6(a)(2) of the CPSA, the Commission may disclose information which it has determined to be a trade secret or other matter referred to under 5 U.S.C. 552(b)(4) to Commission consultants and contractors for use only in their work for the Commission. Such persons are subject to the same restrictions with respect to disclosure of such information as any Commission employee.

(b) In accordance with section 6(a)(2) of the CPSA, the Commission is prohibited from disclosing information which it has determined to be a trade secret or other matter referred to under 5 U.S.C. 552(b)(4) to advisory committees, except when required in the official conduct of their business, or to other Federal agencies and state and local governments except when permitted by the provisions of section 29(f) of the CPSA.

■ 12. Revise § 1015.15 to read as follows:

§ 1015.15 Purpose and scope.

(a) The regulations of this subpart provide information concerning the types of records which may be withheld from production and disclosure by the Consumer Product Safety Commission. These regulations also provide information on the method whereby persons submitting information to the Commission may request that the information be considered exempt from disclosure, and information concerning the Commission's treatment of documents submitted with a request that they be treated as exempt from disclosure.

(b) No identifiable record requested in accordance with the procedures contained in this part shall be withheld from disclosure unless it falls within one of the classes of records exempt under 5 U.S.C. 552(b). The Commission will make available, to the extent permitted by law, records authorized to be withheld under 5 U.S.C. 552(b) unless the Commission reasonably foresees that disclosure would harm an interest protected by the exemption or disclosure is prohibited by law or otherwise exempted from disclosure under 5 U.S.C. 552(b)(3). In this regard the Commission will not ordinarily release documents that provide legal advice to the Commission concerning pending or prospective litigation where the release of such documents would significantly interfere with the Commission's regulatory or enforcement proceedings.

(c) Draft documents that are agency records are subject to release upon request in accordance with this regulation. However, in order to avoid any misunderstanding of the preliminary nature of a draft document, each draft document released will be marked to indicate its tentative nature. Similarly, staff briefing packages, which have been completed but not yet transmitted to the Commission by the Office of the Secretariat are subject to release upon request in accordance with this regulation. Each briefing package or portion thereof released will be marked to indicate that it has not been transmitted to or acted upon by the Commission. In addition, briefing packages, or portions thereof, which the Secretariat upon the advice of the Office of the General Counsel has determined would be released upon request in accordance with this regulation, will be made available for public inspection in an electronic format through the Commission's Web site at *https://www.cpsc.gov* promptly after the briefing package has been transmitted to the Commissioners by the Office of the Secretariat. Such packages will be marked to indicate that they have not been acted upon by the Commission.

(d) The exemptions contained in 5 U.S.C. 552(b) will be interpreted in accordance with the applicable law at the time a request for production or disclosure is considered.

§ 1015.16 [Removed and Reserved]

■ 13. Remove and reserve § 1015.16.

§ 1015.17 [Removed and Reserved]

■ 14. Remove and reserve § 1015.17.

■ 15. Amend § 1015.20 by removing the first and second sentences of paragraph (a) and adding one sentence in their place to read as follows:

§ 1015.20 Public availability of accident or investigation reports.

(a) Accident or investigation reports made by an officer, employee, or agent of the Commission are available to the public under the procedures set forth in subpart A of this part 1015 unless such reports are subject to the investigatory file exemption contained in the Freedom of Information Act (5 U.S.C. 552(b)) except that portions identifying any injured person or any person treating such injured person will be deleted in accordance with section 25(c)(1) of the CPSA. * * *

* * * * *

Dated: August 2, 2017.

Todd A. Stevenson,

Secretariat, Consumer Product Safety Commission.

[FR Doc. 2017–16550 Filed 8–7–17; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2017–0640]

Special Local Regulation for Marine Events; Back River, Hampton, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Poquoson Seafood Festival Workboat Race held on the Back River on October 15, 2017, with a rain date of October 29, 2017. This action is necessary to provide for the safety of life on navigable waterways during the power boat race. Our regulation for recurring marine events in Captain of the Port—Sector Hampton Roads zone identifies the regulated area for this regatta. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port or a designated representative.

DATES: The regulations in 33 CFR 100.501 will be enforced for the location listed at (c)(8) in the Table to § 100.501, Coast Guard Sector Hampton Roads—COTP Zone, from 1 p.m. through 4 p.m. on October 15, 2017, with a rain date of October 29, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LCDR Barbara Wilk, Waterways Management Sector Hampton Roads, U.S. Coast

Guard; telephone 757–668–5580, *hamptonroadswaterway@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.501 from 1 p.m. until 4 p.m. on October 15, 2017, with a rain date of October 29, 2017, for the Poquoson Seafood Festival Workboat Race at Poquoson, VA. This action is being taken to provide for the safety of life on navigable waterways during the power boat race. Our regulation for recurring marine events within the Fifth Coast Guard District, § 100.501, specifies the location for this special local regulation; Race area: The area is bounded on the north by a line drawn along latitude 37°06′30″ N., bounded on the south by a line drawn along latitude 37°06′15″ N., bounded on the east by a line drawn along longitude 076°18′52″ W. and bounded on the west by a line drawn along longitude 076°19′30″ W. Buffer area: The waters of Back River extending 200 yards outwards from east and west boundary lines, and 100 yards outwards from the north and south boundary lines described in this section. As specified in § 100.501(c), during the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port (COTP)—Sector Hampton Roads or a COTP designated representative.

This notice of enforcement is issued under authority of 33 CFR 100.501 and 5 U.S.C. 552(a). This notice of enforcement will be published in the **Federal Register**, Local Notice to Mariners, and conveyed in marine information broadcasts.

Dated: August 1, 2017.

Richard J. Wester,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, VA.

[FR Doc. 2017–16645 Filed 8–7–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0524]

Drawbridge Operation Regulation; Mill River, New Haven, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation; modification.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the Chapel Street Bridge across the Mill River, mile 0.4 at New Haven, Connecticut. This modified deviation is necessary to accommodate delays to the bridge deck replacement and various repairs. This modified deviation allows the bridge to open for the passage of vessels upon two hours of advance notice as well as a twelve day closure of the draw to all vessel traffic.

DATES: This modified deviation is effective without actual notice from August 8, 2017 through 11:59 p.m. on September 9, 2017. For purposes of enforcement, actual notice will be used from 12:01 a.m. on August 1, 2017 until August 8, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0524, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212–514–4334, email *James.M.Moore2@uscg.mil.*

SUPPLEMENTARY INFORMATION: The City of New Haven, the owner of the bridge, requested a temporary deviation from the normal operating schedule to facilitate rehabilitation of the bridge, specifically replacement of the bridge deck. The Chapel Street Bridge, across the Mill River, mile 0.4 at New Haven, Connecticut offers mariners a vertical clearance of 7.9 feet at mean high water and 14 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.213(d).

On July 6, 2017, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; Mill River, New Haven, CT'' in the **Federal Register** (82 FR 31253). Under that temporary deviation, the Chapel Street Bridge would open for mariners provided a two hour advance notice was furnished to the owner of the bridge (with the bridge authorized to remain closed during weekday rush hour timeframes with the exception of recognized federal holidays) and the draw would remain closed to all vessels requiring an opening from 12:01 a.m. July 27, 2017 until 11:59 p.m. August 7, 2017 to facilitate the pouring/curing of new bridge deck material. The draw would then revert to opening for mariners given two hours of advance notice until September 9, 2017.

Due to project delays precipitated by the discovery of advanced corrosion of the steel deck grid prior to the planned pouring of concrete deck material as well as associated remediation of the same corrosion, the City of New Haven has requested that until 11:59 p.m. August 9, 2017 the draw of the Chapel Street Bridge open for the passage of vessels requiring an opening provided two hours of advance notice is furnished to the owner of the bridge; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic. The bridge will remain closed to all vessels requiring an opening from 12:01 a.m. August 10, 2017 until 11:59 p.m. August 21, 2017 to facilitate the pouring/curing of new bridge deck material. From 12:01 a.m. August 22, 2017 until 11:59 p.m. September 9, 2017 the bridge will open for the passage of vessels requiring an opening provided two hours of advance notice is furnished to the owner of the bridge; except that from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic.

The bridge routinely opens for commercial vessels. Nevertheless, the requirement for two hours of advance notice has not impeded routine waterway operations. Mariners have offered no objection to a twelve day closure of the draw in order to complete the necessary deck replacement. The concrete pour and curing process can be accomplished in four days, but a twelve day closure period has been requested in order to take inclement weather into account. The bridge will resume operations as soon as the curing process has been completed. The City of New Haven has maintained open lines of communication with waterway operators and ensured all project developments are quickly disseminated to all relevant parties.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be not able to open for emergencies. There is no alternate route for vessels to pass.

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

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation

from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 2, 2017.

Christopher J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2017–16644 Filed 8–7–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0213; FRL–9965–56–Region 4]

Air Plan Approval; Kentucky; Infrastructure Requirements for the 2012 $PM_{2.5}$ National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of the State Implementation Plan (SIP) submission, submitted on February 8, 2016, by the Commonwealth of Kentucky, through the Energy and Environment Cabinet, Department for Environmental Protection, through the Kentucky Division for Air Quality (KDAQ), to demonstrate that the State meets the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. KDAQ certified that the Kentucky SIP contains provisions that ensure the 2012 Annual $PM_{2.5}$ NAAQS is implemented, enforced, and maintained in Kentucky. EPA has determined that portions of Kentucky's SIP satisfy certain infrastructure elements for the 2012 Annual $PM_{2.5}$ NAAQS.

DATES: This rule will be effective September 7, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2016–0213. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bell can be reached via electronic mail at *bell.tiereny@epa.gov* or via telephone at (404) 562–9088.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On December 14, 2012 (78 FR 3086, January 15, 2013), EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS. The standard was strengthened from 15.0 micrograms per cubic meter (μg/m^3) to 12.0 μg/m^3. Pursuant to section 110(a)(1) of the CAA, States are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2012 Annual $PM_{2.5}$ NAAQS to EPA no later than December 14, 2015.

In a proposed rulemaking published May 10, 2017 (82 FR 21751), EPA proposed to approve portions of Kentucky's February 8, 2016 SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS, with the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4) and the minor source program requirement of section 110(a)(2)(C), for which EPA did not propose any action. With respect to the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2 and 4), EPA will consider these requirements in relation to Kentucky's 2012 Annual $PM_{2.5}$ NAAQS infrastructure submission in a separate rulemaking. The details of Kentucky's submission and the rationale for EPA's actions for this final rule are explained in the May 10, 2017, proposed rulemaking. Comments on the proposed rulemaking were due on or before June 9, 2017. EPA did not receive any comments, adverse or otherwise.

II. Final Action

With the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4) and the minor source program requirement of section 110(a)(2)(C), EPA is taking final action to approve Kentucky's infrastructure submission for the 2012 Annual $PM_{2.5}$ NAAQS. EPA notes that the Agency is not approving any specific rule, but rather approving that Kentucky's already approved SIP meets certain CAA requirements. EPA is taking final action to approve portions of Kentucky's infrastructure SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS because it is consistent with section 110 of the CAA.

III. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);

• does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: July 19, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

■ 2. Section 52.920(e) is amended by adding a new entry for ''110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual Fine $PM_{2.5}$ NAAQS'' at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual Fine $PM_{2.5}$ NAAQS.	Kentucky	2/8/2016	8/8/2017, [Insert citation of publication].	With the exception of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2 and 4) and the minor source program requirement of section 110(a)(2)(C).

[FR Doc. 2017–16488 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2015–0198; A–1–FRL–9965–52-Region 1]

Air Plan Approval; Connecticut; Infrastructure Requirement for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving one aspect (the remaining portion) of a State Implementation Plan (SIP) revision submitted on May 30, 2013 by the State of Connecticut. This revision addresses the interstate transport requirements of the Clean Air Act (CAA), referred to as the good neighbor provision, with respect to the 2010 sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). This action approves Connecticut's demonstration that the State is meeting its obligations regarding the transport of SO_2 emissions into other states. This action is being taken under the Clean Air Act.

DATES: This rule is effective on September 7, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2015–0198. All documents in the docket are listed on the *https://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* 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 at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics and Indoor Air Programs Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, Air Permits, Toxics and Indoor Programs Units, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, (617) 918–1657; email at *dahl.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Background and Purpose
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I. Background and Purpose

On May 30, 2013, the Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted a revision to its SIP, certifying that its SIP meets the requirements of section 110(a)(2) of the CAA with respect to the 2010 SO_2 NAAQS (infrastructure SIP). On June 3, 2016 (81 FR 35636), EPA took final action on CT DEEP's certification that its SIP was adequate to meet the program elements required by section 110(a)(2) of the CAA with respect to the 2010 SO_2 NAAQS. However, at that time, EPA did not take action on CT DEEP's certification that its SIP met the requirements of section 110(a)(2)(D)(i)(I), the good neighbor provision.

On May 8, 2017 (82 FR 21351), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut 2010 SO_2 NAAQS infrastructure SIP as it pertains to section 110(a)(2)(D)(i)(I) of the CAA. The specific requirements of this infrastructure SIP element and the rationale for EPA's proposed action on the State's submittal is explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the remainder of the May 30, 2013 SIP submission from Connecticut certifying that the State's current SIP is sufficient to meet the required infrastructure elements under section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS.

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 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);
- 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 October 10, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: July 12, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

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 H—Connecticut

■ 2. Section 52.386 is amended by redesignating the undesignated paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.386 Section 110(a)(2) infrastructure requirements.

* * * * *

(b) On May 30, 2013, the State of Connecticut submitted a State Implementation Plan (SIP) revision addressing the Section 110(a)(2)(D)(i)(I) interstate transport requirements of the Clean Air Act for the 2010 SO_2 National Ambient Air Quality Standards (NAAQS). EPA has found that Connecticut's May 30, 2013 submittal meets the requirements of Section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS.

[FR Doc. 2017–16487 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0188; FRL–9965–70-Region 4]

Air Plan Approval; Mississippi: Prevention of Significant Deterioration Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a portion of the State Implementation Plan (SIP) revision submitted by Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), Office of Pollution Control, on June 7, 2016. Specifically, this action approves the portion of the SIP revision making changes to Mississippi's Prevention of Significant Deterioration (PSD) program by modifying the incorporation by reference (IBR) date for the Federal PSD regulations promulgated by EPA. By changing this date, approval of the SIP revision modifies the existing Greenhouse Gas (GHG) PSD permitting program and incorporates PSD provisions related to the 1997, 2006, and 2012 fine particulate matter ($PM_{2.5}$) and 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). This action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This direct final rule is effective October 10, 2017 without further notice, unless EPA receives adverse comment by September 7, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0188 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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, 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: Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Febres can be reached via telephone at (404) 562–8966 or via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is the Agency taking?

On June 7, 2016, MDEQ submitted a SIP revision for EPA's approval that includes changes to Mississippi's regulations to make them consistent with Federal requirements for the New Source Review (NSR) permitting program, in particular for PSD permitting.[1] Additionally, the submittal renames the State's PSD regulations in the SIP from APC–S–5 to Mississippi Administrative Code, Title 11, Part 2, Chapter 5 (hereinafter referred to as Regulation 11–MAC–Part 2–5), and makes formatting changes to these regulations. EPA approved these administrative changes to the PSD regulations in a Letter Notice dated July 20, 2017.[2]

EPA is approving the portion of Mississippi's submittal that makes changes to the State's PSD program, as established in MDEQ's Regulation 11–MAC–Part 2–5, which applies to the construction or modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C of title I of the CAA. This SIP revision is intended to make Mississippi's state PSD permitting rule consistent with the Federal requirements, as promulgated by EPA. The June 7, 2016 submittal updates the IBR date at 11–MAC–Part 2–5 Rule 5.1 and Rule 5.2 from November 4, 2011, to February 17, 2016, for the Federal PSD permitting regulations at 40 CFR 52.21 and 51.166.[3] By modifying the IBR date of 40 CFR 52.21, Mississippi is making four changes to its PSD rules: (1) Adopting provisions for GHG plantwide applicability limitations (PALs); (2) removing permitting requirements for certain GHG sources; (3) incorporating grandfathering provisions for the 2012 primary annual $PM_{2.5}$[4] NAAQS

[1] EPA's regulations governing the implementation of NSR permitting programs are contained in 40 CFR 51.160—51.166; 52.21, 52.24; and part 51, Appendix S. The CAA NSR program is composed of three separate programs: PSD, NNSR, and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs.

[2] Mississippi submitted a supplemental letter on May 7, 2017, clarifying its intent to incorporate these renaming and reformatting changes of APC–S–5 into the SIP.

[3] 11–MAC–Part 2–5 incorporates by reference 40 CFR 52.21 with the exceptions noted in Rule 5.2 and incorporates by reference 40 CFR 51.166(f) and (q) with the exceptions noted in Rule 5.4.

[4] Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. Fine particles in the atmosphere are made up of a complex mixture of components including sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour

Continued

and the 2015 8-hour ozone NAAQS; and (4) incorporating a correction to the definition of ''regulated NSR pollutant'' for PSD.[5] These changes are discussed below.

II. Background

A. Greenhouse Gases and Plantwide Applicability Limits

On January 2, 2011, GHG emissions were, for the first time, covered by the PSD and title V operating permit programs.[6] To establish a process for phasing in the permitting requirements for stationary sources of GHGs under the CAA PSD and title V programs, on June 3, 2010, the EPA published a final rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (hereinafter referred to as the GHG Tailoring Rule). *See* 75 FR 31514. In Step 1 of the GHG Tailoring Rule, which began on January 2, 2011, the EPA limited application of PSD and title V requirements to sources of GHG emissions only if they were subject to PSD or title V ''anyway'' due to their emissions of pollutants other than GHGs. These sources are referred to as ''anyway sources.''

In Step 2 of the GHG Tailoring Rule, which applied as of July 1, 2011, the PSD and title V permitting requirements applied to some sources that were classified as major sources based solely on their GHG emissions or potential to emit GHGs. Step 2 also applied PSD permitting requirements to modifications of otherwise major sources that would increase only GHG emissions above the level in the EPA regulations. EPA generally described the sources covered by PSD during Step 2 of the GHG Tailoring Rule as ''Step 2 sources'' or ''GHG-only sources.''

Subsequently, EPA published the GHG Step 3 Rule on July 12, 2012. *See* 77 FR 41051. In this rule, EPA decided against further phase-in of the PSD and title V requirements for sources emitting lower levels of GHG emissions. Thus, the thresholds for determining PSD applicability based on emissions of GHGs remained the same as established in Step 2 of the Tailoring Rule.

The GHG PALs portion of the July 12, 2012 final rule revised EPA regulations under 40 CFR part 52 for establishing PALs for GHG emissions. A PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirements of the PSD program, provided that emissions do not exceed the PAL level. Under EPA's interpretation of the Federal PAL provisions, such PALs are already available under PSD for non-GHG pollutants and for GHGs on a mass basis. EPA revised the PAL regulations to allow for GHG PALs to be established on a carbon dioxide equivalent (CO_2e)[7] basis as well. *See* 77 FR 41051 (July 12, 2012). EPA finalized these changes in an effort to streamline Federal and SIP PSD permitting programs by allowing sources and permitting authorities to address GHGs using PALs in a manner similar to the use of PALs for non-GHG pollutants.

On June 23, 2014, the U.S. Supreme Court addressed the application of stationary source permitting requirements to GHG emissions in *Utility Air Regulatory Group (UARG)* v. *EPA,* 134 S. Ct. 2427 (2014). The Supreme Court upheld EPA's regulation of Step 1—or ''anyway'' sources—but held that EPA may not treat GHGs as air pollutants for the purposes of determining whether a source is a major source (or a modification thereof) and thus require the source to obtain a PSD or title V permit. Therefore, the Court invalidated PSD and title V permitting requirements for Step 2 sources.

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued an Amended Judgment vacating the regulations that implemented Step 2 of the GHG Tailoring Rule, but not the regulations that implement Step 1 of the GHG Tailoring Rule. *Coalition for Responsible Regulation, Inc.* v. *EPA,* 606 Fed. Appx. 6, 7 (D.C. Cir. 2015). With respect to Step 2 sources, the D.C. Circuit's Judgment vacated the EPA regulations under review (including 40 CFR 51.166(b)(48)(v) and 40 CFR 52.21(b)(49)(v)) ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emissions increase from a modification.'' *Id.* at 7–8.

EPA promulgated a good cause final rule on August 19, 2015, entitled ''Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements.'' *See* 80 FR 50199 (August 19, 2015) (hereinafter referred to as the Good Cause GHG Rule). The rule removed from the Federal regulations the portions of the PSD permitting provisions for Step 2 sources that were vacated by the D.C. Circuit (*i.e.,* 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v)). EPA therefore no longer has the authority to conduct PSD permitting for Step 2 sources, nor can EPA approve provisions submitted by a state for inclusion in its SIP providing this authority. In addition, on October 3, 2016, EPA proposed to revise provisions in the PSD permitting regulations applicable to GHGs to fully conform with *UARG* and the Amended Judgment, but those revisions have not been finalized. *See* 81 FR 68110.

By revising the IBR date of 40 CFR 52.21 to February 17, 2016, Mississippi's June 7, 2016 SIP revision incorporates the GHG Step 3 Rule and removes permitting requirements for Step 2 sources.

B. Grandfather Provisions for 2012 Primary Annual $PM_{2.5}$ and 2015 Ozone NAAQS

Pursuant to section 165(a)(3)(B) of the CAA and the implementing PSD regulations at 40 CFR 52.21(k)(1) and

standards for $PM_{2.5}$, setting an annual standard at a level of 15.0 micrograms per cubic meter (μg/m³) and a 24-hour standard at a level of 65 μg/m³(62 FR 38652). At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5}$, such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary 24-hour NAAQS for $PM_{2.5}$ to 35 μg/m³ and retained the existing annual $PM_{2.5}$ NAAQS of 15.0 μg/m³ (71 FR 61236). On January 15, 2013, EPA published a final rule revising the annual $PM_{2.5}$ NAAQS to 12 μg/m³ (78 FR 3086).

[5] EPA has not acted on, and is not currently acting on, the portion of Mississippi's November 28, 2007 SIP revision that seeks to incorporate into the SIP, through a revision to APC–S–5 (state effective on September 24, 2007), the provisions amended in the Ethanol Rule (72 FR 24060) to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(*a*) and (b)(1)(iii)(*t*). Therefore, today's action does not IBR this provision into the SIP. Additionally, today's action does not incorporate into the SIP the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were initially stayed for an 18-month period on March 31, 2010, and stayed indefinitely by the Fugitive Emissions Interim Rule, 76 FR 17548 (March 30, 2011). These provisions were not incorporated into Mississippi's SIP through EPA's December 29, 2010, September 26, 2012, and March 5, 2015 actions approving IBR updates to APC–S–5 (September 14, 2010, May 12, 2011, and February 10, 2012 SIP revisions, respectively) because the provisions were stayed and because Mississippi never requested that EPA incorporate the provisions into the SIP.

[6] See the rule entitled ''Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs,'' Final Rule, 75 FR 17004 (April 2, 2010).

[7] CO_2 equivalent (CO_2e) emissions refers to emissions of six recognized GHGs other than CO_2 which are scaled to equivalent CO_2 emissions by relative global warming potential values, then summed with CO_2 to determine a total equivalent emissions value. *See* 40 CFR 51.166(b)(48)(ii) and 52.21(b)(49)(ii).

51.166(k)(1), EPA requires that PSD permit applications include a demonstration that emissions from the proposed facility will not cause or contribute to a violation of any NAAQS that is in effect on the date the PSD permit is issued. On January 15, 2013 (78 FR 3086), and October 26, 2015 (80 FR 65292), EPA published new primary annual $PM_{2.5}$ NAAQS and 8-hour ozone NAAQS, respectively. In these two revisions to the NAAQS, EPA established limited grandfathering provisions for certain PSD permit applications pending on the effective date of these revised NAAQS. Additionally, the revisions to both standards included the option to allow states and other air agencies that issue PSD permits under SIP-approved PSD programs to adopt a comparable grandfathering provision, as long as the provision is at least as stringent as that added to 40 CFR 51.166.

For the 2012 primary annual $PM_{2.5}$ NAAQS, sources with PSD permit applications that meet one of the following conditions would be allowed to give a demonstration that the source requesting the permit does not cause or contribute to a violation of the NAAQS based on the previous 1997 primary annual $PM_{2.5}$ standard instead of the revised 2012 standard: (1) Applications that have been determined to be complete on or before December 14, 2012; or (2) applications for which public notice of a draft permit or preliminary determination has been published as of the effective date of the revised 2012 $PM_{2.5}$ NAAQS (March 18, 2013).

For the 2015 8-hour ozone NAAQS revision, sources with PSD permit applications that meet one of the following conditions would be allowed to give a demonstration that the source requesting the permit does not cause or contribute to a violation of the NAAQS based on the previous 2008 8-hour ozone standard, instead of the revised 2015 standard: (1) Applications for which the reviewing authority has formally determined that the application is complete on or before October 1, 2015; or (2) applications for which the reviewing authority has first published a public notice of the draft permit or preliminary determination before the effective date of the revised 2015 8-hour ozone NAAQS (December 28, 2015).

By revising the IBR date of 40 CFR 52.21 to February 17, 2016, Mississippi's June 7, 2016 SIP revision incorporates both the 2012 annual $PM_{2.5}$ and 2015 8-hour ozone grandfathering provisions for the PSD program.

C. $PM_{2.5}$ Condensables Correction Rule

On May 16, 2008, EPA finalized a rule titled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),'' Final Rule, 73 FR 28321 (May 16, 2008) (hereinafter referred to as the 2008 NSR $PM_{2.5}$ Rule). The 2008 NSR $PM_{2.5}$ Rule revised the Federal NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and NAAs. Among other things, the rule revised the definition of ''regulated NSR pollutant'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures'' and that on or after January 1, 2011, ''such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits.'' *See* 73 FR 28321 at 28348. A similar paragraph added to the nonattainment new source review (NNSR) rule does not include ''particulate matter (PM) emissions.'' *See* 40 CFR 51.165(a)(1)(xxxvii)(D).

On October 25, 2012, EPA took final action to amend the definition of ''regulated NSR pollutant'' promulgated in the 2008 NSR $PM_{2.5}$ Rule regarding the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and Appendix S to 40 CFR 51. *See* 77 FR 65107. The $PM_{2.5}$ Condensables Correction Rule removed the inadvertent requirement in the 2008 NSR $PM_{2.5}$ Rule that the measurement of condensable particulate matter be included as part of the measurement and regulation of ''particulate matter emissions'' under the PSD program. The term ''particulate matter emissions'' includes filterable particles that are larger than $PM_{2.5}$ or PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS). *See* 40 CFR part 60.[8]

By revising the IBR date of 40 CFR 52.21 to February 17, 2016, Mississippi's June 7, 2016 SIP revision captures the $PM_{2.5}$ Condensables Correction Rule promulgated by EPA on October 25, 2012. *See* 77 FR 65107.

[8] In addition to the NSPS, states regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

III. Analysis of State's Submittal

Mississippi currently has a SIP-approved NSR program for PSD at 11–MAC-Part 2–5, including the regulation of GHGs under Step 1 and Step 2 of the GHG Tailoring Rule. The June 7, 2016 submittal revises the PSD regulations by changing the incorporation by reference date of 40 CFR 52.21 and 40 CFR 51.166 at 11–MAC-Part 2–5 Rule 5.1 and Rule 5.2 from November 4, 2011, to February 17, 2016.[9] The effect of changing this incorporation by reference date at 40 CFR 52.21 is to include four changes to the PSD rules: (1) The adoption of GHG PAL provisions pursuant to the GHG Step 3 Rule; (2) the removal of permitting requirements for Step 2 sources; (3) the incorporation of 2012 $PM_{2.5}$ and 2015 8-hour ozone NAAQS grandfathering provisions; and (4) the incorporation of the correction to the $PM_{2.5}$ condensables provision as promulgated in the $PM_{2.5}$ Condensables Correction Rule.

Mississippi's June 7, 2016 SIP revision seeks to add to the SIP elements of the EPA's July 12, 2012 rule implementing Step 3 of the phase-in of PSD permitting requirements for GHGs described in the GHG Step 3 Rule. Specifically, the incorporation of the GHG Step 3 Rule provisions will allow GHG-emitting sources to obtain PALs for their GHG emissions on a CO2e basis. As explained in Section II.A above, a PAL establishes a site-specific plantwide emission level for a pollutant, which allows the source to make changes to individual units at the facility without triggering the requirements of the PSD program, provided that facility-wide emissions do not exceed the PAL.

The Federal GHG PAL regulations include provisions that apply solely to GHG-only, or Step 2, sources. Some of these provisions may no longer be applicable in light of the Supreme Court's decision in *UARG* and the D.C. Circuit's Amended Judgment. Since the Supreme Court has determined that sources and modifications may not be defined as ''major'' solely on the basis of GHGs emitted or increased, PALs for GHGs may no longer have value in some situations where a source might have triggered PSD based on GHG emissions alone. EPA has proposed action in an October 3, 2016 proposed rule to clarify the GHG PAL rules. *See* 81 FR 68110. However, PALs for GHGs may still have a role to play in determining whether a

[9] As noted above, 11–MAC-Part 2–5 incorporates by reference 40 CFR 52.21 with the exceptions noted in Rule 5.2 and incorporates by reference 40 CFR 51.166(f) and (q) with the exceptions noted in Rule 5.4.

source that is already subject to PSD for a pollutant other than GHGs should also be subject to PSD for GHGs.

Moreover, the existing GHG PALs regulations do not add new requirements for sources or modifications that only emit or increase greenhouse gases above the major source threshold or the 75,000 ton per year GHG level in 40 CFR 52.21(b)(49)(iv). Rather, the PALs provisions provide increased flexibility to sources that wish to address their GHG emissions in a PAL. Since this flexibility may still be valuable to sources in at least one context described above, the Agency believes that it is appropriate to approve these provisions into the Mississippi SIP at this time.

Mississippi's June 7, 2016 submittal incorporates the Federal PSD provisions as of February 17, 2016, which is after the *UARG* decision, the D.C. Circuit's Amended Judgment, and EPA's August 19, 2015 Good Cause GHG Rule. Therefore, Mississippi incorporates fixes to the Federal rules to discontinue regulation of GHG-only, or Step 2, sources with this SIP revision. EPA is approving the removal of the regulation of Step 2 sources with this action.

EPA has concluded that approving these changes into the SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. Step 2 of the GHG Tailoring Rule was invalidated. EPA discussed the effects of PALs in the Supplemental Environmental Analysis of the Impact of the 2002 Final NSR Improvement Rules (November 21, 2002) (Supplemental Analysis). The Supplemental Analysis explained, ''[t]he EPA expects that the adoption of PAL provisions will result in a net environmental benefit. Our experience to date is that the emissions caps found in PAL-type permits result in real emissions reductions, as well as other benefits.'' Supplemental Analysis at 6; *see also* 76 FR 49313, 49315 (August 10, 2011). EPA is therefore approving the PALs provisions into the Mississippi SIP, as incorporated by reference.

Mississippi's June 7, 2016 SIP revision also incorporates revisions to the PSD permitting requirements for both the 2012 primary annual $PM_{2.5}$ (*See* 78 FR 3086 (January 15, 2013)) and the 2015 ozone 8-hour (*See* 80 FR 65292 (October 26, 2015)) NAAQS. The new incorporation by reference date adds limited grandfathering provisions for both standards that allows sources who are eligible to meet the previous standard for these NAAQS instead of the newly promulgated standards. EPA is approving these grandfathering provisions of the 2012 primary annual $PM_{2.5}$ and the 2015 8-hour ozone NAAQS, as incorporated by reference. EPA has concluded that this change will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. The rationale for allowing states to include these grandfathering provisions into their SIPs is discussed in detail at 78 FR 3086 (January 15, 2013) (2012 primary annual $PM_{2.5}$ NAAQS) and 80 FR 65292 (October 26, 2015) (2015 8-hour ozone NAAQS). EPA is therefore approving these grandfathering provisions into the Mississippi SIP, as incorporated by reference.

Finally, by changing the incorporation by reference date for 11–MAC-Part 2–5 in the SIP revision, Mississippi also adopts changes made by EPA in the $PM_{2.5}$ Condensables Correction Rule. *See* 77 FR 65107 (October 25, 2012). As explained in Section II.C, the Federal rule corrected an inadvertent error in the definition of ''regulated NSR pollutant'' at 40 CFR 52.21(b)(50). EPA has concluded that this change will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA, and is approving this revision to the Mississippi SIP.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Rule 5.1 and Rule 5.2 at Mississippi Administrative Code, Title 11, Part 2, Chapter 5, entitled ''Regulations for the Prevention of Significant Deterioration of Air Quality,'' effective May 28, 2016, which revises PSD rules.[10] 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.[11] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Final Action

EPA is taking a direct final action to approve the portion of Mississippi's June 7, 2016 SIP revision to update the IBR date for the Federal requirements of the PSD program. This SIP revision is intended to make Mississippi's state permitting rule consistent with the Federal requirements, as promulgated by EPA. The June 7, 2016 SIP submission updates the IBR date at 11–MAC-Part 2–5 to February 17, 2016, for the Federal PSD permitting regulations at 40 CFR 52.21 and 51.166. By revising the IBR date, this SIP revision modifies the existing GHG PSD permitting program and incorporates PSD provisions related to the 2012 primary annual $PM_{2.5}$ and 2015 8-hour ozone NAAQS.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 10, 2017 without further notice unless the Agency receives adverse comments by September 7, 2017.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 10, 2017 and no further action will be taken on the proposed rule.

VI. Statutory and Executive Order Reviews

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

[10] See footnotes 3 and 5 for additional detail.

[11] 62 FR 27968 (May 22, 1997).

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: July 25, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Z—Mississippi

■ 2. Section 52.1270(c) is amended by adding in alphanumerical order the undesignated heading ''11–MAC—Part 2–5 Regulations for the Prevention of Significant Deterioration of Air Quality'' and entries for ''Rule 5.1'' and ''Rule 5.2'' to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
11–MAC—Part 2–5 Regulations for the Prevention of Significant Deterioration of Air Quality				
Rule 5.1	Purpose of this regulation ..	5/28/2016	8/8/2017, [Insert citation of publication].	The version of Rule 5.1 in the SIP does not incorporate by reference: (1) The provisions amended in the Ethanol Rule (published in the **Federal Register** May 1, 2007) to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(*a*) and (b)(1)(iii)(*f*), or (2) the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely by the Fugitive Emissions Interim Rule (published in the **Federal Register** March 30, 2011). As discussed in [Insert citation of publication], EPA approved renaming and reformatting changes to the State's SIP-approved PSD regulations via a July 20, 2017, Letter Notice.

EPA-APPROVED MISSISSIPPI REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Rule 5.2	Adoption of Federal Rules by Reference.	5/28/2016	8/8/2017, [Insert citation of publication].	The version of Rule 5.2 in the SIP does not incorporate by reference: (1) The provisions amended in the Ethanol Rule (published in the **Federal Register** May 1, 2007) to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t), or (2) the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely by the Fugitive Emissions Interim Rule (published in the **Federal Register** March 30, 2011). As discussed in [Insert citation of publication], EPA approved renaming and reformatting changes to the State's SIP-approved PSD regulations via a July 20, 2017 Letter Notice.
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[FR Doc. 2017–16616 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0316; FRL–9964–74-Region 9]

Approval and Promulgation of State Implementation Plans; Nevada; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Nevada Regional Haze State Implementation Plan (SIP) submitted by the Nevada Division of Environmental Protection. The revision consists of the ''Nevada Regional Haze 5-Year Progress Report'' that addresses Regional Haze Rule requirements under the Clean Air Act to document progress towards achieving visibility goals by 2018 in Class I Federal areas in Nevada and nearby states. The EPA is taking final action to approve Nevada's determination that the regional haze requirements in the existing Nevada Regional Haze SIP do not require any substantive revision at this time.

DATES: This rule is effective September 7, 2017.

ADDRESSES: The EPA has established docket number EPA–R09–OAR–2015–0316 for this action. Generally, documents in the docket are available electronically at *https://www.regulations.gov* or in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. Please note that while many of the documents in the docket are listed at *https://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports, or otherwise voluminous materials), and some may not be available at either location (*e.g.,* confidential business information). To inspect the hard copy materials that are publicly available, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Krishna Viswanathan, EPA, Region IX, Air Division, AIR–2, 75 Hawthorne Street, San Francisco, CA 94105. Krishna Viswanathan may be reached at (520) 999–7880 or *viswanathan.krishna@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Overview of Proposed Action

The Nevada Division of Environmental Protection (NDEP or ''the State'') submitted the Nevada Regional Haze 5-Year Progress Report (''Progress Report'') to the EPA on November 18, 2014, to satisfy the Regional Haze Rule requirements codified at 40 CFR 51.308(g), (h), and (i). As described in our proposal, NDEP has demonstrated in its Progress Report that the emission control measures in the existing Nevada Regional Haze SIP are adequate to make progress towards the reasonable progress goals (RPGs) in Class I Federal areas in Nevada and in nearby states that may be affected by emissions from sources in Nevada without requiring any substantive revisions to the Nevada Regional Haze SIP. Our proposal discussed each element required under 40 CFR 51.308(g), (h), and (i) for an approvable progress report, summarized how the Progress Report addressed each element, and provided our evaluation of the adequacy of the Progress Report for each element. Please refer to our proposed rule for background information on the Regional Haze Rule, the Nevada Regional Haze SIP, and the specific requirements for progress reports.

II. Public Comments and EPA Responses

We received comment letters on our proposed approval of the Progress Report from NDEP,[1] the Sierra Club jointly with the National Parks Conservation Association (''NGOs''),[2] and two additional, anonymous commenters.[3] The following discussion contains our summary of the comments and our response to each significant comment.

Comments From NDEP

Comment: NDEP commented that the EPA's characterization of the retirement of Reid Gardner Generating Station (RGGS) units 1, 2 and 3 and Tracy Generating Station units 1 and 2, as well as switching of several units at Tracy and Fort Churchill Generating Stations to natural gas as ''largely in response to Senate Bill (SB) 123 (2013 Legislative Session)'' was not accurate. NDEP commented that the retirement of units 1, 2 and 3 at RGGS was a response to

[1] Letter from Jeffrey Kinger (NDEP) to Vijay Limaye (EPA) (October 19, 2015).

[2] Letter from Gloria D. Smith (Sierra Club) and Stephanie Kodish (NPCA) to Vijay Limaye (EPA) (October 19, 2015)(''NGOs' Comment Letter'').

[3] *See* Comments EPA–R09–OAR–2015–0316–0070 and EPA–R09–OAR–2015–0316–0073 in the docket.

Nevada Senate Bill 123, but that the other facilities undertook retirement or fuel switching to comply with Best Available Retrofit Technology (BART) requirements.

Response: The EPA acknowledges this clarification. The clarification does not have any effect on our proposed approval of the Progress Report.

Comment: NDEP requested that the EPA rescind the Federal Implementation Plan (FIP) for RGGS as part of our final rulemaking on the Progress Report because units 1, 2 and 3 of RGGS permanently shut down in 2014.

Response: The EPA intends to rescind the FIP applicable to units 1, 2 and 3 of RGGS in a separate action.

Comment: NDEP commented on Table 5, which mistakenly referenced Table 4–2 from the Progress Report rather than Table 4–4, and the last paragraph on 80 FR at 55811, which incorrectly cited the range of annual sulfate averages as ''4.10 to 50.5 percent'' rather than ''41.0 to 50.5 percent.''

Response: The EPA acknowledges these corrections. The corrections do not have any effect on our proposed approval of the Progress Report.

Comment: NDEP commented that in the third paragraph of the EPA's proposed rulemaking, the EPA states that NDEP attributed the large contribution from particulate organic matter (POM) on the worst days at the Jarbidge Wilderness Area (''Jarbidge'') mostly to wildfires and windblown dust, while NDEP itself attributes POM largely to emissions from wildfires.

Response: The EPA acknowledges this clarification. The clarification does not have any effect on our proposed approval.

Comment: NDEP expressed support for the EPA's proposal to approve NDEP's determination that its Nevada Regional Haze SIP requires no substantive revisions at this time, given the demonstrated improvement to nitrate and sulfate visibility impairment.

Response: The EPA acknowledges the comment.

Comments From the NGOs

Comment: The NGOs asserted that ''NDEP's and EPA's findings that the Nevada Regional Haze SIP is adequate to show reasonable progress for Jarbidge towards the national visibility goal are not supported.'' The commenters noted that the preamble to the 1999 Regional Haze Rule explains that a state may submit a declaration under 40 CFR 51.308(h)(1) ''if the state finds that the emission management measures in the SIP are being implemented on schedule, and visibility improvement appears to be consistent with reasonable progress goals.'' [4] The commenter noted that NDEP proposed such a declaration, and that the EPA had proposed to concur with the State's declaration, despite the fact that visibility improvement at Jarbidge was not improving at a rate consistent with achieving NDEP's 2018 RPG. The commenter also noted that NDEP's RPG for the worst days at Jarbidge was based on modeling conducted by the Western Regional Air Partnership (WRAP) that was subsequently found to be in error and that revised modeling predicts 2018 visibility impacts for the worst days at Jarbidge that are not on the ''glide path'' towards the national visibility goal.

Response: Initially, we note that, while the commenters refer to ''the national visibility goal'' (*i.e.,* the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution'' [5]), their primary concern appears to be progress toward the 2018 RPG for the 20 percent worst days at Jarbidge. The EPA agrees that the Progress Report does not demonstrate that visibility conditions at Jarbidge will necessarily meet the RPG of 11.05 deciviews (dv) on the 20 percent worst days by 2018. The EPA acknowledged this fact in our proposal to approve the Progress Report. We stated that the visibility conditions based on the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring data for the 20 percent worst days for Jarbidge were relatively flat or only slightly improving. However, this fact does not preclude NDEP from making a declaration under § 51.301(h)(1). The statement in the preamble to the 1999 Regional Haze Rule described one possible basis for such a declaration that may be the most concise in certain situations, but was not a statement of the only possible basis. Rather, the Regional Haze Rule itself allows a state to submit a declaration if, ''based upon the information presented in the progress report . . . the State determines that the existing implementation plan *requires no further substantive revision at this time* in order to achieve established goals for visibility improvement and emissions reductions . . .'' [6] In this instance, NDEP presented information in the Progress Report that establishes that the overall lack of progress in monitored visibility conditions on the 20 percent worst days at Jarbidge is not due to a flaw in the SIP itself, but due in large part to extrinsic factors, as described below, that could not be addressed through a substantive revision to the SIP.

In particular, as explained in our proposal, the Progress Report demonstrates that current (*i.e.,* 2008–2012) visibility conditions on the 20 percent worst days at Jarbidge are strongly influenced by light extinction due to POM, which derives primarily from natural sources, as well as coarse particulate mass, which partially derives from natural sources.[7] POM was the largest contributor to light extinction on the 20 percent worst days in each of the 5-year periods from the baseline to current time period, accounting for 35.5 to 43.0 percent of extinction, followed by coarse particulate mass (21.9 to 26.1 percent), and sulfate (15.1 to 17.0 percent). Furthermore, over the course of the progress period there was a significant increase in extinction from POM (1.1 dv) and a small increase in extinction from coarse particulate mass. By contrast, there were small *decreases* in extinction from sulfate and nitrate (which derive primarily from anthropogenic emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X)).[8] Thus, the overall lack of improvement in monitored visibility conditions on the 20 percent worst days at Jarbidge is largely attributable to an increase in extinction from non-anthropogenic pollutants, which could not be remedied by a revision to the Nevada Regional Haze SIP.

In addition to demonstrating the large influence of non-anthropogenic pollutants, the Progress Report also establishes the significant impact of out-of-state sources on Jarbidge. In particular, the Progress Report refers to source apportionment modeling performed by the WRAP to evaluate source areas that contribute to sulfate and nitrate extinction on the 20 percent worst days at Jarbidge. As noted in our proposal, this modeling indicated that the Outside Domain source category (*i.e.,* the background concentrations of pollutants from international sources) was expected to contribute 43.8 percent of the modeled sulfate and 27.5 percent of the modeled nitrate at Jarbidge in 2018.[9] The WRAP source apportionment modeling also indicated that emissions from upwind states, particularly Idaho and Oregon, also contribute substantially to visibility impairment at Jarbidge. As with non-anthropogenic emissions, these out-of-

[4] 64 FR 35747 (July 1, 1999).

[5] 42 U.S.C. 7491(a)(1).

[6] 40 CFR 51.308(h)(1) (emphasis added).

[7] 80 FR 55811.

[8] 80 FR 55812, Table 5.

[9] 80 FR 55816.

state emissions could not be directly addressed through a revision to the Nevada Regional Haze SIP. While NDEP could potentially have provided notification concerning these out-of-state emissions under 40 CFR 51.308(h)(2) and/or (h)(3), we find it was reasonable for the State not to have done so, given that the overall contributions of sulfate and nitrate on the 20 percent worst days at Jarbidge are modest and have declined since the baseline period.

Finally, with regard to the modeling underlying the 2018 RPG, as explained in response to a similar comment below, no revision to the Nevada Regional Haze SIP is required to address the WRAP modeling correction noted by the commenters. For these reasons, and taking into consideration the large reductions in anthropogenic emissions of SO_2 and NO_X already achieved in Nevada during this planning period,[10] we find that the State has adequately supported its determination that no further substantive revision to the Nevada Regional Haze SIP is needed at this time.

Comment: The NGOs reiterated that visibility improvement at Jarbidge is not consistent with NDEP's 2018 RPG for the 20 percent worst days.[11] The commenters also criticized NDEP's reliance in its declaration on emission reductions from units that have shut down or converted to natural gas at the Mohave, Reid Gardner, Tracy and Fort Churchill generating stations because those units affect Class I Federal areas in other states, rather than Jarbidge. The NGOs noted that NDEP did not provide modeling to evaluate the impact of these emissions reductions on visibility at Jarbidge and asserted that data from the IMPROVE monitors at Jarbidge do not demonstrate a significant improvement in visibility on the 20 percent worst days. The comment concluded that, ''visibility on the 20 percent worst days at the Jarbidge Class I area is not improving in a manner consistent with Nevada's 2018 [RPG] of 11.05 [dv] for the 20 percent worst days, and . . . emission reductions from the Reid Gardner, Tracy, and Fort Churchill power plants are not likely to ensure the Jarbidge Wilderness achieves the 11.05 dv [RPG] for the 20 percent worst days by 2018.'' [12]

Response: As noted previously, the EPA agrees that the Progress Report does not demonstrate that visibility conditions at Jarbidge will necessarily meet the RPG of 11.05 at Jarbidge on the 20 percent worst days by 2018. However, there is no regulatory requirement for NDEP to demonstrate in the Progress Report that Nevada will meet the RPG. Rather, the purpose of a Progress Report is to ''evaluat[e] progress towards the [RPG]'' [13] by providing specific types of data and analyses concerning visibility conditions and emissions and to make a determination of adequacy under 40 CFR 51.308(h), based on this information. If a state determines that the implementation plan is inadequate to ensure reasonable progress due to emissions from sources within that state, it is required to revise its SIP within one year to address the issue. Our proposal evaluated the Progress Report with respect to each of the requirements in 40 CFR 51.308(g) and (h), and concluded that it was adequate. The NGOs' comment has not provided any new information or data that would change our proposed approval of the Progress Report as meeting these requirements.

We also do not agree with the commenters that it was improper for the State to rely on emission reductions from power generating stations that are not located near Jarbidge in making its declaration. The Regional Haze Rule requires progress reports to include a ''summary of emission reductions'' and specifically refers to such reductions as a relevant consideration in determining whether substantive revision to the SIP is required.[14] Such consideration is not limited to those emissions that have been demonstrated to affect in-state Class I areas. Rather, the Regional Haze Rule expressly requires progress reports to consider ''each mandatory Class I Federal area located outside the State, which may be affected by emissions from within the State.'' [15] Therefore, it was appropriate for the State to consider all emissions reductions within the State that could affect any in-state or out-of-state Class I Federal area. In this case, we find that NDEP appropriately took into account emission reductions throughout the State. Thus, the comment letter does not provide any basis for us to change our proposed finding that the Progress Report complies with the requirements under 40 CFR 51.308(g), (h) and (i) and that NDEP is not required to make any substantive revisions to the Nevada Regional Haze SIP at this time.

Comment: The NGOs' second comment contends that the 11.05 dv RPG for the 20 percent worst days at Jarbidge was based on flawed modeling and preliminary emissions projections for 2018, rather than later, updated projections. The commenters assert that the EPA is ignoring this issue and thereby implying that Jarbidge will be on the glide path ''based on the emission reductions that have occurred and that will occur at Nevada sources in the next few years.'' The NGOs commented that there is ''no modeling or other data demonstrating that that the reduction of haze-forming pollution from these sources will provide sufficient and reasonable visibility improvement at Jarbidge Wilderness area.'' The NGOs also requested that the EPA ''not allow NDEP to rely on an unjustified and unsupported 2018 reasonable progress goal for the 20% worst days at the Jarbidge Wilderness.''

Response: The EPA agrees with the commenter that the WRAP submitted additional information in April 2011 relevant to the modeling that established the 2018 RPG of 11.05 dv for Jarbidge on the 20 percent worst days. However, the regulations governing the required contents for a Progress Report do not include reviewing and revising RPGs, and the NGOs have not provided any citation to such a requirement for an approvable Progress Report. The RPGs for Jarbidge were established in Nevada's Regional Haze SIP. The EPA approved the Nevada Regional Haze SIP in 2012, and in doing so approved the RPG of 11.05 dv on the 20 percent worst days for Jarbidge.[16] In our proposed approval, we noted that ''the EPA addressed the uncertainties associated with modeled projections by making the RPG an analytic tool for the purpose of evaluating progress, not an enforceable standard.'' [17] We then concluded that the WRAP modeling correction and revisions to emissions projections did not require NDEP to withdraw and revise its Regional Haze SIP after it had already been adopted and submitted. The commenter has not pointed to any basis for us to reconsider this determination at this time. Furthermore, if NDEP had revised the RPG to 11.82 dv to reflect the WRAP modeling correction, the monitoring data at Jarbidge would be assessed relative to a lower amount of progress, so Jarbidge would now be *closer* to achieving the RPG.

We also agree with the commenter that there is uncertainty regarding what

[10] *See* 80 FR 55810 for a summary of these reductions.

[11] NGOs' Comment Letter at p. 2.

[12] NGOs' Comment Letter at p. 3.

[13] 40 CFR 51.308(g).

[14] 40 CFR 51.308(g)(2) and (h)(1).

[15] 40 CFR 51.308(g).

[16] *See* 76 FR 36450, 36465 (June 22, 2011) (proposed approval); 77 FR 17334, 17339 (March 26, 2012) (final approval).

[17] *Id.* at 36464 (citing 40 CFR 51.308(d)(1)(v) and 64 FR 35733).

the ultimate effect of recent emissions reductions on visibility conditions at Jarbidge will be as of 2018. However, contrary to the commenter's suggestion, in the context of the Progress Report, there is no requirement for NDEP or the EPA to conduct modeling to evaluate whether these emissions reductions are sufficient for Jarbidge to be on the glide path (*i.e.,* to achieve natural conditions by 2064) or to meet the 2018 RPG for the 20 percent worst days. Thus, we do not agree with the commenter that NDEP is improperly ''rely[ing]'' on the existing 2018 RPG for the 20 percent worst days at Jarbidge. Rather, in its Progress Report, NDEP has used this approved 2018 RPG as a benchmark for measuring progress that has occurred to date, as required by the Regional Haze Rule.[18]

Comment: The NGOs' comment letter asserts that the visibility impact of wildfires does not exempt NDEP from adopting measures to address contributions from stationary and area emissions sources that may be affecting visibility impairment at Jarbidge.[19] The comment letter claims specifically that the North Valmy Generating Station (NVGS) should have been evaluated to determine if reasonable progress controls were required because it is located 160 kilometers from Jarbidge and emits SO_2 and NO_X without modern pollution controls. The comment letter contrasts the emissions from NVGS to the projected emissions from Ely Energy Center, a proposed new facility that was analyzed for visibility impact but was not constructed. The commenters suggested that, since the Ely Energy Center was projected to have an impact on Jarbidge, NVGS likely also has an impact on Jarbidge. The comment letter faults NDEP for failing to require reasonable progress controls at NVGS. The NGOs also state that NDEP should use ''appropriate regulatory tools'' to minimize emissions from oil and gas development in Nevada.

Response: The EPA agrees that wildfire emissions do not ''exempt'' NDEP from requirements to address anthropogenic pollution, but we find that NDEP has met the applicable requirements for a Progress Report. Specifically, NDEP established in its Progress Report that progress toward achieving the RPG of 11.05 dv at Jarbidge on the 20 percent worst days by 2018 has not been impeded by any significant anthropogenic emission changes within or outside the State.[20] NDEP reached this conclusion by evaluating significant emission decreases from stationary sources within Nevada, the effect of emissions from sources outside of Nevada on Jarbidge, and the effect of Nevada's emissions on nearby Class I Federal areas that are outside of Nevada. In the Progress Report, NDEP documented a substantial reduction in anthropogenic emissions from stationary sources in Nevada as well as an improvement in visibility at Jarbidge even though BART controls and other state and federal measures are not yet fully implemented. NDEP also demonstrated that relative to contributions from Idaho, Oregon, and sources outside the U.S. (Outside Domain), Nevada's overall stationary source contribution to visibility impairment at Jarbidge is small on the 20 percent worst days.[21]

With regard to NVGS, we note that in the EPA's approval of the Nevada Regional Haze SIP, we determined that NDEP had reasonably weighed the cost of additional emissions controls against the potential benefits and concluded that additional controls were not warranted for non-BART sources such as NVGS during the first planning period. NDEP would only be required to revisit this conclusion during this first planning period if it had determined that the Nevada Regional Haze SIP ''is or may be inadequate to ensure reasonable progress due to emissions from sources within the State'' under 40 CFR 51.308(h)(4). However, as discussed elsewhere in this document, NDEP instead made a well-supported declaration under 40 CFR 51.308(h)(1), and the EPA is approving this declaration. One of the elements of the State's analysis supporting its negative declaration was its showing that the overall lack of improvement on the 20 percent worst days at Jarbidge has been largely due to non-anthropogenic pollutants and out-of-state emissions, rather than to emissions of SO_2 and NO_X from anthropogenic sources such as NVGS. For example, in the 2008–2012 time period (the most recent data provided in the Progress Report), nitrates and sulfates accounted for 3.5 percent and 15.1 percent of total extinction on the 20 percent worst days respectively.[22] Furthermore, source apportionment modeling indicates that the majority of this extinction is from out-of-state sources, rather than in-state sources such as NVGS.[23] Thus, additional emission reductions from sources such as NVGS would have relatively little effect on progress toward the RPG for the 20 percent worst days for this first planning period.[24] Accordingly, NDEP is not required to re-evaluate controls on non-BART sources such as NVGS for the first planning period. NDEP will be required to evaluate such controls in developing its Regional Haze SIP for the next planning period.

Comment: The NGOs' comment letter concludes that the EPA ''must require NDEP to evaluate and adopt measures to ensure the Jarbidge Wilderness achieves reasonable progress towards the national visibility goal in accordance with 40 CFR 51.308(h)(4) and no later than the revised regional haze plan due in 2018.'' Specifically, the NGOs are requesting that the EPA:

(1) Find that NDEP's [RPG] for the 20 percent worst days at the Jarbidge Wilderness is *not* based on a proper modeling analysis;

(2) Establish a more realistic RPG goal, a goal based on proper modeling and planned emission reduction requirements required under the Nevada regional haze plan and state law. A proper goal would show that visibility is not expected to improve at the Jarbidge Wilderness in a manner consistent with achieving natural background visibility by 2064; and

(3) Ensure that NDEP evaluates and adopts additional measures to achieve reasonable progress towards the national visibility goal at the Jarbidge Wilderness.[25]

Response: The EPA's role is to review progress reports as they are submitted by the states and to either approve or disapprove the reports based on their compliance with the requirements of the Regional Haze Rule. There is no requirement or basis for the EPA to reassess or revise the RPGs for Jarbidge as part of our review of NDEP's Progress Report. Furthermore, as explained in our prior responses, nothing in the Regional Haze Rule requires NDEP to adopt additional reasonable progress measures based solely on the fact that Jarbidge will not necessarily meet its 2018 RPG for the worst 20 percent days

[18] *See, e.g.,* 40 CFR 51.308(g) (requiring submittal of ''a report . . . evaluating progress towards the reasonable progress goal'').

[19] NGOs' Comment Letter at p. 5.

[20] Nevada Regional Haze 5-year Progress Report, Chapter Six—Assessment of Changes Impeding Visibility Progress (40 CFR 51.308(g)(5)).

[21] Nevada Regional Haze State Implementation Plan, October 2009, Chapter 4, Table 4–5.

[22] Nevada Regional Haze 5-year Progress Report Table 4–4.

[23] Nevada Regional Haze State Implementation Plan, October 2009, Chapter 4, Tables 4–5 and 4–6.

[24] We note that in the recent revisions to the Regional Haze Rule, the EPA finalized a requirement that states select the 20 percent most impaired days, *i.e.,* the days with the most impairment from anthropogenic sources, as the ''worst'' days in SIPs and in progress reports. *See* 82 FR 3103 (January 10, 2017) (codified at 40 CFR 51.301). Thus, we expect that in the next planning period, anthropogenic sources such as NVGS will have a larger influence on the worst days at Jarbidge.

[25] NGOs' Comment Letter at p. 6–7.

or based solely on the fact that Jarbidge is not on the glide path. The Progress Report complies with all applicable requirements and contains a reasoned justification for determining that the Nevada Regional Haze SIP is adequate without additional measures. NDEP will undertake a new round of planning in the next few years, at which time it will be required to evaluate additional control measures and set new RPGs for Jarbidge for the next planning period based on updated, current information, including new emissions inventories and modeling.

Anonymous Comments

Comment: Two anonymous commenters requested that the EPA ''require the best possible reductions in air pollution from Rocky Mountain Power's coal plants'' via its action on Utah's Regional Haze plan.

Response: These comments appear to be misdirected and are not relevant to the current rulemaking action. The EPA took final action on the Utah Regional Haze plan on July 5, 2016.[26]

III. Summary of Final Action

The EPA is taking final action to approve the Nevada Regional Haze Plan 5-Year Progress Report submitted to the EPA on November 18, 2014, as meeting the applicable Regional Haze Rule requirements as set forth in 40 CFR 51.308(g), (h), and (i). In addition, we are re-codifying our prior approval of the Nevada Regional Haze SIP in order to correct its location within 40 CFR 52.1470(e). This recodification has no effect on the substantive content of the Nevada SIP.

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 Act and applicable federal regulations.[27] Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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 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 October 10, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Organic carbon, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, Volatile organic compounds.

Dated: July 24, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart DD—Nevada

■ 2. Section 52.1470, paragraph (e), the table is amended by:

■ a. Removing the last entry ''Nevada Regional Haze State Implementation Plan (October 2009), excluding the BART determination for NO_X at Reid Gardner Generating Station in sections 5.5.3, 5.6.3 and 7.2, which EPA has disapproved''; and

■ b. Adding, under the heading ''Air Quality Implementation Plan for the State of Nevada'' two entries before the entry ''Small Business Stationary Source Technical and Environmental Compliance Assistance Program''.

The addition reads as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

[26] 81 FR 43894.

[27] 42 U.S.C. 7410(k); 40 CFR 52.02(a).

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada [1]				
* *	*	*	*	* *
Nevada Regional Haze State Implementation Plan (October 2009), excluding the BART determination for NO_X at Reid Gardner Generating Station in sections 5.5.3, 5.6.3 and 7.2, which the EPA has disapproved.	State-wide	11/18/09	77 FR 50936 (8/23/12).	Excluding Appendix A (''Nevada BART Regulation''). The Nevada BART regulation, including NAC 445B.029, 445B.22095, and 445B.22096, is listed above in 40 CFR 52.1470(c).
Nevada Regional Haze Plan 5-Year Progress Report.	State-wide	11/18/2014	[Insert **Federal Register** citation], 8/8/2017.	
* *	*	*	*	* *

[1] The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

■ 3. Section 52.1488 is amended by adding paragraph (g) to read as follows:

§ 52.1488 Visibility protection.

* * * * *

(g) *Approval.* On November 18, 2014, the Nevada Division of Environmental Protection submitted the ''Nevada Regional Haze Plan 5-Year Progress Report'' (''Progress Report''). The Progress Report meets the requirements of the Regional Haze Rule in 40 CFR 51.308.

[FR Doc. 2017–16491 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0067; FRL–9965–67–Region 10]

Air Plan Approvals, Idaho: Logan Utah/Idaho $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Idaho's State Implementation Plan (SIP) submitted in 2012 and 2014 to address Clean Air Act (CAA) requirements for the Idaho portion of the Logan, Utah-Idaho fine particulate matter ($PM_{2.5}$) nonattainment area (Logan UT–ID area). Based on newly available air quality monitoring data, the EPA is approving Idaho's attainment demonstration and approving Idaho's 2014 Motor Vehicle Emissions Budgets (MVEBs) as early progress budgets. Additionally, the EPA is conditionally approving Reasonable Further Progress (RFP), Quantitative Milestones (QMs), and revised MVEBs for the Idaho portion of the nonattainment area, based on Idaho's commitment to adopt and submit updates to these attainment plan elements within one year of the effective date of this final action.

DATES: This final rule is effective September 7, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2015–0067. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at EPA Region 10, Office of Air and Waste, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency, Region 10, 1200 Sixth Ave., Suite 900, Seattle, WA 98101; telephone number: (206) 553–0256; email address: *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background Information
II. Final Action
III. Statutory and Executive Orders Review

I. Background Information

On June 1, 2017, the EPA proposed to approve Idaho's attainment demonstration and 2014 MVEBs as early progress budgets (82 FR 25208). As part of the same action, the EPA also proposed to conditionally approve RFP, QMs, and revised MVEBs for the Idaho portion of the nonattainment area. An explanation of the CAA requirements, a detailed analysis of the submittals, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for the proposal ended July 3, 2017. We received no comments.

II. Final Action

For the reasons set forth in the proposed rulemaking for this action, the EPA is approving the attainment demonstration in Idaho's 2012 and 2014 revisions to the SIP (Idaho attainment plan) for the Idaho portion of the Logan UT–ID area. The EPA is also approving the 2014 MVEBs as early progress budgets, in that they are consistent with making progress toward attainment of the 24-hour 2006 $PM_{2.5}$ National Ambient Air Quality Standards by December 31, 2015. Lastly, the EPA is conditionally approving RFP, QMs, and revised MVEBs in the Idaho attainment

plan, based on Idaho's April 25, 2017 commitment to adopt and submit updated plan elements to meet these requirements. Under a conditional approval, the State must adopt and submit the specific revisions it has committed to by a date certain but not later than one year of this final action.[1] If the EPA fully approves the submittal of the revisions specified in the commitment letter, the conditional nature of the approval would be removed and the submittal would become fully approved. If the State does not submit these revisions by the date specified in the April 25, 2017 commitment letter, or if the EPA finds the State's revisions to be incomplete, or EPA disapproves the State's revisions, a conditional approval will convert to a disapproval. If any of these occur and the EPA's conditional approval converts to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which starts an 18-month clock for sanctions, see section 179(a)(2), and the two-year clock for a Federal Implementation Plan (FIP), see CAA section 110(c)(1)(B).

III. Statutory and Executive Orders Review

Under the CAA, 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 CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

The SIP is not approved to apply on any Indian reservation land in Idaho and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: July 24, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 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 N—Idaho

■ 2. In § 52.670, the table in paragraph (e) is amended by adding an additional entry at the end of the table for ''Fine Particulate Matter Attainment Plan.''

The addition reads as follows:

§ 52.670 Identification of plan.

* * * * *

(e) * * *

[1] In IDEQ's April 25, 2017 commitment letter, IDEQ committed to submit revisions by August 1, 2018.

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	* *		* *	* *
Fine Particulate Matter Attainment Plan.	Franklin County, Logan UT–ID $PM_{2.5}$ Nonattainment Area.	12/19/2012; 12/24/2014	8/8/2017, [Insert **Federal Register** citation].	*Approved:* moderate area attainment demonstration and 2014 reasonable further progress motor vehicle emissions budgets. *Conditional Approval:* reasonable further progress, quantitative milestone, motor vehicle emission budget requirements.

[FR Doc. 2017–16614 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 06–123, FCC 17–49]

Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3–17.8 GHz and the 24.75–25.25 GHz Frequency Bands for Feeder Links to the Broadcasting-Satellite Service and for Satellite Services Operating Bi-Directionally

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission adopts technical rules to mitigate ground-path interference between the Digital Broadcasting Satellite Service (DBS) and the Broadcasting-Satellite Service (BSS) in the 17.3–17.8 GHz band to protect consumers and foster more rapid deployment of services, greater investment, and new innovation.

DATES: Effective September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Sean O'More, 202–418–2453, or if concerning the information collections in this document, Cathy Williams, 202–418–2918.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Report and Order, FCC 17–49, adopted April 21, 2017, and released April 25, 2017. The full text of the Report and Order is available at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-49A1.pdf.* It also are available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

This Report and Order adopts new rules to mitigate interference from DBS feeder-link earth stations to BSS consumer earth terminals (ground path interference) in the 17.3–17.8 GHz band. We adopt a rule allowing currently-licensed DBS feeder link earth stations to continue operations under the terms of their current licenses, and to expand their facilities provided that new antennas are constructed within one kilometer of current antennas and the aggregate power-flux density of the station at any point does not increase.

We adopt a methodology for determining a coordination zone for new DBS feeder-link earth stations, and require applicants for new DBS feeder-link earth stations to coordinate with BSS licensees to achieve agreement on interference mitigation. We adopt rules specifying the information applicants for new DBS feeder-link earth stations must provide for the purposes of coordination.

Paperwork Reduction Act

This document contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding in a separate **Federal Register** notice.

Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. We received no comments on this issue. We have assessed the effects of the revisions adopted that might impose information collection burdens on small business concerns, and find that the impact on businesses with fewer than 25 employees will be an overall reduction in burden.

Congressional Review Act

The Commission will send copies of this Report and Order to Congress and the General Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), and will send a copy including the final regulatory flexibility act analysis to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (1981).

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice of Proposed Rulemaking in the Matter of Comprehensive Review of Licensing and Operating Rules for Satellite Services. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were received on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Rules

The objective of the Report and Order is to adopt processing and service rules for the 17/24 GHz Broadcasting-Satellite Service (BSS) which will address potential interference scenarios which arise in the reverse band operating environment. The rules will mitigate against ground path interference. Specifically, we adopt criteria to facilitate sharing in the 17 GHz bands by BSS and Direct Broadcast Satellite (DBS) services. These new rules will introduce a new generation of broadband services to the public, providing a mix of local and domestic video, audio, data, video-on-demand, and multimedia services to consumers

in the United States. In some cases, these new BSS services will complement existing DBS services. By these actions, we facilitate the introduction of new and innovative services to consumers in the United States and promote increased competition among satellite and terrestrial services.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No party filing comments in this proceeding responded to the IRFA, and no party filing comments in this proceeding otherwise argued that the policies and rules proposed in this proceeding would have a significant economic impact on a substantial number of small entities. The Commission has, nonetheless, considered any potential significant economic impact that the rule changes may have on the small entities which are impacted. On balance, the Commission believes that the economic impact on small entities will be negligible.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration, and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

Description and Estimate of the Number of Small Entities to Which the Rules May Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Below, we further describe and estimate the number of small entity licensees that may be affected by the adopted rules.

Satellite Telecommunications. The SBA has developed a small business size standard for the two broad census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both categories, a business is considered small if it has $13.5 million or less in annual receipts. The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2007 show that there were a total of 512 satellite communications firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million per firm, and 26 firms had receipts of $10 million to $24,999,999 per firm. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

The category of Other Telecommunications ''comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 482 firms had annual receipts of under $25 million. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

Space Stations (Geostationary). Commission records reveal that there are 44 space station licensees. We do not request or collect annual revenue information concerning such licensees, and thus are unable to estimate the number of geostationary space station licensees that would constitute a small business under the SBA definition cited above, or apply any rules providing special consideration for geostationary space station licensees that are small businesses.

17 GHz Transmitting Earth Stations. Currently there are approximately 47 operational earth stations in the 17.3–17.7 GHz bands. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of earth stations that would constitute a small business under the SBA definition.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

Under the Commission's existing rules, all requests for space station authorizations are required to be in the form of a comprehensive proposal submitted on the relevant FCC forms. Similarly, to obtain an earth station authorization, applicants must file the appropriate forms as required by the Commission's rules. In addition to our existing requirements, in this Third Report and Order we adopt certain specific requirements for 17/24 GHz BSS earth and space station applications.

Earth Station Applications. Applications for feeder-link earth stations operating in the 17.3–17.8 GHz band (Earth-to-space) and providing service to geostationary satellites in the 17/24 GHz BSS must include, for each new or modified earth station, a certificate of coordination agreement with any holder of a blanket license for BSS receive earth terminals located within a coordination distance of the feeder-link earth station established by ITU rules.

The Commission does not expect significant costs to be associated with these rules. Therefore, we do not anticipate that the burden of compliance would be greater for smaller entities.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires that, to the extent consistent with the objectives of applicable statutes, the analysis shall discuss significant alternatives such as: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[1]

The rules adopted herein are necessary to protect 17/24 GHz BSS

[1] 5 U.S.C. 603(c)(1), (c)(4).

subscribers from DBS feeder links (ground-path interference). These rules will enable the efficient operation of the 17/24 GHz BSS, which is expected to introduce a new generation of broadband services to the public, and ensure that consumers enjoy the continued uninterrupted operation of DBS.

The technical rules adopted here are the least intrusive option considered in terms of compliance requirements and will be the most effective in terms of facilitating the licensing of operations in the 17/24 GHz BSS without causing harmful interference to other authorized radiocommunication services. We have considered alternatives, including subjecting existing DBS uplink facilities to new interference-mitigation requirements and establishing protection zones for existing DBS uplink facilities, and believe the rules as adopted provide the most equitable solution to the potential interference problems posed by the operations in 17/24 GHz BSS. By requiring that technical showings be made prior to operation, we anticipate that there will be far fewer instances of harmful interference between these two services. This will have a positive economic impact on all satellite space station and earth station licensees, including small entities.

Incorporation by Reference

This final rule incorporates by reference an element of the ITU Radio Regulations, Edition of 2012, into part 25 for specific purposes:

ITU Radio Regulations, Appendix 7, ''Methods for determination of the coordination area around an earth station in frequency bands between 100 MHz and 105 GHz,'' Section 3, ''Horizon antenna gain for a receiving earth station with respect to a transmitting earth station,'' Table 9b.

This material is available for free download at *http://www.itu.int/pub/R-REG-RR-2012.* In addition, copies of all of the materials are available for purchase from the ITU through the contact information provided in § 25.108, and are available for public inspection at the Commission address noted in the rule as well.

Appendix 7, Section 3 establishes the methodology and values for determining coordination areas between transmitting earth stations and receiving earth stations in the satellite services. The § 25.203(m) requires applicants for new DBS feeder-link earth stations to use the values in Table 9b, as amended by § 25.203(m), to determine the area within which they must coordinate with BSS licensees.

Ordering Clauses

It is ordered that, pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, this *Third Report and Order is adopted.*

It is further ordered that part 25 of the Commission's rules, 47 CFR 25 *is amended.*

It is further ordered that this Third Report and Order *shall be* effective *September 7, 2017*, except the amendments to §§ 25.108 and 25.203, 47 CFR 25.108 and 25.203, which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, *will become effective* after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date.

It is further ordered that, pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), the Commission *shall send* a copy of this Report and Order to Congress and to the Government Accountability Office.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Third Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 25

Administrative practice and procedure, Earth stations, Incorporation by reference, Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 is revised to read as follows:

Authority: Interprets or applies 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 2. Amend § 25.108 by redesignating paragraphs (b)(2) through (5) as paragraphs (b)(3) through (6) and by adding new paragraph (b)(2) to read as follows:

§ 25.108 Incorporation by reference.

* * * * *

(b) * * *

(2) ITU Radio Regulations, Volume 2: Appendices, Appendix 7, ''Methods for the determination of the coordination areas around an earth station in the frequency bands between 100 MHz and 105 GHz,'' Edition of 2012, *http://www.itu.int/pub/R-REG-RR-2012.* Incorporation by reference approved for § 25.203(m).

* * * * *

■ 4. Amend § 25.203 by adding paragraph (m) to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(m) Feeder links to DBS space stations:

(1) Each applicant for a license to construct a new FSS earth station to provide feeder-link service to DBS space stations in the frequency band 17.3–17.8 GHz, or to modify any such station currently authorized except where the modification is for a new station within one kilometer of a currently-licensed earth station and modification will not increase the aggregate pfd, measured at any point 3–10 meters above the ground, above that generated by the current earth station, shall identify a coordination zone around its proposed new or modified earth station by the methodology outlined in Annex 3 of Appendix 7 of the ITU Radio Regulations, using the following values for the parameters in Table 9b of Annex 7 of Appendix 7:

Space service designation in which the transmitting earth station operates.	Fixed-satellite		
Frequency bands (GHz)	17.3–17.8		
Space service designation in which the receiving earth station operates.	Broadcasting-satellite		
Orbit	GSO		
Modulation at receiving earth station.	N (digital)		
Receiving earth station interference parameters and criteria: p_0 (%)	0.015		
n	2		
p (%)	0.015		
N_L(dB)	1		
M_s (dB)	In the area specified in 47 CFR § 25.209(w)(1) and (4). 4.8	In the area specified in 47 CFR § 25.209(w)(2). 3.0	In the area specified in 47 CFR § 25.209(w)(3). 1.8.
W (dB)	4		
Receiving earth station parameters: G_m (dBi)	36		
G_r	0		
ε_{min}	20°		
T_e (K)	150		
Reference bandwidth: B (Hz)	10^6		
Permissible interference power: $P_r(p)$ (dBW) in B	−146.8	−149.8	−152.8.

(2) Each applicant for such new or modified feeder-link earth station shall provide the following information to a third-party coordinator of its choice for use in coordination required by this paragraph:

(i) The geographical coordinates of the proposed earth station antenna(s);

(ii) Proposed operating frequency band(s) and emission(s);

(iii) Antenna diameter (meters);

(iv) Antenna center height above ground and ground elevation above mean sea level;

(v) Antenna gain pattern(s) in the plane of the main beam;

(vi) Longitude range of geostationary satellite orbit (GSO) satellites at which an antenna may be pointed;

(vii) Horizon elevation plot;

(viii) Antenna horizon gain plot(s) determined in accordance with the procedure in Section 2.1 of Annex 5 to Appendix 7 of the ITU Radio Regulations;

(ix) Minimum elevation angle;

(x) Maximum equivalent isotropically radiated power (e.i.r.p.) density in the main beam in any 1 MHz band;

(xi) Maximum available RF transmit power density in any 1 MHz band at the input terminals of the antenna(s);

(xii) A plot of the coordination distance contour(s) and rain scatter coordination distance contour(s) as determined by Table 2 of Section 3 to Appendix 7 of the ITU Radio Regulations.

(3) Each applicant for such new or modified feeder-link earth stations shall file with its application memoranda of coordination with each licensee authorized to construct BSS receive earth stations within the coordination zone.

[FR Doc. 2017–16662 Filed 8–7–17; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 82, No. 151
Tuesday, August 8, 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 ENERGY

10 CFR Parts 429 and 430

[EERE–2017–BT–TP–0011]

RIN 1904–AD85

Energy Conservation Program: Test Procedures for General Service Fluorescent Lamps, General Service Incandescent Lamps, Incandescent Reflector Lamps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information (''RFI'').

SUMMARY: The U.S. Department of Energy (''DOE'') is initiating a data collection process through this RFI to consider whether to amend DOE's test procedures for general service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps. To inform interested parties and to facilitate this process, DOE has gathered data, identifying several issues associated with the currently applicable test procedures on which DOE is interested in receiving comment. The issues outlined in this document mainly concern updating industry references in and making clarifications to DOE's test procedures for general service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps; and any additional topics that may inform DOE's decisions in a future test procedure rulemaking, including methods to reduce regulatory burden while ensuring the procedures' accuracy. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI).

DATES: Written comments and information are requested and will be accepted on or before September 7, 2017.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0011, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* To *Lamps2017TP0011@ee.doe.gov.* Include EERE–2017–BT–TP–0011 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found at *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=22.* The docket Web page contains simple instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

General service fluorescent lamps (''GSFLs''), general service incandescent lamps (''GSILs''), and incandescent reflector lamps (''IRLs'') are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(14)) DOE's test procedures for GSFLs, GSILs, and IRLs are prescribed at Appendix R to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations (''CFR''). The following sections discuss DOE's authority to establish and amend test procedures for GSFLs, GSILs, and IRLs, as well as relevant background information regarding DOE's consideration of test procedures for these products.

A. Authority and Background

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include GSFLs, GSILs, and IRLs—the products that are the focus of this RFI. (42 U.S.C. 6292(a)(14))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of the Act specifically include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (See 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish a proposed test procedure and offer the public an opportunity to present oral and written comments. (42 U.S.C. 6293(b)(2)) EPCA also requires that, at least once every 7 years, DOE review test procedures for each type of covered equipment, including GSFLs, GSILs, and IRLs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6293(b)(1)(A)) If amended test procedures are appropriate, DOE must publish a final rule to incorporate the amendments. If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this RFI to collect data and information to inform a potential test procedure rulemaking to satisfy the 7-year review requirement specified in EPCA, which requires that DOE publish, by January 27, 2019, either a final rule amending the test procedures or a determination that amended test procedures are not required. (42 U.S.C. 6293(b)(1)(A))

B. Rulemaking History

EPCA directs DOE to take into consideration applicable Illuminating Engineering Society of North America (IESNA) and American National Standards Institute (ANSI) standards when prescribing test procedures for GSFLs and IRLs. (42 U.S.C. 6293(b)(6)) On September 28, 1994, DOE issued an interim final rule to add a new section in the CFR to establish test procedures for certain fluorescent and incandescent lamps. 59 FR 49468 (''September 1994 interim final rule''). The test procedures incorporated by reference a number of IESNA and ANSI standards. *Id.*

On May 29, 1997, DOE published a final rule adopting, with amendments, the test procedures established in the September 1994 interim final rule. 62 FR 29222 (''May 1997 final rule''). The May 1997 final rule affirmed DOE's determination that the referenced test procedures effectively measure lamp efficacy and color rendering index, and they are not unduly burdensome to conduct; and incorporated updates to the referenced IESNA and ANSI standards. *Id.*

On July 6, 2009, DOE published a final rule amending the test procedures for GSFLs, IRLs, and GSILs. 74 FR 31829 (''July 2009 final rule''). These amendments consisted largely of: (1) Referencing the most current versions of several lighting industry standards incorporated by reference; (2) adopting certain technical changes and clarifications; and (3) expanding the test procedures to accommodate new classes of lamps to which coverage was extended by the Energy Independence and Security Act of 2007 (Pub. L. 110–140). *Id.* The July 2009 final rule also addressed the then recently established statutory requirement to expand test procedures to incorporate a measure of standby mode and off mode energy consumption and determined that an expansion of the test procedures was not necessary. *Id.* Shortly thereafter, DOE again amended the test procedures to adopt reference ballast settings necessary for the additional GSFLs for which DOE was establishing standards. 74 FR 34080, 34096 (July 14, 2009).

DOE most recently amended the test procedures for GSFLs and GSILs in a final rule published on January 27, 2012. 77 FR 4203 (''January 2012 final rule''). DOE updated several references to the industry standards referenced in DOE's test procedures and established a lamp lifetime test procedure for GSILs. *Id.* DOE did not amend in the January 2012 final rule the existing test procedure for IRLs established under EPCA. *Id.*

The current test procedures for GSFLs, GSILs, and IRLs are in Appendix R to Subpart B of Part 430 of Title 10 of the CFR.

II. Request for Information

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended test procedures for GSFLs, GSILs, and IRLs may be warranted. Specifically, DOE is requesting comment on any opportunities to streamline and simplify testing requirements for GSFLs, GSILs, and IRLs.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process that may not specifically be identified in this document. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017). Pursuant to that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to GSFLs, GSILs, and IRLs consistent with the requirements of EPCA.

A. Scope and Definitions

This RFI covers GSFLs, GSILs, and IRLs, which are established as covered consumer products under EPCA. (42 U.S.C. 6292(a)(14)) A GSFL is defined as any fluorescent lamp which can be used to satisfy the majority of fluorescent lighting applications. 10 CFR 430.2. The GSFL definition does not include any lamp designed and marketed for any of the following nongeneral applications: Fluorescent lamps designed to promote plant growth; fluorescent lamps specifically designed for cold temperature applications; colored fluorescent lamps; impact-resistant luorescent lamps; reflectorized or aperture lamps; fluorescent lamps designed for use in reprographic equipment; lamps primarily designed to produce radiation in the ultra-violet region of the spectrum; and lamps with a Color Rendering Index of 87 or greater. *Id.*

The currently effective definition of a GSIL is a standard incandescent or halogen type lamp that is intended for general service applications; has a medium screw base; has a lumen range of not less than 310 lumens and not more than 2,600 lumens or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens; and is capable of being operated at a voltage range at least partially within 110 and 130 volts. 10 CFR 430.2. However, the GSIL definition does not include the following incandescent lamps: Appliance lamps; black light lamps; bug lamps; colored lamps; infrared lamps; left-hand thread lamps; marine lamps; marine signal service lamps; mine service lamps; plant light lamps; reflector lamps; rough service lamps; shatter-resistant lamps (including a shatter-proof lamps and a shatter-protected lamps); sign service lamps; silver bowl lamps; showcase lamps; 3-way incandescent lamps; traffic signal lamps; vibration service lamps; G shape lamps (as defined in ANSI C78.20) and ANSI C79.1–2002 with a diameter of 5 inches or more; T shape lamps (as defined in ANSI C78.20) and ANSI C79.1–2002 and that uses not more than 40 watts or has a length of more than 10 inches; and B, BA, CA, F, G16–1/2, G–25, G30, S, or M–14 lamps (as defined in ANSI C79.1–2002) and ANSI C78.20 of 40 watts or less. *Id.*

An IRL (commonly referred to as a reflector lamp) is defined as any lamp in which light is produced by a filament heated to incandescence by an electric current, which: Contains an inner reflective coating on the outer bulb to direct the light; is not colored; is not designed for rough or vibration service applications; is not an R20 short lamp; has an R, PAR, ER, BR, BPAR, or similar bulb shapes with an E26 medium screw base; has a rated voltage or voltage range that lies at least partially in the range of 115 and 130 volts; has a diameter that exceeds 2.25 inches; and has a rated wattage that is 40 watts or higher. 10 CFR 430.2.

B. Test Procedure

1. Updates to Industry Standards

As noted, EPCA directs DOE to prescribe test procedures for GSFLs and IRLs, taking into consideration the applicable standards of IESNA or ANSI. (42 U.S.C. 6293(b)(6)) Consideration of IESNA and ANSI standards aligns DOE test procedures with latest industry practices for testing electric lamps and therefore DOE considers these industry standards when prescribing test procedures for GSILs as well as for GSFLs and IRLs. Appendix R references several ANSI and IES standards in its test conditions, methods, and measurements for GSFLs, GSILs, and IRLs. DOE has determined that several of the referenced industry standards have been updated since DOE last amended its test procedure. Specifically, appendix R references industry standards shown in Table II.1.

TABLE II.1—INDUSTRY STANDARDS REFERENCED IN APPENDIX R TO 10 CFR 430 SUBPART B

Industry standard referenced in Appendix R	Updated version if available
ANSI C78.375 version 1997 [3] (section 4.1.1 of appendix R)	ANSI C78.375A [4] version 2014.
ANSI C78.81 version 2010 [5] (section 4.1.1 of appendix R)	ANSI C78.81 version 2016.[6]
ANSI C78.901 version 2005 [7] (section 4.1.1 of appendix R)	ANSI C78.901 version 2014.[8]
ANSI C82.3 version 2002 [9] (section 4.1.1 of appendix R)	ANSI C82.3 version 2016.[10]
IES LM–9 version 2009 [11] (sections 2.1, 2.9, 3.1, 4.1.1, 4.4.1 of appendix R)	No updated version available.
IESNA LM–58 version 1994 [12] (sections 2.1, 4.4.1 of appendix R)	IES LM–58 (retitled) version 2013.[13]
IES LM–45 version 2009 [14] (sections 2.1, 2.9, 3.2, 4.2.1, 4.2.2 of appendix R)	IES LM–45 version 2015.[15]
IESNA LM–49 version 2001 [16] (section 4.2.3 of appendix R)	IES LM–49 (retitled) version 2012.[17]
IESNA LM–20 version 1994 [18] (sections 2.1, 2.9, 3.3, 4.3 of appendix R)	IES LM–20 (retitled) version 2013.[19]
CIE 13.3 version 1995 [20] (section 2.1, 4.4.1 of appendix R)	No updated version available.
CIE 15 version 2004 [21] (section 4.4.1 of appendix R)	No updated version available.

The following sections discuss a variety of issues on which DOE

[3] *American National Standard For Fluorescent Lamps—Guide for Electrical Measurements* (approved September, 25, 1997).

[4] *American National Standard For Fluorescent Lamps—Guide for Electrical Measurements* (approved August, 28, 2014).

[5] *American National Standard For Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics* (approved January, 14, 2010).

[6] *American National Standard For Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics* (approved June 29, 2016).

[7] *American National Standards for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics* (approved March 23, 2005).

[8] *American National Standards for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics* (approved July 2, 2014).

[9] *American National Standard For Lamp Ballasts—Reference Ballasts for Fluorescent Lamps* (approved January, 1, 2002).

[10] *American National Standard For Lamp Ballasts—Reference Ballasts for Fluorescent Lamps* (approved April, 8, 2016).

[11] Illuminating Engineering Society of North America—*Approved Method: Electrical and Photometric Measurements of Fluorescent Lamps (approved January 31, 2009).*

[12] Illuminating Engineering Society of North America—*Guide to Spectroradiometric Measurements (approved December, 3, 1994).*

[13] Illuminating Engineering Society—*Approved Method: Spectroradiometric Measurements Methods for Lighting Sources (approved September, 3, 2013).*

[14] Illuminating Engineering Society—*Approved Method for The Electrical and Photometric Measurement of General Service Incandescent Filament Lamps (approved).*

[15] Illuminating Engineering Society—*Approved Method: Electrical and Photometric Measurement of General Service Incandescent Filament Lamps (approved August, 8, 2015).*

Continued

specifically requests comment concerning referencing the updated versions of each of these industry standards. Additionally, DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

a. ANSI C78.375, ANSI C78.81, ANSI C78.901, and ANSI C82.3

Section 4.1.1 of Appendix R references industry standards ANSI C78.375, ANSI C78.81, ANSI C78.901, and ANSI C82.3 for taking measurements of GSFLs. ANSI C78.375 provides general instructions for taking measurements of electrical characteristics of fluorescent lamps. Lamp data sheets with physical and electrical characteristics of fluorescent lamps are provided in ANSI C78.81 (double-ended lamps) and ANSI C78.901 (single-ended lamps). Per section 4.1.1 of Appendix R, GSFLs must be operated by a reference ballast during testing. ANSI C82.3 provides general design and operating characteristics for reference ballasts used to test GSFLs.

DOE's initial review indicates updates mainly provide more detail on how the wattage, voltage and current should be measured in reference circuits in ANSI C78.375A–2014 compared to its 1997 version. ANSI C82.3–2016, compared to its 2002 version, contains updates regarding impedance tolerances, voltage regulation, and instrumentation for taking high frequency measurements. DOE requests comments on referencing the updated versions of ANSI C78.375 and ANSI C82.3.

In the latest versions of ANSI C78.81 and ANSI C78.901, DOE has identified new lamp datasheets and updates to existing lamp datasheets for certain GSFLs. A lamp data sheet provides the physical and electrical characteristics needed to appropriately operate a lamp including starting method and the input voltage, current, and impedance of the reference ballast on which the lamp should be tested. For some lamps, the updated standard now specifies only high frequency reference ballast settings, whereas previously low frequency settings were provided. Because cathode heat is not utilized at high frequency, the lamp efficacy would likely increase during high frequency operation compared to low frequency operation. DOE's test procedures require testing at low frequency unless only high frequency settings are provided. Hence the potential adoption of ANSI C78.81–2016 and ANSI C78.901–2014 would result in certain lamps that were previously tested at low frequency being tested at high frequency, negating the consideration of cathode heat. ANSI C78.81–2016 and/or ANSI C78.901–2014 remove low frequency reference ballast settings and provide only high frequency reference ballast settings for the following lamps: 32 Watt (W), 48-Inch T8 lamp; 32 W U-shaped lamp, 6-Inch Center T8 lamp; 31 W, U-shaped, 1-⅝ Inch Center T8 lamp; 59 W, 96-Inch T8, Single Pin Instant Start lamp; and 25 W, 28 W, and 30 W 48-Inch T8 lamps. Additionally, two new lamp datasheets were added providing only high frequency reference ballast settings for the following lamps: 30 W, U-shaped, 6-Inch Center T8 lamp and 54 W 96-Inch T8, Single Pin Instant Start lamp. DOE requests comments on modifying the test procedure to test at high frequency settings unless only low frequency settings are provided. DOE is seeking information to determine the extent of change in efficacy, if any, if lamps are tested at high frequency instead of low frequency settings. In particular, DOE would welcome test data for all or any relevant lamps showing lumen and wattage measurements for the same lamp at both low and high frequency settings.

Additionally, DOE has determined that for certain lamps other reference ballast characteristics (*e.g.,* input voltage, current, impedance) have been updated in the latest versions of ANSI C78.81 and ANSI C78.901. DOE has determined that ANSI C78.81–2016 and/or ANSI C78.901–2014 have updated the reference ballast characteristics (*e.g.,* input voltage, current, impedance) for the 59 W 96-Inch T8, Single Pin Instant Start lamp and 86 W, 96-Inch T8, 0.4 A HF Programmed Start lamp. DOE requests comments on referencing the updated ballast characteristics for these lamps and whether these changes impact measured lamp efficacy.

b. IES LM–58

Section 4.4.1 of appendix R describes test methods for measuring coloring rendering index (CRI) and correlated color temperature (CCT). It states that the required spectroradiometric measurement and characterization shall be conducted in accordance with IES LM–58.[22] DOE's initial review indicates that changes in IES LM–58–2013 compared to its 1994 version include a definition for colorimetry and the removal of definitions for spectral irradiance, spectral radiance, and spectral radiant intensity; clarification updates regarding the characteristics of spectroradiometers and applicable detectors; and additions of a new method called array spectrometry and a section on correction methods. DOE requests comments on referencing the updated version of IES LM–58, whether DOE should consider permitting use of the new array spectrometry method, and how measured values derived from that method compare with currently authorized test methods.

c. IES LM–45

IES LM–45 provides methods for taking electrical and photometric measurements of GSILs. Sections 3.2, 4.2.1, and 4.2.2 of appendix R specify that, for GSILs, test conditions, methods, and measurements be in accordance with IES LM–45. DOE's initial review indicates that changes in IES LM–45–2015, compared to its 2009 version, include various clarification updates regarding the impact of lamp polarity on light output and changes to certain tolerances (*e.g.,* impedance limits for instruments). DOE requests comments on referencing the updated version of IES LM–45.

d. IES LM–49

IES LM–49[23] provides test methods for measuring the lifetime of incandescent filament lamps. Section 4.2.3 of appendix R specifies that lifetime testing of GSILs must be conducted in accordance with IES LM–49. DOE's initial review indicates that changes in IES LM–49–2012 compared to its 2001 version include clarifications regarding input voltage, voltage regulation, lamp handling, wiring, and recording failures; the addition of instrumentation voltage tolerances; and direction regarding the interval at which operation of lamps should be checked.

[16] Illuminating Engineering Society—*Approved Method for Life Testing of Incandescent Filament Lamps (approved December, 1, 2001).*

[17] Illuminating Engineering Society—*Approved Method: Life Testing of Incandescent Filament Lamps (approved July, 18, 2012).*

[18] Illuminating Engineering Society of North America—*Approved Method for Photometric Testing of Reflector-Type Lamps (approved December, 3, 1994).*

[19] Illuminating Engineering Society of North America—*Approved Method: Photometry of Reflector Type Lamps (approved February, 4, 2013).*

[20] International Commission on Illumination—*Method of Measuring and Specifying Colour Rendering Properties of Light Sources (approved 1995).*

[21] International Commission on Illumination—*Colorimetry (approved 2004).*

[22] Note that the 1994 version of this standard was titled IESNA LM–58 but the 2013 version is titled IES LM–58.

[23] Note that the 2001 version of this standard was titled IESNA LM–49 but the 2012 version is titled IES LM–49.

DOE requests comments on referencing the updated version of IES LM–49 and whether these changes would impact measured lamp life.

e. IES LM–20

IES LM–20 [24] provides methods for taking photometric measurements of reflector-type lamps. Sections 3.3, 4.3.1, and 4.3.2 of appendix R specify that, for IRLs, test conditions, methods, and measurements be in accordance with IES LM–20. DOE's initial review indicates IES LM–20–2013, compared to its 1994 version, includes the addition of new definitions (*e.g.,* extraneous light, undirected light) and changes to existing definitions (*e.g.,* beam axis, central cone, stray light). IES LM–20–2013 also includes updates regarding characteristics of photometers, lamp stabilization, intensity distribution determination, among other topics; and changes to certain tolerances (*e.g.,* allowable reflectivity in the integrated sphere). DOE requests comments on referencing the updated version of IES LM–20.

2. Updates to Appendix R

a. Rated Voltage of Incandescent Lamps

Appendix R specifies lamps shall be operated at the rated voltage as defined in 10 CFR 430.2 for measurements of GSILs (see section 4.2.1) and IRLs (see section 4.3.1). Previously, DOE had required the test voltage for incandescent lamps to be 120 V. However, DOE received comments that lamps designed to be operated at higher voltages (*e.g.,* 125 V or 130 V) when tested at 120 V would be unfairly evaluated. In response to these comments, in a final test procedure rule for fluorescent and incandescent lamps published on May 29, 1997, DOE defined terms for rated voltage and design voltage for incandescent lamps and required testing at voltages according to these definitions. 62 FR 29221, 29231–2. The terms ''rated voltage with respect to incandescent lamps'' and the associated ''design voltage with respect to incandescent lamps'' are defined as follows in 10 CFR 430.2:

Rated voltage with respect to incandescent lamps means:

(1) The design voltage if the design voltage is 115 V, 130 V or between 115V and 130 V;

(2) 115 V if the design voltage is less than 115 V and greater than or equal to 100 V and the lamp can operate at 115 V; and

(3) 130 V if the design voltage is greater than 130 V and less than or equal to 150 V and the lamp can operate at 130 V.

Design voltage with respect to an incandescent lamp means:

(1) The voltage marked as the intended operating voltage;

(2) The mid-point of the voltage range if the lamp is marked with a voltage range; or

(3) 120 V if the lamp is not marked with a voltage or voltage range. 10 CFR 430.2

DOE noted in its final rule that this approach provided for testing incandescent lamps at a known voltage for certification while accommodating the FTC requirements for labeling, which allow testing and labeling at the design voltage. 62 FR 29232.

DOE would like feedback on simplifying the test voltage requirements for incandescent lamps and aligning them, to the extent possible, with DOE test procedure requirements for other lamp types such as compact fluorescent lamps (CFLs) and integrated light-emitting-diodes (LED) lamps. Those test procedures require that CFLs and LED lamps be tested at the voltage marked on the lamp as the intended operating voltage and if no voltage is marked to test at 120 V; if multiple voltages are marked including 120 V to test at 120 V, and if multiple voltages are marked not including 120 V to test at the highest voltage. DOE requests comments on modifying the required test voltage for incandescent lamps.

b. Photometric Measurements

To the extent possible DOE would like to harmonize its test procedures for taking photometric measurements for lamps. For example, DOE test procedures for CFLs and integrated LED lamps prescribe the use of an integrating sphere method and disallow the use of goniophotometer. DOE requests comments on allowing only the integrating sphere method and not the goniophotometer method for testing of GSFLs, GSILs, and IRLs, particularly comments regarding accuracy and test burden.

For IRLs, section 4.3.2 of appendix R states that lumen output may be measured in an integrating sphere or from an average intensity distribution curve as specified in IES LM–20. DOE requests comments on how frequently industry uses the average intensity distribution curve method to take total lumen output measurements for IRLs.

For taking lumen output measurements of GSFLs, DOE's test procedure currently references IES LM–9–2009. Section 6.3 of IES LM–9 describes the use of a ''peak lumen'' method which allows measurements at peak light output which are adjusted by a correction factor, a ratio of the stabilized lumens to the peak lumens developed specifically for that lamp type. DOE requests feedback on how frequently industry uses the peak lumen method to take measurements for GSFLs.

C. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for GSFLs, GSILs, and IRLs not already addressed by the specific areas identified in this document. DOE particularly seeks information that would improve the repeatability, reproducibility, and consumer representativeness of the test procedures. DOE also requests information that would help DOE create procedures that would limit manufacturer test burden through streamlining or simplifying testing requirements. Comments regarding the repeatability and reproducibility are also welcome.

DOE also requests feedback on any potential amendments to the existing test procedures that could be considered to address impacts on manufacturers, including small businesses. Regarding the Federal test method, DOE seeks comment on the degree to which the DOE test procedures should consider and be harmonized with the most recent relevant industry standards for GSFLs, GSILs, and IRLs, and whether there are any changes to the Federal test methods that would provide additional benefits to the public.

DOE requests comment on whether the existing test procedures limit a manufacturer's ability to provide additional features to consumers on GSFLs, GSILs, and IRLs. DOE particularly seeks information on how the test procedures could be amended to reduce the cost of new or additional features and make it more likely that such features are included on GSFLs, GSILs, and IRLs.

III. Submission of Comments

DOE invites all interested parties to submit in writing by September 7, 2017, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended test procedures for GSFLs, GSILs, and IRLs.

Submitting comments via *regulations.gov.* The *http://www.regulations.gov* Web page will require you to provide your name and

[24] Note that the 1994 version of this standard was titled IESNA LM–20 but in the 2013 version titled IES LM–20.

contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in this process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this RFI may do so at *https://public.govdelivery.com/accounts/USEERE/subscriber/new?topic_id=USEERE_398.*

Issued in Washington, DC, on August 2, 2017.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2017–16669 Filed 8–7–17; 8:45 am]

BILLING CODE 6450–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2017–12; Order No. 4025]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is announcing a recent filing requesting that the Commission initiate an informal rulemaking proceeding to consider changes to an analytical method for use in periodic reporting (Proposal Eight). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 18, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On July 31, 2017, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports and compliance determinations.[1] The Petition identifies the proposed analytical method changes filed in this docket as Proposal Eight.

II. Proposal Eight

The Postal Service explains that, since the passage of the Postal Accountability and Enhancement Act (PAEA) in 2006, it has been applying the ''60 percent rule'' codified in 39 U.S.C. 3626(a)(6)(A), to USPS Marketing Mail (formerly Standard Mail) overall. Petition, Proposal Eight at 1. It now proposes to return to its pre-PAEA application of the 60 percent rule at the subclass level, *i.e.* to USPS Marketing Mail Regular and USPS Marketing Mail Enhanced Carrier Route (ECR) separately. *Id.*

Background. Commonly referred to as the ''60 percent rule'', section 1(d) of Public Law 106–384 was promulgated in October 27, 2000, and codified in 39 U.S.C. 3626(a)(6)(A). It states that for USPS Marketing Mail, the ''average (Nonprofit) revenue per piece . . . shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.'' *Id.* at 2 (emphasis omitted) (footnote omitted). After the PAEA was passed in 2006, the term ''subclasses'' was no longer explicitly defined in the Mail Classification Schedule, and the Postal Service began applying the ''60 percent rule'' at the class level in Docket No. R2008–1. *Id.*

The Postal Service states that, although application at the class level was simpler, it also had the unintended effect of giving relative price relief to Nonprofit mail. Because Nonprofit mail is less concentrated in USPS Marketing Mail ECR, both USPS Regular and USPS ECR generate a lower average revenue per piece ratio than USPS Marketing Mail overall. *Id.*

Proposal. The Postal Service proposes to return to its pre-PAEA practice of applying the ''60 percent rule'' to USPS Marketing Mail Regular and USPS Marketing Mail ECR separately. *Id.* at 5. It asserts that this would be consistent with the language of the statute and in accordance with the pre-PAEA subclass definitions. *Id.*

Impacts. The Postal Service states that application of the rule on the subclass level would reverse the downward shift in the two subclass-level Nonprofit-to-Commercial average revenue per piece rations that occurred when the Postal Service switched to applying the rule at the class level. *Id.* As applied to the prices from Docket No. R2017–1, it calculates that (on a revenue-neutral basis), a +3.33 percent price change would be required for Regular Nonprofit Mail and a −0.47 percent change would be needed for Regular Commercial. For ECR Mail, the required changes would amount to a 6.94 percent increase in nonprofit prices and a 0.27 percent decrease for Commercial. *Id.* If adopted, the Postal Service would aim to phase in the price changes to avoid rate shock. *Id.*

III. Notice and Comment

The Commission establishes Docket No. RM2017–12 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's Web site at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Eight no later than September 18, 2017. Pursuant to 39 U.S.C. 505, Richard A. Oliver is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2017–12 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Eight), filed July 31, 2017.

2. Comments by interested persons in this proceeding are due no later than September 18, 2017.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Richard A. Oliver to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–16611 Filed 8–7–17; 8:45 am]

BILLING CODE 7710–FW–P

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Eight), July 31, 2017 (Petition).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0188; FRL–9965–69–Region 4]

Air Plan Approval; Mississippi: Prevention of Significant Deterioration Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a portion of the State Implementation Plan (SIP) revision submitted by Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), Office of Pollution Control, on June 7, 2016. Specifically, this action proposes to approve the portion of the SIP revision making changes to Mississippi's Prevention of Significant Deterioration (PSD) program by modifying the incorporating by reference (IBR) date for the Federal PSD regulations promulgated by EPA. This proposed SIP revision will modify the existing Greenhouse Gas (GHG) PSD permitting program and incorporates provisions related to the 1997, 2006 and 2012 fine particulate matter ($PM_{2.5}$) and 2015 ozone National Ambient Air Quality Standards (NAAQS). This action is being proposed pursuant to the Clean Air Act and its implementing regulations.

DATES: Written comments must be received on or before September 7, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0188 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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, 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: Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Febres can be reached via telephone at (404) 562–8966 or via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving Mississippi's June 7, 2016 SIP revision that modifies the State's PSD program by changing the IBR date for the Federal PSD regulations to February 17, 2016, as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and incorporated herein by reference. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all adverse comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: July 25, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–16615 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

Federal Railroad Administration

49 CFR Parts 240 and 242

[Docket Numbers FMCSA–2015–0419 and FRA–2015–0111]

RIN 2126–AB88 and 2130–AC52

Evaluation of Safety Sensitive Personnel for Moderate-to-Severe Obstructive Sleep Apnea

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) and Federal Railroad Administration (FRA) (collectively, the Agencies) withdraw the March 10, 2016, advance notice of proposed rulemaking (ANPRM) concerning the prevalence of moderate-to-severe obstructive sleep apnea (OSA) among individuals occupying safety sensitive positions in highway and rail transportation, and its potential consequences for the safety of highway and rail transportation. The Agencies have determined not to issue a notice of proposed rulemaking at this time.

DATES: As of August 8, 2017 the ANPRM published on March 10, 2016, at 81 FR 12642 is withdrawn.

FOR FURTHER INFORMATION CONTACT:

FMCSA: Ms. Christine Hydock, Chief of the Medical Programs Division, FMCSA, 1200 New Jersey Ave. SE., Washington, DC 20590–0001, by telephone at 202–366–4001, or by email at *fmcsamedical@dot.gov.*

FRA: Dr. Amanda Emo, Fatigue Program Manager, Risk Reduction Program Division, Office of Safety Analysis, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at 202–281–0695, or by email at *amanda.emo@dot.gov.*

If you have questions about viewing or submitting material to the docket, contact Docket Services, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Background

Based on the potential severity of OSA-related transportation incidents and crashes/accidents, and the varied, non-regulatory, OSA-related actions the Department's Operating Administrations have taken to date, the Agencies issued a joint ANPRM to consider regulatory action to ensure consistency in addressing the risk of OSA among transportation workers with safety sensitive duties (81 FR 12642, March 10, 2016). The Agencies sought information from interested parties regarding OSA to better inform their decision on whether to take regulatory action and, if so, how to craft the most effective and efficient regulations to address the potential safety risks associated with untreated OSA.

The information requested in the ANPRM seemed to be necessary to help the Agencies quantify the potential economic benefits and costs of adopting standards to assess risks associated with motor carrier and rail transportation workers in safety sensitive positions diagnosed with OSA. To gather relevant data, the Agencies posed a series of questions addressing the following matters:

- Whether OSA is a problem among individuals occupying safety sensitive positions in highway and rail transportation;
- Cost and benefits of regulatory actions that address the safety risks associated with motor carrier and rail transportation workers in safety sensitive positions who have OSA;
- Qualifications and restrictions for medical personnel; and
- Treatment effectiveness.

The Agencies also sought information at three listening sessions in May 2016, and extended the comment period by thirty days to review the results from the American Transportation Research Institute (ATRI) Commercial Driver Survey on Sleep Apnea Issues (*http://atri-online.org/2016/04/14/atri-launches-commercial-driver-survey-on-sleep-apnea-issues/*). The Agencies received more than 700 comments from individuals, medical professionals, labor groups, and transportation industry stakeholders. The Agencies also received comments from the National Transportation Safety Board and three members of Congress, the Honorable Anna Eshoo, the Honorable Sam Farr, and the Honorable Michael M. Honda.

The Agencies' Decision

OSA remains an on-going concern for the Agencies and the motor carrier and railroad industries because it can cause unintended sleep episodes and resulting deficits in attention, concentration, situational awareness, and memory, thus reducing the capacity to safely respond to hazards when performing safety sensitive duties. The Agencies received valuable information in response to the ANPRM and a series of public listening sessions in May 2016. The Agencies believe that current safety

programs and FRA's rulemaking addressing fatigue risk management are the appropriate avenues to address OSA.

FMCSA will consider an update to its January 2015 ''Bulletin to Medical Examiners and Training Organizations Regarding Obstructive Sleep Apnea'' regarding the physical qualifications standard and related advisory criteria concerning respiratory dysfunction, specifically how the standard applies to drivers who may have OSA. The Agency would use the updated August 2016 Medical Review Board [1] recommendations as a basis for updating the bulletin. On August 22–23, 2016, the MRB met in public meetings to deliberate on *Medical Review Board Task 16–1* regarding public comments from medical professionals and associations on the FMCSA's and FRA's ANPRM on obstructive sleep apnea. FMCSA tasked the MRB with reviewing and analyzing all ANPRM comments from medical professionals and associations and to identify factors the Agency should consider regarding making decisions about the next step in the OSA rulemaking. FMCSA also requested that the MRB review its previous February 2012 report on OSA from the MRB and Motor Carrier Safety Advisory Committee (MCSAC). The MRB's February 2012 recommendations formed the basis of their August 2016 recommendations. In scenarios where medical examiners may inappropriately screen and refer drivers for diagnostic testing based on single criteria, the MRB's 2016 recommendations provide objective criteria for identifying drivers who may be at greater risk for OSA. And, as was the case with the 2015 bulletin, the purpose of any action updating the bulletin is to ensure that medical examiners fully understand their role in screening drivers for OSA, identifying drivers at the greatest risk of having OSA, and refer only those individuals to a sleep specialist for testing. The Agency reminds medical examiners that there are no FMCSA rules or other regulatory guidance beyond what is referenced in this paragraph above with guidelines for screening, diagnosis, and treatment of OSA in CMV drivers. Medical certification determinations for such drivers are made by the examiners based on the examiner's medical judgment rather than a Federal regulation or requirement.

In addition, FMCSA will continue to recommend that drivers and their employers use the North American Fatigue Management Program (NAFMP) (*http://www.nafmp.org/index.php?lang=en*). The NAFMP is a voluntary, fully interactive web-based educational and training program developed to provide both truck and bus commercial vehicle drivers and carriers and others in the supply chain with an awareness of the factors contributing to fatigue and its impact on performance. Guidance on health and wellness, time management, vehicle technologies and scheduling best-practices provide effective mitigation strategies to address fatigue while maintaining a healthy and productive work/life balance. Module 8 of the program, Driver Sleep Disorders Management, includes an extensive discussion of OSA. [The training materials may be downloaded at *http://www.nafmp.org/index.php?option=com_content&view=article&id=14:downloads&catid=26&lang=en&Itemid=115*.]

On September 21, 2004, FRA issued Safety Advisory 2004–04 to alert the railroad industry, and especially those employees with safety sensitive duties, to the danger associated with degradation of performance resulting from undiagnosed or unsuccessfully treated sleep disorders (69 FR 58995, Oct. 1, 2004). That Safety Advisory set forth recommended actions regarding OSA, which FRA reiterated in Safety Advisory 2016–03 (81 FR 87649, Dec. 5, 2016). Additionally, FRA is aware several railroads are implementing OSA identification and treatment programs. FRA anticipates these programs will identify best practices for OSA screening, diagnosis, treatment, and mitigation. These programs will help identify the current and future needs of the industry, potential costs, and help define FRA's role in addressing OSA in the railroad industry. In addition, under the Rail Safety Improvement Act of 2008 (RSIA), railroads must establish a fatigue management plan as part of their Risk Reduction Program (RRP) or System Safety Program (SSP) (49 U.S.C. 20156(f)). RSIA requires a railroad to consider the need to include in its fatigue management plan ''opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.'' (*Id.* at section 20156(f)(3)(B).) While RSIA does not address OSA by name, FRA believes railroads will consider OSA when addressing medical conditions that affect alertness under a railroad's fatigue risk management plan as part of an RRP or SSP. FRA will continue to monitor railroads' voluntary OSA programs, as well as the implementation of fatigue risk management plans, as part of an RRP or SSP.

Based on the foregoing reasons, the Agencies withdraw the March 2016 ANPRM entitled ''Evaluation of Safety Sensitive Personnel for Moderate-to-Severe Obstructive Sleep Apnea.'' If FRA or FMCSA determines further action to be necessary, it will consider regulatory action.

Issued under the authority of delegations in 49 CFR 1.87(f) and (i) and 49 CFR 1.89(a), respectively: July 31, 2017.

Daphne Y. Jefferson,

Deputy Administrator, Federal Motor Carrier Safety Administration.

Heath Hall,

Acting Administrator, Federal Railroad Administration.

[FR Doc. 2017–16451 Filed 8–4–17; 8:45 am]

BILLING CODE 4910–EX–P

[1] *https://www.fmcsa.dot.gov/advisory-committees/mcsac/mrb-task-16-01-letter-report.* A copy of the MRB recommendations is included in this rulemaking docket.

Notices

Federal Register

Vol. 82, No. 151

Tuesday, August 8, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Zoetis, LLC, of Kalamazoo, Michigan, an exclusive license to U.S. Patent No. 8,765,141, ''DEVELOPMENT OF A MARKER FOOT AND MOUTH DISEASE VIRUS VACCINE CANDIDATE THAT IS ATTENUATED IN THE NATURAL HOST'', issued on July 1, 2014, and U.S. Patent No. 9,180,179, ''DEVELOPMENT OF A MARKER FOOT AND MOUTH DISEASE VIRUS VACCINE CANDIDATE THAT IS ATTENUATED IN THE NATURAL HOST'', issued on November 10, 2015.

DATES: Comments must be received on or before August 23, 2017.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: Brian T. Nakanishi of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as Zoetis, LLC, of Kalamazoo, Michigan, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Robert Griesbach,

Deputy Assistant Administrator.

[FR Doc. 2017–16657 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 3, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 7, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title: National Animal Health Monitoring System; Beef 2017 Study.

OMB Control Number: 0579–0326.

Summary of Collection: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to protect the health of the U.S. Livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pest of livestock and by eradicating such diseases from the United States when feasible. In connection with this mission, APHIS operates the National Animal Health Monitoring System (NAHMS), which collects data on the prevalence and economic importance of livestock diseases and associated risk factors.

Need and Use of the Information: APHIS plans to conduct the Beef 2017 Study as part of an ongoing series of NAHMS studies on the U.S. livestock population. The purpose of this study is to collect information, through questionnaires and biologic sampling, to: Describe trends in beef cow-calf health and management practices; describe management practices and producer beliefs related animal welfare, emergency preparedness, environmental stewardship, recordkeeping, and animal identification; and describe antimicrobial use practices (stewardship) and determine the prevalence and antimicrobial resistance patterns of potential food-safety pathogens.

This information will help the United States detect trends in the management, production, and health status of the Nation's beef industry over time.

Description of Respondents: Business or Other For-Profit.

Number of Respondents: 4,000.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 5,894.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–16702 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 3, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on 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.

Comments regarding this information collection received by September 7, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: Telecommunications System Construction Policies and Procedures.

OMB Control Number: 0572–0059.

Summary Of Collection: The Rural Electrification Act of 1936 (RE Act), 7 U.S.C. 901 *et seq.,* was amended in 2002 by Title IV, Rural Broadband Access, by Farm Security and rural Investment Act, which authorizes Rural Utilities Service (RUS) to provide loans and loan guarantees to fund the cost of construction, improvement, or acquisition for facilities and equipment for the provision of broadband service in eligible rural communities in the States and territories of the United States. Title VI of the RE Act requires that loans are granted only to borrowers who demonstrated that they will be able to repay in full within the time agreed. RUS has established certain standards and specification for materials, equipment and construction to assure that standards are maintained; loans are not adversely affected, and loans are used for intended purposes.

Need and Use of the Information: RUS has developed specific forms for borrowers to use when entering into contracts for goods or services. The information collected is used to implement certain provisions of loan documents about the borrower's purchase of materials and equipment and the construction of its broadband system and is provided on and as needed basis or when the individual borrower undertakes certain projects. The standardization of the forms has resulted in substantial savings to borrowers by reducing preparation of the documentation and the costly review by the government.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 110.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 8,807.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–16641 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0092]

Concurrence With OIE Risk Designations for Bovine Spongiform Encephalopathy

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to concur with the World Organization for Animal Health's (OIE) bovine spongiform encephalopathy (BSE) risk designations for seven regions. The OIE recognizes these regions as being of negligible risk for BSE. We are taking this action based on our review of information supporting the OIE's risk designations for these regions.

FOR FURTHER INFORMATION CONTACT: Dr. Roberta Morales, Senior Staff Veterinarian, Regionalization Evaluation Services, National Import Export Services, VS, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 855–7735.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 92 subpart B, ''Importation of Animals and Animal Products; Procedures for Requesting BSE Risk Status Classification With Regard to Bovines'' (referred to below as the regulations), set forth the process by which the Animal and Plant Health Inspection Service (APHIS) classifies regions for bovine spongiform encephalopathy (BSE) risk. Section 92.5 of the regulations provides that all countries of the world are considered by APHIS to be in one of three BSE risk categories: Negligible risk, controlled risk, or undetermined risk. These risk categories are defined in § 92.1. Any region that is not classified by APHIS as presenting either negligible risk or controlled risk for BSE is considered to present an undetermined risk. The list of those regions classified by APHIS as having either negligible risk or controlled risk can be accessed on the APHIS Web site at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/ct_animal_disease_status.* The list can also be obtained by writing to APHIS at National Import Export Services, 4700 River Road, Unit 38, Riverdale, MD 20737.

Under the regulations, APHIS may classify a region for BSE in one of two ways. One way is for countries that have

not received a risk classification from the World Organization for Animal Health (OIE) to request classification by APHIS. The other way is for APHIS to concur with the classification given to a country by the OIE.

If the OIE has recognized a country as either BSE negligible risk or BSE controlled risk, APHIS will seek information to support our concurrence with the OIE classification. This information may be publicly available information, or APHIS may request that countries supply the same information given to the OIE. APHIS will announce in the **Federal Register**, subject to public comment, its intent to concur with an OIE classification.

In accordance with that process, we published a notice [1] in the **Federal Register** on January 23, 2017 (82 FR 7786, Docket No. APHIS–2016–0092), in which we announced our intent to concur with the OIE risk designations for seven regions. The OIE recognizes these regions as being of negligible risk for BSE. We solicited comments on the notice for 60 days ending on March 24, 2017. We received one comment by that date, from a private citizen.

The commenter expressed concern that there is no process for verifying whether ruminant-to-ruminant feed bans are effectively enforced.

As part of its risk assessment process, the OIE considers the likelihood that the BSE agent either could be introduced into or spread within a country through contaminated commodities, including animal feed and feed ingredients. They consider both the production of processed animal proteins from domestic livestock, and the use of imported processed animal proteins, animal feed, and feed ingredients when assessing that risk. APHIS reviews similar information before concurring with the OIE designation.

Once recognized as either negligible or controlled risk for BSE by the OIE, a country must submit data on surveillance results and feed controls for the previous 12 months annually to maintain that status. If a country fails to provide that data in a timely manner, or the data shows changes that increase the risk of BSE introduction or spread, the country's risk designation may be changed. In the event that a country's risk status is demoted by the OIE, APHIS would also change its risk designation for the country.

Within the United States, the Food and Drug Administration (FDA) is the Federal agency responsible for regulating animal feed. The FDA has established regulations in 21 CFR part 589 that prohibit mammalian protein in ruminant feed (which includes a ruminant-to-ruminant feed ban) and the use of tissues that have the highest risk for carrying the BSE agent in all animal feed. These high risk cattle materials, known as specified risk materials (SRM), include the brains and spinal cords from cattle 30 months of age and older.

To assess and monitor for compliance with the feed ban, the FDA established the ruminant feed ban inspection program and guidance to assist both the FDA and State investigators. Feed mill and rendering plant inspections conducted since 1998 indicate a very high level of compliance with the feed ban. Summaries of inspections can be viewed on the FDA Web site at *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/ComplianceEnforcement/BovineSpongiformEncephalopathy/ucm114507.htm.* The FDA also established a feed testing program in 2001. The FDA's highest priority for sample selection is given to finished products intended for ruminants, and feed ingredients that may reasonably be expected to be later used in ruminant feed.

The commenter also expressed concern that products from cattle slaughtered at 36 months of age pose a health risk to consumers.

The commenter is correct that certain bovine products and live cattle from specific countries with a higher risk of BSE release may carry BSE infectivity and therefore present a health risk to consumers if no measures are taken to mitigate that risk. For this reason, the OIE also describes specific requirements for certain commodities originating from regions of controlled and undetermined risk.

APHIS regulations require implementation of and compliance with very similar requirements for both live bovines and bovine commodities in a region before we concur with the OIE's BSE risk designation. These requirements mitigate the risk of exposure to a negligible level. Therefore, countries with either controlled or undetermined risk statuses must demonstrate that they have the authority to conduct oversight of the compliance with such requirements.

Therefore, in accordance with the regulations in § 92.5, we are announcing our decision to concur with the OIE risk classifications of the following countries:

- Regions of negligible risk for BSE: Costa Rica, Germany, Lithuania, Mexico, Namibia, Romania, and Spain.

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 2nd day of August 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–16674 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice and the comment we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0092.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0035]

Notice of Availability of Treatment Evaluation Document for Aircraft Treatments for Certain Hitchhiking Pests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that we have determined that it is necessary to immediately add to the Plant Protection and Quarantine Treatment Manual two new chemical treatments for targeting regulated pests in the cargo holds of aircraft. We have prepared a treatment evaluation document that describes the new treatment schedules and explains why we have determined that they are effective at neutralizing certain target pests. We are making the treatment evaluation document available to the public for review and comment.

DATES: We will consider all comments that we receive on or before October 10, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0035.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0035, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0035* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence

Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. George Balady, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2240.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.[1] Section 305.3 sets out the processes for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (b) sets out the process for adding, revising, or removing treatment schedules when there is an immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1). They are:

- PPQ has determined that an approved treatment schedule is ineffective at neutralizing the targeted plant pest(s).
- PPQ has determined that, in order to neutralize the targeted plant pest(s), the treatment schedule must be administered using a different process than was previously used.
- PPQ has determined that a new treatment schedule is effective, based on efficacy data, and that ongoing trade in a commodity or commodities may be adversely impacted unless the new treatment schedule is approved for use.
- The use of a treatment schedule is no longer authorized by the U.S. Environmental Protection Agency or by any other Federal entity.

[1] The Treatment Manual is available at *http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

In accordance with § 305.3(b)(1), we are providing notice that we have determined that it is necessary to add two new treatments to the PPQ Treatment Manual: T409–a, a surface spray with deltamethrin 4.75 percent active ingredient to mitigate the risk of Khapra beetle on aircraft; and T409–b–3, an aerosol spray with '1-Shot' treatment containing 2 percent d-phenothrin and 2 percent permethrin to mitigate the risk of Japanese beetle and other hitchhiking pests, except Khapra beetle, on aircraft.

To accommodate the addition of treatment T409–b–3, we have redesignated treatment schedule T409–b as T409–b–1.

The reasons for these additions to the treatment manual are described in detail in the treatment evaluation document (TED) we have prepared to support this action. The TED may be viewed on the *Regulations.gov* Web site or in our reading room (see **ADDRESSES** above for instructions for accessing *Regulations.gov* and information on the location and hours of the reading room). You may also request paper copies of the TED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the TED when requesting copies.

After reviewing the comments we receive, we will announce our decision regarding the new treatment schedules described in the TED in a subsequent notice. If we do not receive any comments, or the comments we receive do not change our determination that the proposed changes are effective, we will affirm these changes to the PPQ Treatment Manual and make available a new version of the PPQ Treatment Manual reflecting these changes. If we receive comments that cause us to determine that additional changes need to be made to one or more of the treatment schedules discussed above, we will make available a new version of the PPQ Treatment Manual that reflects the changes.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 2nd day of August 2017.

Michael C. Gregoire,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–16676 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0038]

Notice of Availability of an Evaluation of the Classical Swine Fever Status of Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we are proposing to recognize Mexico as free of classical swine fever, subject to conditions in the regulations governing the importation of live swine, pork, and pork products from certain regions into the United States. We are proposing this action based on a risk evaluation that we have prepared in connection with this action and that we are making available to the public for review and comment.

DATES: We will consider all comments that we receive on or before October 10, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0038.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0038, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0038* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services, National Import Export Services, VS, APHIS, USDA, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; *Chip.J.Wells@aphis.usda.gov;* (301) 851–3317.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) regulates the importation of animals and animal products into the United States

to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including classical swine fever (CSF), foot-and-mouth disease, swine vesicular disease, and rinderpest. These are dangerous and communicable diseases of ruminants and swine.

APHIS currently recognizes nine Mexican States as free of CSF: Baja California, Baja California Sur, Campeche, Chihuahua, Nayarit, Quintana Roo, Sinaloa, Sonora, and Yucatan. Because of the proximity of those nine States to CSF-affected regions and/or other risk factors, however, their live swine, pork, and pork products may only be imported into the United States under the conditions specified in § 94.32. These conditions include, among others, a requirement for certification by a full-time salaried veterinary officer of the national government of the region of export that the pork or pork products originated in a CSF-free region, requirements that the pork or pork products be derived only from swine that were born and raised in such a region and never lived in a CSF-affected region, a prohibition against the comingling of the pork or pork products with pork or pork products that have been in an affected region, and a requirement that any processing of the pork or pork products be done in a federally inspected processing plant in a CSF-free region.

The regulations in 9 CFR part 92, § 92.2, contain requirements for requesting the recognition of the animal health status of a region (as well as for the approval of the export of a particular type of animal or animal product to the United States from a foreign region). If, after review and evaluation of the information submitted in support of the request, APHIS believes the request can be safely granted, APHIS will make its evaluation available for public comment through a document published in the **Federal Register**. Following the close of the comment period, APHIS will review all comments received and will make a final determination regarding the request that will be detailed in another document published in the **Federal Register**.

Between 2007 and 2009, the Government of Mexico submitted a series of requests to APHIS seeking recognition of additional States as CSF-free. The last of those requests, submitted in January 2009, after the Government of Mexico had declared that CSF had been eradicated in the country, was for APHIS to recognize all of Mexico as CSF-free.

In response to these requests, we conducted a qualitative risk evaluation to evaluate the CSF status of the Mexican States not already recognized by APHIS as CSF-free. This evaluation included site visits to farms and diagnostic laboratories, as well as examinations of Mexico's capabilities with respect to veterinary control and oversight, disease history and vaccination, livestock demographics and traceability, epidemiological separation from potential sources of infection, disease surveillance, diagnostic laboratory capabilities, and emergency preparedness and response. The resulting risk evaluation document, ''APHIS Evaluation of the CSF Status of a Region in Mexico'' (referred to below as the ''2013 risk evaluation''), did not support CSF-free recognition of all of Mexico; however, it did support access to the U.S. domestic market under certain risk-mitigating conditions.

Based on the findings of the 2013 risk evaluation, on July 29, 2014, we published in the **Federal Register** (79 FR 43974–43980, Docket No. APHIS–2013–0061) a proposal [1] to amend the regulations by recognizing a new APHIS-defined low-risk CSF region consisting of all Mexican States except the nine CSF-free States and the State of Chiapas, which we did not recognize as CSF-free.

In February 2015, Mexico received notice that the World Organization for Animal Health (OIE) recognized the country as CSF-free. Citing the OIE decision, the Government of Mexico then requested that APHIS suspend its rulemaking and instead continue evaluating Mexico for CSF-free status.

In response to this request, APHIS reopened its evaluation of the CSF status of Mexico. This reevaluation incorporated findings from a 2015 APHIS site visit report, along with updated surveillance data and information submitted by Mexico. These findings are documented in an April 2016 addendum to the 2013 risk evaluation.

Based on improved conditions observed through the end of 2015, APHIS has determined that concerns identified in the 2013 risk evaluation that had supported the July 2014 proposed rule have been addressed and that conditions now support CSF-free recognition for all of Mexico. Additionally, our determinations support including the entire country of Mexico on the Web-based list [2] of regions that are considered to be free of CSF but from which live swine, pork, and pork products may only be imported into the United States under the conditions specified in § 94.32. As stated in the April 2016 addendum to the 2013 risk evaluation, we consider the risk of the introduction of CSF into the United States via the importation of live swine, pork, and pork products from Mexico to be very low. We would note, however, that this determination applies only to Mexico's CSF status and that any existing restrictions on the importation of live swine, pork, and pork products from that country into the United States due to other animal diseases will remain in place.

Therefore, in accordance with § 92.2(e), we are announcing the availability of our updated risk evaluation of the CSF status of Mexico for public review and comment. The risk evaluation may be viewed on the *Regulations.gov* Web site or in our reading room. (Instructions for accessing *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this notice.)

Information submitted in support of Mexico's request is available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

After reviewing any comments we receive, we will announce our decision regarding the CSF status of Mexico and the import status of live swine, pork, and pork products from that country in a subsequent notice.

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 2nd day of August 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–16675 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the 2013 risk evaluation, the proposed rule, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0061.*

[2] The list is located on the APHIS Web site at: *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/import-live-animals/ct_classical_swine_fever_information.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0030]

Availability of an Environmental Assessment for Field Testing of a Bursal Disease-Marek's Disease Vaccine, Serotype 3, Live Marek's Disease Vector

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment concerning authorization to ship for the purposes of field testing, and then to field test, an unlicensed Bursal Disease-Marek's Disease Vaccine, Serotype 3, Live Marek's Disease Vector. Based on the environmental assessment, risk analysis, and other relevant data, we have reached a preliminary determination that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment. We are making the documents available to the public for review and comment.

DATES: We will consider all comments that we receive on or before September 7, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0030.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0030, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0030* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 851–3426, fax (301) 734–4314.

For information regarding the environmental assessment or the risk analysis, or to request a copy of the environmental assessment (as well as the risk analysis with confidential business information redacted), contact Dr. Patricia L. Foley, Risk Manager, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 1920 Dayton Avenue, P.O. Box 844, Ames, IA 50010; phone (515) 337–6100, fax (515) 337–6120.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) is authorized to promulgate regulations designed to ensure that veterinary biological products are pure, safe, potent, and efficacious before a veterinary biological product license may be issued. Veterinary biological products include viruses, serums, toxins, and analogous products of natural or synthetic origin, such as vaccines, antitoxins, or the immunizing components of microorganisms intended for the diagnosis, treatment, or prevention of diseases in domestic animals.

APHIS issues licenses to qualified establishments that produce veterinary biological products and issues permits to importers of such products. APHIS also enforces requirements concerning production, packaging, labeling, and shipping of these products and sets standards for the testing of these products. Regulations concerning veterinary biological products are contained in 9 CFR parts 101 to 124.

A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from APHIS, as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS considers the potential effects of this product on the safety of animals, public health, and the environment. Based upon a risk analysis and other relevant data, APHIS has prepared an environmental assessment (EA) concerning the field testing of the following unlicensed veterinary biological product:

Requester: Zoetis Inc.

Product: Bursal Disease-Marek's Disease Vaccine, Serotype 3, Live Marek's Disease Vector.

Possible Field Test Locations: Alabama, Delaware, Georgia, Iowa, and North Carolina.

The above-mentioned product is a live Marek's Disease serotype 3 vaccine virus containing a gene from the infectious bursal disease virus. The attenuated vaccine is intended for use in healthy 18-day-old or older chicken embryos by the *in ovo* route or day-old chicks by subcutaneous inoculation, as an aid in the prevention of Marek's disease and infectious bursal disease.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

We are publishing this notice to inform the public that we will accept written comments regarding the EA from interested or affected persons for a period of 30 days from the date of this notice. Unless substantial issues with adverse environmental impacts are raised in response to this notice, APHIS intends to issue a finding of no significant impact (FONSI) based on the EA and authorize shipment of the above product for the initiation of field tests following the close of the comment period for this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA that is generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and the issuance of a FONSI, APHIS does not intend to issue a separate EA and FONSI to support the issuance of the associated product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following satisfactory completion of the field test, provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensing.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 2nd day of August 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–16673 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service intention to request an extension for a currently approved information collection in support of the Repowering Assistance Program (OMB No. 0570–0066).

DATES: Comments on this notice must be received by October 10, 2017.

FOR FURTHER INFORMATION CONTACT: Contact Todd Hubbell, Technology Branch Chief, Energy Programs, Repowering Assistance Program, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 6901, Washington, DC 20250. Telephone: 202–690–2516. Email: *Todd.Hubbell@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Repowering Assistance Program.

OMB Number: OMB No. 0570–0066.

Expiration Date of Approval: November 30, 2017.

Type of Request: Extension and revision of a currently approved information Collection.

Abstract: Authorized under Section 9004 of the Food, Conservation, and Energy Act of 2008, the purpose of this program is to provide financial incentives to biorefineries to replace the use of fossil fuels used to produce heat or power at their facilities by installing new systems that use renewable biomass, or to produce new energy from renewable biomass.

Estimate of Burden:

Estimated Number of Respondents: 3.

Estimated Number of Responses per Respondent: 12.

Estimated Number of Responses: 36.

Estimated Total Annual Burden on Respondents: 701 Hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Division, at (202) 692–0040.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of the RBS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or forms of information technology. Comments may be sent to Jeanne Jacobs, Regulation and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 1, 2017.

Mark Brodziski,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2017–16655 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Georgia Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Georgia Advisory Committee will hold a meeting on Tuesday, August 29, 2017, for continuing the discussion of project implementation.

DATES: The meeting will be held on Tuesday August 29, 2017 at 12:00 p.m. EST.

ADDRESSES: The meeting will be held via teleconference. Toll-free call-in number: 877–874–1565, conference ID: 9651290.

FOR FURTHER INFORMATION CONTACT: Jeffrey Hinton, DFO, at *jhinton@usccr.gov* or 404–562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 877–874–1565, conference ID: 9651290. Any interested member of the public may call this number and listen to the meeting. 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 telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by August 25, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov*. Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, North Carolina Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Introductions

Jeff Hinton, Regional Director; Jerry Gonzalez, Chair Georgia SAC

Regional Update—Jeff Hinton

Discussion of implementation process (Continuation) to the public hearing—Jerry Gonzalez, Chair Georgia SAC

State Advisory Committee (SAC) members

Public comments

Adjournment

Dated: August 3, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–16665 Filed 8–7–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) 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. 3501 *et seq.*).

Agency: Economic Development Administration (EDA or Agency).

Title: Data Collection for Compliance with Government Performance and Results Act.

OMB Control Number: 0610–0098.

Form Number(s): ED–915, ED–916, ED–917, and ED–918.

Type of Review: Regular submission (extension of a currently approved information collection).

Number of Respondents: 1,530.

Average Hours per Response: 7 Hours 0 Minutes.

Burden Hours: 11,131 Hours.

Needs and Uses: In order to effectively administer and monitor its economic development assistance programs, and to comply with the requirements of the Government Performance and Results Act of 1993 (GPRA) (Pub. L. 103–62) and the GPRA Modernization Act of 2010 (Pub. L. 111–352), EDA must collect specific data from its grant recipients to report on the Agency's performance in meeting its stated goals and objectives. EDA collects performance data through a series of four program specific forms (information on EDA's Public Works, Economic Adjustment Assistance, and Revolving Loan Fund programs are collected via Form ED–915; information from Economic Development Districts and Indian Tribes are collected via the ED–916; University Centers are required to report on the ED–917; and Trade Adjustment Assistance Centers are required to fill out an ED–918) that ask respondents to report on items such as the number of jobs created and retained as well as the private investment generated per EDA investment.

Affected Public: State, local and tribal governments; Economic Development Districts; institutions of higher education; and not-for-profit organizations.

Frequency: Annual.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view DOC collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–16653 Filed 8–7–17; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[7/4/2017 through 7/26/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Parlee Cycles, Inc	69 Federal Street, Beverly, MA 01915	7/10/2017	The firm manufactures high-end carbon fiber bicycle frames and bicycle parts/components.
Holtec Gas Systems, LLC	18167 Edison Avenue, Suite I, Chesterfield, MO 63005.	7/11/2017	The firm manufactures nitrogen generation systems.
Midwest Metal Products Co	800 66th Avenue SW., Cedar Rapids, IA 52404.	7/17/2017	The firm manufactures sheet metal fabricated products.
Loti Corporation	21505 Bents Court NE., Aurora, OR 97002.	7/26/2017	The firm manufactures decorative edge moldings for laminate countertops.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2017–16620 Filed 8–7–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–876, C–570–061]

Fine Denier Polyester Staple Fiber From the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas at (202) 482–3813 (People's Republic of China (PRC)); Trisha Tran at (202) 482–4852 (India), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 20, 2017, the Department of Commerce (the Department) initiated countervailing duty (CVD) investigations of imports of fine denier polyester fiber (fine denier PSF) from the PRC and India.[1] Currently, the preliminary determinations are due no later than August 24, 2017.

Postponement of Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, section 703(c)(1) of the Act permits the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation if: (A) The petitioners makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, and determines 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 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 July 26, 2017, the petitioners[2] submitted a timely request that the Department postpone the preliminary CVD determinations.[3] The petitioners state that they request postponement of the preliminary determinations because the current deadline for initial questionnaire responses is August 30, 2017, in the India investigation and September 1, 2017, in the PRC investigation. According to the petitioners, postponement of the preliminary determination deadline in each case would allow sufficient time for the Department and interested parties to analyze questionnaire responses and permit the issuance of supplemental questionnaires, if necessary.

In accordance with 19 CFR 351.205(e), the petitioners have stated the reasons for requesting a postponement of the preliminary determinations, and the Department finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, the Department is postponing the deadline for the preliminary determinations to no later than 130 days after the date on which these investigations were initiated, *i.e.,* October 30, 2017.[4] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 2, 2017.

Carole Showers,

Executive Director, Office of Policy, performing the duties of Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–16688 Filed 8–7–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Fine Denier Polyester Staple Fiber From India and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 82 FR 29029 (June 27, 2017) (*Initiation Notice*).

[2] The petitioners are DAK Americas LLC, Nan Ya Plastics Corporation, America, and Auriga Polymers Inc.

[3] Letter from the petitioners, ''Fine Denier Polyester Staple Fiber from the People's Republic of China and India—Petitioners' Request for Postponement of the Preliminary Determinations,'' dated July 26, 2017.

[4] Postponing the preliminary determinations to 130 days after initiation would place the deadline on Saturday, October 28, 2017. The Department's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–063]

Cast Iron Soil Pipe Fittings From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 2, 2017.

FOR FURTHER INFORMATION CONTACT: Dennis McClure at (202) 482–5973, AD/CVD Operations, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On July 13, 2017, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (PRC), filed in proper form, on behalf of the Cast Iron Soil Pipe Institute (the petitioner).[1] The petitioner is a trade association, whose members are all domestic producers of soil pipe fittings.[2] The CVD petition was accompanied by an antidumping duty (AD) petition for soil pipe fittings from the PRC.[3]

On July 17, 2017, the petitioner filed an amendment to Volume I of the Petition.[4] On July 18, 2017, the Department requested additional information and clarification of certain areas of the Petition.[5] The petitioner filed responses to these requests on July 20, 2017.[6]

[1] *See* Letter to the Secretary of Commerce from the petitioner re: Cast Iron Pipe Fittings from the People's Republic of China—Petition for the Imposition of Antidumping and Countervailing Duties, dated July 13, 2017 (the Petition).

[2] *See* Volume I of the Petition, at 2. The individual members of the Cast Iron Soil Pipe Institute are AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe.

[3] *See* Volume II of the Petition.

[4] *See* Letter from the petitioner, ''Amendment to Petitions for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe Fittings from the People's Republic of China,'' dated July 17, 2017 (Petition Amendment).

[5] *See* Letters from the Department, ''Petition for the Imposition of Antidumping Duties on Imports of Cast Iron Soil Pipe Fittings from the People's Republic of China: Supplemental Questions,'' dated July 18, 2017, and ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Cast Iron Soil Pipe Fittings from the People's Republic of China: Supplemental Questions,'' dated July 18, 2017.

[6] *See* Letters from the petitioner ''Cast Iron Soil Pipe Fittings from the People's Republic of China: Response to Supplemental Questions—General

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of the PRC (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, with respect to imports of soil pipe fittings from the PRC, and that, such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the CVD investigation that the petitioner is requesting.[7]

Period of Investigation

Because the Petition was filed on July 13, 2017, pursuant to 19 CFR 351.204(b)(2), the period of investigation is January 1, 2016, through December 31, 2016.[8]

Scope of the Investigation

The product covered by this investigation is soil pipe fittings from the PRC. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Petition, we discussed with the petitioner the language pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.[9] On July 20, 2017, the petitioner filed a revision to the scope language.[10]

As discussed in the preamble to the Department's regulations,[11] we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope). The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[12] all such factual information should be limited to public information. In order to facilitate preparation of its questionnaire, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, August 22, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, September 1, 2017, which is 10 calendar days from the deadline for initial comments.[13] All such comments must be filed on the record of each of the concurrent AD and CVD investigations.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments must be filed on the record of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[14] An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to section 702(b)(4)(A) of the Act, the Department notified representatives of the GOC of the receipt of the Petition, and provided them the opportunity for consultations with respect to the CVD Petition.[15] In response to the Department's invitation, the GOC filed comments concerning the Petition.[16] The invitation letter and comments regarding the Petition are on file electronically *via* ACCESS.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S.

Issues,'' dated July 20, 2017 (General Issues Supplement), and ''Cast Iron Pipe Fittings from the People's Republic of China—Petitioner's Response to Supplemental Questionnaire Concerning Volume III,'' dated July 20, 2017 (CVD Supplement).

[7] *See* ''Determination of Industry Support for the Petition'' section, below.

[8] *See* 19 CFR 351.204(b)(2).

[9] *See* Memorandum, ''Antidumping Duty Investigation of Cast Iron Soil Pipe Fittings from the People's Republic of China: Telephone Call with Petitioner, Re: Scope of the Investigation,'' dated July 18, 2017.

[10] *See* Letter to the Secretary of Commerce from the petitioner re: ''Cast Iron Pipe Fittings From the People's Republic of China: Response to Supplemental Questions—Scope,'' dated July 20, 2017.

[11] *See Antidumping Duties; Countervailing Duties: Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[12] *See* 19 CFR 351.102(b)(21).

[13] *See* 19 CFR 351.303(b).

[14] *See* 19 CFR 351.303 (for general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf.*

[15] *See* Letter to the Embassy of the PRC from the Department, ''Countervailing Duty Petition on Cast Iron Soil Pipe Fittings from the People's Republic of China'' (July 24, 2017).

[16] *See* Letter to the Department from the Ministry of Commerce of the People's Republic of China, ''Comments Regarding Countervailing Duty Petition on Cast Iron Soil Pipe Fittings'' (August 1, 2017).

International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[17] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[18]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that soil pipe fittings, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[19]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition and the petitioner's subsequent submissions with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. The petitioner provided the 2016 production of the domestic like product by its members.[20] The petitioner states that its members are the only known producers of soil pipe fittings in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.[21]

Our review of the data provided in the Petition, Petition Amendment, General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.[22] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[23] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[24] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[25] Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(E) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting that the Department initiate.[26]

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[27]

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; and negative impact on profit.[28] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[29]

Initiation of CVD Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The petitioner alleges that producers/exporters of soil pipe fittings in the PRC benefited from countervailable subsidies bestowed by the GOC. The Department examined the Petition and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, and/or exporters of soil pipe fittings from the PRC receive countervailable subsidies from the GOC.

[17] *See* section 771(10) of the Act.

[18] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[19] For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Cast Iron Soil Pipe Fittings from the People's Republic of China (CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe Fittings (Soil Pipe Fittings) from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[20] *See* Letter from the petitioner, ''Amendment to Petitions for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe Fittings from the People's Republic of China,'' dated July 17, 2017 (Petition Amendment), at 2; *see also* General Issues Supplement, at 1.

[21] *See* Petition, at 2; *see also* General Issues Supplement, at 1 and Exhibit 2.

[22] *See* CVD Initiation Checklist, at Attachment II.

[23] *See* section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist, at Attachment II.

[24] *See* CVD Initiation Checklist, at Attachment II.

[25] *Id.*

[26] *Id.*

[27] *See* Volume I of the Petition, at 11–12, General Issues Supplement, at 3 and Exhibit 3.

[28] *See* Volume I of the Petition, at 9, 11–20 and Exhibits I–5 and I–7 through I–13; *see also* Petition Amendment, at 1–3; and General Issues Supplement, at 3 and Exhibit 3.

[29] *See* CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe Fittings from the People's Republic of China.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.[30] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[31] The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.[32]

Subsidy Allegations

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 32 alleged programs.[33] For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination in this investigation no later than 65 days after the date of initiation.

Respondent Selection

The petitioner named numerous companies as producers/exporters of soil pipe fittings from the PRC. The Department intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, where appropriate, the Department intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of soil pipe fittings from the PRC during the period of investigation under the appropriate Harmonized Tariff Schedule of the United States number listed in the ''Scope of the Investigation,'' in the Appendix.

On July 21, 2017, the Department released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.[34] The Department will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo.*

Comments for this investigation must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. ET, by the date noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC *via* ACCESS. Because of the large number of producers/exporters identified in the Petition,[35] the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of soil pipe fittings from the PRC are materially injuring, or threatening material injury to, a U.S. industry.[36] A negative ITC determination will result in the investigation being terminated;[37] otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties are advised to review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension

[30] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[31] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015). The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[32] *Id.,* at 46794–95.

[33] The petitioner originally filed allegations on 33 programs. However, on July 20, 2017, the petitioner withdrew its request that we initiate a CVD investigation on the ''Provision of Land in Industrial Zones for Less than Adequate Remuneration.'' *See* CVD Supplement at 10.

[34] *See* Memorandum, ''*Cast Iron Soil Pipe Fittings from the People's Republic of China Countervailing Duty Petition:* Release of Customs Data from U.S. Customs and Border Protection,'' dated July 21, 2017.

[35] *See* Volume I of the Petition, at Exhibit I–4.

[36] *See* section 703(a)(2) of the Act.

[37] *See* section 703(a)(1) of the Act.

of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[38] Parties must use the certification formats provided in 19 CFR 351.303(g).[39] [40] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: August 2, 2017.

Carole Showers,

Executive Director, Office of Policy performing the duties of the Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is cast iron soil pipe fittings, finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains, and other common or special fittings, with or without side inlets.

Cast iron soil pipe fittings are classified into two major types—hubless and hub and spigot. Hubless cast iron soil pipe fittings are manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888. Hub and spigot pipe fittings have hubs into which the spigot (plain end) of the pipe or fitting is inserted. Cast iron soil pipe fittings are generally distinguished from other types of nonmalleable cast iron fittings by the manner in which they are connected to cast iron soil pipe and other fittings.

The subject imports are normally classified in subheading 7307.11.0045 of the Harmonized Tariff Schedule of the United States (HTSUS): Cast fittings of nonmalleable cast iron for cast iron soil pipe. The HTSUS subheading and specifications are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

[FR Doc. 2017–16771 Filed 8–7–17; 8:45 am]

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[38] *See* section 782(b) of the Act.

[39] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[40] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839]

Polyester Staple Fiber From the Republic of Korea: Rescission of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on polyester staple fiber (PSF) from the Republic of Korea (Korea), based on the timely withdrawal of requests for review. The period of review (POR) is May 1, 2016, through April 30, 2017.

DATES: Effective August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Toby Vandall, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1664.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2017, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on PSF from Korea for the POR of May 1, 2016, through April 30, 2017.[1] On May 30, 2017, Huvis Corporation (Huvis) submitted a timely-filed request for an administrative review of its POR sales.[2] On May 31, 2017, pursuant to 19 CFR 351.213, the Department received a timely-filed request from DAK Americas LLC and Auriga Polymers, Inc. (collectively, the petitioners) for an administrative review of Toray Chemical Korea, Inc. (Toray) and Huvis.[3] On July 6, 2017, pursuant to these requests and in accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice of initiation of an administrative review of Toray and Huvis.[4] On July 11, 2017, and July 12, 2017, pursuant to 19 CFR 351.213(d)(1), the petitioners and Huvis, respectively, timely withdrew their requests for an administrative review.[5]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(l), the Department will rescind an administrative review, in whole or in part, if the party, or parties, that requested a review withdraw the request/s within 90 days of the publication date of the notice of initiation of the requested review. As noted above, the petitioners withdrew their request for review of Toray and Huvis within 90 days of the publication date of the notice of initiation. In addition, Huvis also timely withdrew its request for an administrative review. No other parties requested an administrative review of the antidumping duty order on PSF from Korea. Therefore, in response to the timely withdrawal of requests for review and, in accordance with 19 CFR 351.213(d)(l), the Department is rescinding this review.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of PSF from Korea during the POR. Antidumping duties

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 20315 (May 1, 2017).

[2] *See* Letter from Huvis, ''Certain Polyester Staple Fiber from Korea; Request for Administrative Review for 2016–2017 Period'' (May 30, 2017).

[3] *See* Letter from the petitioners, ''Polyester Staple Fiber from Korea'' (May 31, 2017).

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 31292 (July 6, 2017) (*Notice of Initiation*).

[5] *See* Letter from the petitioners, ''Polyester Staple Fiber from Korea—Withdrawal of Review Request for Toray Chemical Korea'' (July 11, 2017); *see also* Letter from the petitioners, ''Polyester Staple Fiber from Korea; Withdrawal of Review Request for Huvis Corporation'' (July 12, 2017); *see also* Letter from Huvis, ''Certain Polyester Staple Fiber from Korea; Withdrawal of Request for Administrative Review for 2016–2017 Period'' (July 12, 2017).

shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(l)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern the business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 75l(a)(l) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: August 2, 2017.

James Maeder,

Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–16689 Filed 8–7–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–062]

Cast Iron Soil Pipe Fittings From the People's Republic of China: Initiation of Less-Than-Fair Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 2, 2017.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin at (202) 482–6478 or Denisa Ursu at (202) 482–2285, AD/CVD Operations, Enforcement & Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On July 13, 2017, the Department of Commerce (the Department) received an antidumping duty (AD) petition concerning imports of cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (the PRC), filed in proper form, on behalf of the Cast Iron Soil Pipe Institute (the petitioner).[1] The petitioner is a trade association, whose members are all domestic producers of soil pipe fittings.[2] The AD petition was accompanied by a countervailing duty (CVD) petition for soil pipe fittings from the PRC.[3]

On July 17, 2017, the petitioner filed an amendment to Volume I of the Petition.[4] On July 18, 2017, the Department requested additional information and clarification of certain areas of the Petition.[5] The petitioner filed responses to these requests on July 20, 2017.[6] In response to the Department's further requests for information and clarification of Volume II of the Petition,[7] the petitioner submitted additional amendments to the Petition on July 26, 2017, and July 28, 2017.[8]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of soil pipe fittings from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that, such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that the petitioner is requesting.[9]

Period of Investigation

Because the Petition was filed on July 13, 2017, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is January 1, 2017, through June 30, 2017.

Scope of the Investigation

The product covered by this investigation is soil pipe fittings from the PRC. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Petition, the Department discussed with the petitioner the language pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking

[1] *See* Letter from the petitioner, ''Petition for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe Fittings from the People's Republic of China,'' dated July 13, 2017 (the Petition).

[2] See Volume I of the Petition at 2. The individual members of the Cast Iron Soil Pipe Institute are AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe.

[3] *See* Volume III of the Petition.

[4] *See* Letter from the petitioner, ''Amendment to Petitions for the Imposition of Antidumping and Countervailing Duties: Cast Iron Soil Pipe Fittings from the People's Republic of China,'' dated July 17, 2017 (Petition Amendment).

[5] *See* Letters from the Department, ''Petition for the Imposition of Antidumping Duties on Imports of Cast Iron Soil Pipe Fittings from the People's Republic of China: Supplemental Questions,'' dated July 18, 2017, and ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Cast Iron Soil Pipe Fittings from the People's Republic of China: Supplemental Questions,'' dated July 18, 2017.

[6] *See* Letters from the petitioner ''Cast Iron Soil Pipe Fittings from the People's Republic of China: Response to Supplemental Questions—General Issues,'' dated July 20, 2017 (General Issues Supplement), and ''Cast Iron Soil Pipe Fittings from the People's Republic of China: Response to Supplemental Questions—Antidumping Duties,'' dated July 20, 2017 (AD Supplemental Response 1).

[7] *See* Memorandum to the File, ''Telephone Call Regarding Financial Ratios,'' dated July 24, 2017; Memorandum to the File, ''Telephone Call with Petitioner's Counsel Regarding Amendments to the Petition,'' dated July 26, 2017; and Memorandum to the File, ''Telephone Call with Petitioner's Counsel Regarding Questions for the Normal Value Calculation,'' dated July 27, 2017.

[8] *See* Letter from the petitioner, ''Cast Iron Soil Pipe Fittings from the People's Republic of China: Response to Supplemental Questions—Antidumping Duties,'' dated July 26, 2017 (AD Supplemental Response 2); and Letter from the petitioner, ''Cast Iron Soil Pipe Fittings from the People's Republic of China: Revised Antidumping Calculation,'' dated July 28, 2017 (AD Supplemental Response 3).

[9] *See* the ''Determination of Industry Support for the Petition'' section, below.

relief.[10] On July 20, 2017, the petitioner filed a revision to the scope language.[11]

As discussed in the preamble to the Department's regulations,[12] we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope). The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[13] all such factual information should be limited to public information. In order to facilitate preparation of its questionnaire, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, August 22, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, September 1, 2017, which is 10 calendar days from the deadline for initial comments.[14] All such comments must be filed on the record of each of the concurrent AD and CVD investigations.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments must be filed on the record of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[15] An electronically-filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of soil pipe fittings to be reported in response to the Department's AD questionnaire. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties will have the opportunity to provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics used by manufacturers to describe soil pipe fittings, it may be that only a select few product characteristics take into account commercially-meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 p.m. ET on August 17, 2017. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 24, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the record of the less-than-fair-value investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[16] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[17]

Section 771(10) of the Act defines the domestic like product as ''a product

[10] *See* Memorandum to the File, ''Antidumping Duty Investigation of Cast Iron Pipe Fittings from the People's Republic of China: Telephone Call with Petitioner, Re: Scope of the Investigation,'' dated July 18, 2017.

[11] *See* Letter from the petitioner, ''Response to Supplemental Questions—Scope,'' dated July 20, 2017 (Scope Supplement).

[12] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[13] *See* 19 CFR 351.102(b)(21).

[14] *See* 19 CFR 351.303(b).

[15] *See* 19 CFR 351.303 (for general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *http://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[16] *See* Section 771(10) of the Act.

[17] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that soil pipe fittings, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition and the petitioner's subsequent submissions with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in Appendix I of this notice. The petitioner provided the 2016 production of the domestic like product by its members.[19] The petitioner states that its members are the only known producers of soil pipe fittings in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.[20]

Our review of the data provided in the Petition, Petition Amendment, General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.[21] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[22] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[23] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[24] Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(E) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting that the Department initiate.[25]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[26]

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; and negative impact on profit.[27] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[28]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate the AD investigation of imports of soil pipe fittings from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Initiation Checklist.[29]

Export Price

The petitioner based the U.S. price on export price (EP) using average unit values (AUVs) of publicly available import data.[30] The petitioner made deductions to U.S. price for foreign inland freight and brokerage and handling.[31]

Normal Value

The petitioner stated that the Department has consistently treated the PRC as a non-market economy (NME) country.[32] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner argues that South Africa is an appropriate surrogate country for the PRC because it is a market economy that is at a level of economic development comparable to that of the PRC, it is a significant producer of comparable merchandise, and public information from South Africa is available to value all FOPs.[33] Based on the information provided by the petitioner, we determine that it is appropriate to use South Africa as a surrogate country for the PRC. Interested parties will have the opportunity to

[18] For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Cast Iron Soil Pipe Fittings from the People's Republic of China (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe Fittings (Soil Pipe Fittings) from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[19] *See* Petition Amendment at 2; *see also* General Issues Supplement at 1.

[20] *See* Petition at 2; *see also* General Issues Supplement at 1 and Exhibit 2.

[21] *See* Initiation Checklist at Attachment II.

[22] *See* section 732(c)(4)(D) of the Act; *see also* Initiation Checklist at Attachment II.

[23] *See* Initiation Checklist at Attachment II.

[24] *Id.*

[25] *Id.*

[26] *See* Volume I of the Petition at 11–12; *see also* General Issues Supplement at 3 and Exhibit 3.

[27] *See* Volume I of the Petition at 9, 11–20, and Exhibits I–5 and I–7; *see also* Petition Amendment at 1–3; *see also* General Issues Supplement at 3 and Exhibit 3.

[28] *See* Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Cast Iron Soil Pipe Fittings from the People's Republic of China.

[29] *Id.,* at 6–10.

[30] *See* the attachment to AD Supplemental Response 3.

[31] *Id.*

[32] *See* Volume II of the Petition at 1.

[33] *See* AD Supplemental Response 2 at 2–3 and Exhibits 2–5.

submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs no later than 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters is not reasonably available, the petitioner based the FOPs for materials, labor, and energy on the production experience of one of its member companies.[34] The petitioner asserts that the production process for soil pipe fittings is similar regardless of whether the product is produced in the United States or in the PRC.[35] The petitioner valued the estimated FOPs using surrogate values from South Africa.

Valuation of Raw Materials

The petitioner valued direct materials based on publicly-available import data for South Africa obtained from the Global Trade Atlas (GTA) for the period November 2016 through April 2017.[36] The petitioner excluded all import data from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and countries previously determined by the Department to be NME countries.[37] In addition, in accordance with the Department's practice, the petitioner excluded imports that were labeled as originating from an unidentified country.[38]

Valuation of Labor

The petitioner relied on 2012 data published by the International Labor Organization, inflated to 2017 using the South African Consumer Price Index.[39]

Valuation of Energy

The petitioner valued natural gas using GTA import data.[40] The petitioner valued electricity using values reported in the Eskom 2016/2017 Tariff Book.[41]

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

The petitioner calculated ratios for selling, general, and administrative expenses, and profit based on the 2016 consolidated financial statements of Tata Africa Steel Processors Proprietary Ltd., a South African steel processor and producer of aluminum wire rods.[42]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of soil pipe fittings from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for soil pipe fittings from the PRC is 92.48 percent.[43]

Initiation of Less-Than-Fair-Value Investigation

Based upon the examination of the AD Petition on soil pipe fittings from the PRC, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of soil pipe fittings from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.[44] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[45] The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation.[46]

Respondent Selection

The petitioner named 22 companies in the PRC as producers/exporters of soil pipe fittings.[47] In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to this investigation and, in the event we determine to limit the number of companies individually examined, base respondent selection on the responses received.[48] For this investigation, the Department will request Q&V information from known exporters and producers identified, with complete contact information, in the Petition. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement & Compliance Web site at *http://www.trade.gov/enforcement/news.asp.*

Exporters/producers of soil pipe fittings from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement & Compliance Web site. The Q&V response must be submitted by all PRC exporters/producers no later than August 14, 2017. All Q&V responses must be filed electronically *via* ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[49] The specific requirements for submitting a separate-rate application are outlined in detail in the application itself, which is available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[50] Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the

[34] *See* Volume II of the Petition at 4 and Exhibit II–7. *See also* AD Supplemental Response 2 at 1, 3, and Exhibit 1.

[35] *See* AD Supplemental Response 1 at Exhibit 3.

[36] *See* AD Supplemental Response 2 at 3 and Exhibit 7. In the narrative, the petitioner erroneously reported September 2016 through February 2017.

[37] *Id.*

[38] *Id.*

[39] *Id.,* at Exhibit 10.

[40] *Id.,* at Exhibit 7.

[41] *Id.,* at Exhibit 9.

[42] *Id.,* at Exhibit 11.

[43] *See* the attachment to AD Supplemental Response 3.

[44] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[45] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015).

[46] *Id.,* at 46794–95. The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[47] *See* Volume I of the Petition at Exhibit I–4.

[48] *See, e.g., Carton-Closing Staples From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 82 FR 19351 (April 27, 2017).

[49] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[50] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

Department's AD questionnaire as mandatory respondents. The Department requires that respondents submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[51]

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of the PRC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of soil pipe fittings from the PRC are materially injuring or threatening material injury to a U.S. industry.[52] A negative ITC determination will result in the investigation being terminated;[53] otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties are advised to review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[54] Parties must use the certification formats provided in 19 CFR 351.303(g).[55] [56] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act.

Dated: August 2, 2017.

Carole Showers,

Executive Director, Office of Policy, performing the duties of Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is cast iron soil pipe fittings, finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains, and other common or special fittings, with or without side inlets.

Cast iron soil pipe fittings are classified into two major types—hubless and hub and

[51] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[52] *See* section 733(a) of the Act.

[53] *Id.*

[54] *See* section 782(b) of the Act.

[55] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[56] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

spigot. Hubless cast iron soil pipe fittings are manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888. Hub and spigot pipe fittings have hubs into which the spigot (plain end) of the pipe or fitting is inserted. Cast iron soil pipe fittings are generally distinguished from other types of nonmalleable cast iron fittings by the manner in which they are connected to cast iron soil pipe and other fittings.

The subject imports are normally classified in subheading 7307.11.0045 of the Harmonized Tariff Schedule of the United States (HTSUS): Cast fittings of nonmalleable cast iron for cast iron soil pipe. The HTSUS subheading and specifications are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

[FR Doc. 2017–16770 Filed 8–7–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–964]

Seamless Refined Copper Pipe and Tube From the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that the five remaining companies under review do not qualify for a separate rate and are, therefore, considered a part of the People's Republic of China (PRC)-Wide Entity for their exports of subject merchandise exported to the United States during the period of review (POR), November 1, 2015, through October 31, 2016. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Courtney Canales, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1394 or (202) 482–4997, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 2017, the Department published in the **Federal Register** the notice of initiation of an administrative review of the antidumping duty (AD) order on seamless refined copper pipe and tube (copper pipe) from the PRC for the period of review November 1, 2015, through October 31, 2016.[1] On January 18, 2017, Hong Kong Hailiang Metal Trading Limited (Hong Kong Hailiang), Shanghai Hailiang Copper Co., Ltd. (Shanghai Hailiang), and Zhejiang Hailiang Co., Ltd. (Zhejiang Hailiang) (collectively, Hailiang) notified the Department that the spelling of each company's name in the *Initiation Notice* was incorrect.[2] Accordingly, on February 13, 2017, the Department published in the **Federal Register** a revision of the notice of initiation of the 6th administrative review of the AD order due to a spelling error in certain companies' names.[3] [4] On February 24, 2017, Hailiang submitted a letter indicating it would not participate in the review.[5] On March 14, 2017, the petitioners [6] timely withdrew their request for review with respect to 11 companies,[7] but did not withdraw their request for review for the following five companies: China Hailiang Metal Trading (China Hailiang), Shanghai Hailiang Metal Trading Limited (Shanghai Hailiang Trading), Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang.[8] Accordingly, these five companies remain under review.

Scope of the Order

The merchandise subject to the order is seamless refined copper pipe and tube. The product is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7411.10.1030 and 7411.10.1090. Products subject to this order may also enter under HTSUS item numbers 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this order remains dispositive.[9]

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, the petitioners withdrew their request for an administrative review with respect to 11 companies within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order with respect to these 11 companies. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the AD order on copper pipe from the PRC with respect to these companies.

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary conclusions, *see* the

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 4297 (January 13, 2017) (*Initiation Notice*).

[2] *See* Letter from Hailiang, ''Correct Name of Hailiang: Administrative Review of the Antidumping Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China,'' dated January 18, 2017 (Hailiang's Correct Name Submission).

[3] *See Initiation of Antidumping and Countervailing Duty Reviews,* 82 FR 10457 (February 13, 2017) (*Revised Initiation Notice*).

[4] In the *Revised Initiation Notice,* the Department initiated on Hong Kong Hailiang Metal as the correct name identified in Hailiang's Correct Name Submission. However, in reviewing Hailiang's Correct Name Submission, the Department found that Hong Kong Hailiang Metal Trading Limited (Hong Kong Hailiang) was identified as the correct spelling for Hong Kong Hailiang. *See* Hailiang's Correct Name Submission at 1.

[5] *See* Letter from Hailiang, ''Hailiang Notice of Non-Participation in Review: Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China,'' dated February 24, 2017 (Hailiang Notice of Non-Participation Submission).

[6] The petitioners are the Ad Hoc Coalition for Domestically Produced Seamless Refined Copper Pipe and Tube; and its individual members, Cerro Flow Products, LLC; Wieland Copper Products, LLC; Mueller Copper Tube Products, Inc.; and Mueller Copper Tube Company, Inc. (the petitioners).

[7] These 11 companies are: Foshan Hua Hong Copper Tube Co., Ltd.; Golden Dragon Precise Copper Tube Group, Inc; Golden Dragon Holding (Hong Kong) International Co., Ltd.; Guilin Lijia Metals Co., Ltd.; Hong Kong GD Trading Co., Ltd.; Ningbo Jintian Copper Tube Co., Ltd.; Sinochem Ningbo Ltd.; Sinochem Ningbo Import & Export Co., Ltd.; Taicang City Jinxin Copper Tube Co., Ltd.; Zhejiang Jiahe Pipes Inc.; and Zhejiang Naile Copper Co., Ltd.

[8] *See* Letter from the petitioners, ''Seamless Refined Copper Pipe and Tube from China: Partial Withdrawal of Request for Administrative Review,'' dated March 14, 2017.

[9] For a full description of the scope of the Order, *see* Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Seamless Refined Copper Pipe and Tube from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2015–2016 Antidumping Duty Administrative Review,'' dated concurrently with, and hereby adopted by, this **Federal Register** notice (Preliminary Decision Memorandum).

Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as the Appendix to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the five companies under review, China Hailiang, Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang, failed to demonstrate eligibility for a separate rate. In making our findings, two of the five companies, China Hailiang and Shanghai Hailiang Trading, did not submit no shipment letters or separate rate applications/certifications by the specified deadlines, and, as noted above, Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang, notified the Department that they would not be participating in this review and also did not submit no shipment letters or separate rate applications/certifications by the specified deadlines.[10] Accordingly, these five companies did not demonstrate that they are each entitled to a separate rate. Thus, we consider all five companies to be part of the PRC-Wide Entity.[11] The rate previously established for the PRC-wide entity is 60.82 percent.[12]

Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with the preliminary results within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because the Department preliminarily determined that the five remaining companies under review are part of the PRC-wide entity, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 50 days after the date of publication of these preliminary results, unless the Secretary alters the time limit.[13] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[14] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[15] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[16] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[17]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will

[11] *See* Preliminary Decision Memorandum, at 4–5. Pursuant to the Department's change in practice, the Department no longer considers the NME entity as an exporter conditionally subject to administrative reviews. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013). Under this practice, the NME entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the entity, the entity is not under review and the entity's rate is not subject to change.

[12] The rate for the PRC-Wide Entity was first assigned in the original investigation, *see Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 60725 (October 1, 2010). This rate has been used in each subsequent administrative review in which there was a party being considered as part of the PRC-Wide Entity.

[13] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

[14] *See* 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

[15] *See* 19 CFR 351.212(b)(1).

[16] *See* 19 CFR 351.212(b)(1).

[17] *See* 19 CFR 351.106(c)(2).

be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 2, 2017.

Carole Showers,

Executive Director, Office of Policy performing the duties of Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
  A. Partial Rescission
  B. NME Country Status
  C. Separate Rates
V. Recommendation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 160719634–7697–02]

RIN 0648–XE756

Listing Endangered and Threatened Wildlife and Plants; Notice of 12-Month Finding on a Petition To List the Pacific Bluefin Tuna as Threatened or Endangered Under the Endangered Species Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, NMFS, announce a 12-month finding on a petition to list the Pacific bluefin tuna (*Thunnus orientalis*) as a threatened or endangered species under the Endangered Species Act (ESA) and to designate critical habitat concurrently with the listing. We have completed a comprehensive status review of the species in response to the petition. Based on the best scientific and commercial data available, including the status review report, and after taking into account efforts being made to protect the species, we have determined that listing of the Pacific bluefin tuna is not warranted. We conclude that the Pacific bluefin tuna is not an endangered species throughout all or a significant portion of its range, nor likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. We also announce the availability of a status review report, prepared pursuant to the ESA, for Pacific bluefin tuna.

DATES: This finding was made on August 8, 2017.

ADDRESSES: The documents informing the 12-month finding are available by submitting a request to the Assistant Regional Administrator, Protected Resources Division, West Coast Regional Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, Attention: Pacific Bluefin Tuna 12-month Finding. The documents are also available electronically at *http://www.westcoast.fisheries.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Gary Rule, NMFS West Coast Region at *gary.rule@noaa.gov,* (503) 230–5424; or Marta Nammack, NMFS Office of Protected Resources at *marta.nammack@noaa.gov,* (301) 427–8469.

SUPPLEMENTARY INFORMATION:

Background

On June 20, 2016, we received a petition from the Center for Biological Diversity (CBD), on behalf of 13 other co-petitioners, to list the Pacific bluefin tuna as threatened or endangered under the ESA and to designate critical habitat concurrently with its listing. On October 11, 2016, we published a positive 90-day finding (81 FR 70074) announcing that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. In our 90-day finding, we also announced the initiation of a status review of the Pacific bluefin tuna and requested information to inform our decision on whether the species warrants listing as threatened or endangered under the ESA.

ESA Statutory Provisions

The ESA defines ''species'' to include any subspecies of fish or wildlife or plants, and any distinct population segment (DPS) of any vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). The U.S. Fish and Wildlife Service (FWS) and NMFS have adopted a joint policy describing what constitutes a DPS under the ESA (61 FR 4722; February 7, 1996). The joint DPS policy identifies two criteria for making a determination that a population is a DPS: (1) The population must be discrete in relation to the remainder of the species to which it belongs; and (2) the population must be significant to the species to which it belongs.

Section 3 of the ESA defines an endangered species as any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species as one which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Thus, we interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

We determine whether any species is endangered or threatened as a result of any one or a combination of the following five factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (ESA section 4(a)(1)(A)–(E)). Section 4(b)(1)(A) of the ESA requires us to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made by any State or foreign nation or political subdivision thereof to protect the species.

The petition to list Pacific bluefin tuna identified the risk classification made by the International Union for Conservation of Nature (IUCN). The IUCN assessed the status of Pacific bluefin tuna and categorized the species

as ''vulnerable'' in 2014, meaning that the species was considered to be facing a high risk of extinction in the wild (Collette *et al.,* 2014). Species classifications under IUCN and the ESA are not equivalent; data standards, criteria used to evaluate species, and treatment of uncertainty are not necessarily the same. Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the ESA's standards on extinction risk and threats discussed above.

Status Review

As part of our comprehensive status review of the Pacific bluefin tuna, we formed a status review team (SRT) comprised of Federal scientists from NMFS' Southwest Fisheries Science Center (SWFSC) having scientific expertise in tuna and other highly migratory species biology and ecology, population estimation and modeling, fisheries management, conservation biology, and climatology. We asked the SRT to compile and review the best available scientific and commercial information, and then to: (1) Conduct a ''distinct population segment'' (DPS) analysis to determine if there are any DPSs of Pacific bluefin tuna; (2) identify whether there are any portions of the species' geographic range that are significant in terms of the species' overall viability; and (3) evaluate the extinction risk of the population, taking into account both threats to the population and its biological status. While the petitioner did not request that we list any particular DPS(s) of the Pacific bluefin tuna, we decided to evaluate whether any populations met the criteria of our DPS Policy, in case doing so might result in a conservation benefit to the species. Generally, however, we opt to consider the species' rangewide status, rather than considering whether any DPSs might exist.

In order to complete the status review, the SRT considered a variety of scientific information from the literature, unpublished documents, and direct communications with researchers working on Pacific bluefin tuna, as well as technical information submitted to NMFS. Information that was not previously peer-reviewed was formally reviewed by the SRT. Only the best-available science was considered further. The SRT evaluated all factors highlighted by the petitioners as well as additional factors that may contribute to Pacific bluefin tuna vulnerability.

In assessing population (stock) structure and trends in abundance and productivity, the SRT relied on the International Scientific Committee for Tuna and Tuna-Like Species' (ISC) recently completed peer-reviewed stock assessment (ISC 2016). The ISC was established in 1995 for the purpose of enhancing scientific research and cooperation for conservation and rational utilization of HMS species of the North Pacific Ocean, and to establish the scientific groundwork for the conservation and rational utilization of the HMS species in the North Pacific Ocean. The ISC is currently composed of scientists representing the following seven countries: Canada, Chinese Taipei, Japan, Republic of Korea, Mexico, People's Republic of China, and the United States. The ISC conducts regular stock assessments to assemble fishery statistics and biological information, estimate population parameters, summarize stock status, and develop conservation advice. The results are submitted to Regional Fishery Management Organizations (RFMOs), in particular the Western and Central Pacific Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Commission (IATTC), for review and are used as a basis of management actions. NMFS believes the ISC stock assessment (ISC 2016) represents best available science because: (1) It is the only scientifically based stock assessment of Pacific bluefin tuna; (2) it was completed by expert scientists of the ISC, including key contributions from the United States; (3) it was peer reviewed; and (4) we consider the input parameters to the assessment to represent the best available data, information, and assumptions.

The SRT analyzed the status of Pacific bluefin tuna in a 3-step progressive process. First, the SRT evaluated 25 individual threats (covering the five factors in ESA section 4(a)(1)(A)–(E)). The SRT evaluated how each threat affects the species and contributes to a decline or degradation of Pacific bluefin tuna by ranking each threat in terms of severity (1–4, with ''1'' representing the lowest contribution, and ''4'' representing the highest contribution). The threats were evaluated in light of the Pacific bluefin tuna's vulnerability of and exposure to the threat, and its biological response.

Following the initial rankings of specific threats, the SRT identified those threats where the range of rankings across the SRT was greater than one. For these threats, subsequent discussions ensured that the interpretation of the threat and its time-frame were clear and consistent across team members. For example, it was necessary to clarify that threats were considered only as they related to existing management measures and not historical management. After clarification, and a final round of discussion, each team member provided a final set of severity rankings for each specific threat.

There were three specific threats (Illegal, Unregulated, and Unreported fishing, International Management, and sea surface temperature rise) for which the range of severity rankings remained greater than one after they had been discussed thoroughly. For these threats the SRT carried out a Structured Expert Decision Making process (SEDM) to determine the final severity rank. In this SEDM approach, each team member was asked to apportion 100 plausibility points across the four levels of severity. Points were totaled and mean scores were calculated. The severity level with the highest mean was determined to be the final ranking. As will be further detailed in the Analysis of Threats and Extinction Risk Analysis sections of this notice, the SRT also used SEDM in steps 2 and 3 of its analysis.

The purpose of decision structuring is to provide a rational, thorough, and transparent decision, the basis for which is clear to both the decision maker(s) and to other observers, and to provide a means to capture uncertainty in the decision(s). Use of qualitative risk analysis and structured expert opinion methods allows for a rigorous decision-making process, the defensible use of expert opinion, and a well-documented record of how a decision was made. These tools also accommodate limitations in human understanding and allow for problem solving in complex situations. Risk analysis and other structured processes require uncertainty to be dealt with explicitly and biases controlled for. The information used may be empirical data, or it may come from subjective rankings or expert opinion expressed in explicit terms. Even in cases where data are sufficient to allow a quantitative analysis, the structuring process is important to clearly link outcomes and decision standards, and thereby reveal the reasoning behind the decision.

This initial evaluation of individual threats and the potential demographic risk they pose forms the basis of understanding used during steps 2 and 3 of the SRT's analysis.

In the second step of its analysis, the SRT used the same ranking system to evaluate the risk of each of the five factors in ESA section 4(a)(1)(A)–(E) contributing to a decline or degradation of Pacific bluefin tuna. This involved a consideration of the combination of all threats that fall under each of the five

factors. In the final step, the SRT evaluated the overall extinction risk for Pacific bluefin tuna over two timeframes—25 years and 100 years.

The SRT's draft status review report was subjected to independent peer review as required by the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review (M– 05–03; December 16, 2004). The draft status review report was peer reviewed by independent specialists selected from the academic and scientific community, with expertise in tuna and/or highly migratory species biology, conservation, and management. The peer reviewers were asked to evaluate the adequacy, appropriateness, and application of data used in the status review report, including the extinction risk analysis. All peer reviewer comments were addressed prior to dissemination and finalization of the draft status review report and publication of this finding.

We subsequently reviewed the status review report, its cited references, and peer review comments, and believe the status review report, upon which this 12-month finding is based, provides the best available scientific and commercial information on the Pacific bluefin tuna. Much of the information discussed below on Pacific bluefin tuna biology, distribution, abundance, threats, and extinction risk is attributable to the status review report. However, in making the 12-month finding determination, we have independently applied the statutory provisions of the ESA, including evaluation of the factors set forth in section 4(a)(1)(A)–(E); our regulations regarding listing determinations (50 CFR part 424); our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (DPS Policy, 61 FR 4722; February 7, 1996); and our Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species (SPR Policy, 79 FR 37578; July 1, 2014).

Pacific Bluefin Tuna Description, Life History, and Ecology

Taxonomy and Description of Species

Pacific bluefin tuna (*Thunnus orientalis*) belong to the family Scombridae (order Perciformes). They are one of three species of bluefin tuna; the other two are the southern bluefin tuna (*Thunnus maccoyii*) and the Atlantic bluefin tuna (*Thunnus thynnus*). The three species can be distinguished based on internal and external morphology as described by Collette (1999). The three species are also distinct genetically (Chow and Inoue 1993; Chow and Kishino 1995) and have limited overlap in their geographic ranges.

Pacific bluefin tuna are large predators reaching nearly 3 meters (m) in length and 500 kilograms (kg) in weight (ISC 2016). They are pelagic species known to form large schools. As with all tunas and mackerels, Pacific bluefin tuna are fusiform in shape and possess numerous adaptations to facilitate efficient swimming. These include depressions in the body that accommodate the retraction of fins to reduce drag and a lunate tail that is among the most efficient tail shapes for generating thrust in sustained swimming (Bernal *et al.,* 2001).

One of the most unique aspects of Pacific bluefin tuna biology is their ability to maintain a body temperature that is above ambient temperature (endothermy). While some other tunas and billfishes are also endothermic, these adaptations are highly advanced in the bluefin tunas (Carey *et al.,* 1971; Graham and Dickson 2001) that can elevate the temperature of their viscera, locomotor muscle and cranial region. The elevation of their body temperature enables a more efficient energy usage and allows for the exploitation of a broader habitat range than would be available otherwise (Bernal, *et al.,* 2001).

Range, Habitat Use, and Migration

The Pacific bluefin tuna is a highly migratory species that is primarily distributed in sub-tropical and temperate latitudes of the North Pacific Ocean (NPO) between 20° N. and 50° N., but is occasionally found in tropical waters and in the southern hemisphere, in waters around New Zealand (Bayliff 1994).

As members of a pelagic species, Pacific bluefin tuna use a range of habitats including open-water, coastal seas, and seamounts. Pacific bluefin tuna occur from the surface to depths of at least 550 m, although they spend most of their time in the upper 120 m of the water column (Kitagawa, *et al.,* 2000; 2004; 2007; Boustany *et al.* 2010). As with many other pelagic species, Pacific bluefin tuna are often found along frontal zones where forage fish tend to be concentrated (Kitagawa, *et al.,* 2009). Off the west coast of the United States, Pacific bluefin tuna are often more tightly clustered near areas of high productivity and more dispersed in areas of low productivity (Boustany, *et al.,* 2010).

Pacific bluefin tuna exhibit large inter-annual variations in movement (*e.g.,* numbers of migrants, timing of migration and migration routes); however, general patterns of migration have been established using catch data and tagging study results (Bayliff 1994; Boustany *et al.,* 2010; Block *et al.,* 2011; Whitlock *et al.,* 2015). Pacific bluefin tuna begin their lives in the western Pacific Ocean (WPO). Generally, age 0–1 fish migrate north along the Japanese and Korean coasts in the summer and south in the winter (Inagake *et al.,* 2001; Itoh *et al.,* 2003; Yoon *et al.,* 2012). Depending on ocean conditions, an unknown portion of young individuals (1–3 years old) from the WPO migrate eastward across the NPO, spending several years as juveniles in the eastern Pacific Ocean (EPO) before returning to the WPO (Bayliff 1994; Inagake *et al.,* 2001; Perle 2011). Their migration rates have not been quantified and it is unknown what proportion of the population migrates to the EPO and what factors contribute to the high degree of variability across years.

While in the EPO, the juveniles make north-south migrations along the west coast of North America (Kitagawa *et al.,* 2007; Boustany *et al.,* 2010; Perle, 2011). Pacific bluefin tuna tagged in the California Current span approximately 10° of latitude between Monterey Bay (36° N.) and northern Baja California (26° N.) (Boustany *et al.,* 2010; Block *et al.,* 2011; Whitlock *et al.,* 2015), although some individuals have been recorded as far north as Washington. This migration loosely follows the seasonal cycle of sea surface temperature, such that Pacific bluefin tuna move northward as temperatures warm in late summer to fall (Block *et al.,* 2011). These movements also follow shifts in local peaks in primary productivity (as measured by surface chlorophyll) (Boustany *et al.,* 2010; Block *et al.,* 2011). In the spring, Pacific bluefin tuna are concentrated off the southern coast of Baja California; in summer, Pacific bluefin tuna move northwest into the Southern California Bight; by fall, they are largely distributed between northern Baja California and northern California. In winter, Pacific bluefin tuna are generally more dispersed, with some individuals remaining near the coast, and some moving farther offshore (Boustany *et al.,* 2010).

After spending up to 5 years in the EPO, individuals return to the WPO where the only two spawning grounds (a southern area near the Philippines and Ryukyu Islands, and a northern area in the Sea of Japan) have been documented. No spawning activity, eggs, or larvae have been observed in the EPO. The timing of spawning and

the particular spawning ground used after their return to the WPO has not been established. Mature adults in the WPO generally migrate northwards to feeding grounds after spawning, although a small proportion of fish may move southward or eastward (Itoh 2006). Some of the mature individuals that migrate south are taken in New Zealand fisheries (Bayliff 1994, Smith *et al.,* 2001), but the migration pathway of these individuals is unknown. It is also not known how long they may remain in the South Pacific.

Reproduction and Growth

Like most pelagic fish, Pacific bluefin tuna are broadcast spawners and spawn more than once in their lifetime, and they spawn multiple times in a single spawning season (Okochi, *et al.,* 2016). They are highly fecund, and the number of eggs they release during each spawning event is positively and linearly correlated with fish length and weight (Okochi *et al.,* 2016; Ashida *et al.,* 2015). Estimates of fecundity for female tuna from the southern spawning area (Philippines and Ryukyu Islands) indicate that individual fish can produce from 5 to 35 million eggs per spawning event (Ashida *et al.,* 2015; Shimose *et al.,* 2016; Chen *et al.,* 2006). Females in the northern spawning ground (Sea of Japan) produce 780,000–13.89 million eggs per spawning event in fish 116–170 cm fork length (FL) (Okochi, *et al.,* 2016).

Histological studies have shown that approximately 80 percent of the individuals found in the Sea of Japan from June to August are reproductively mature (Tanaka, *et al.,* 2006, Okochi *et al.,* 2016). This percentage does not necessarily represent the whole population as fish outside the Sea of Japan were not examined.

Spawning in Pacific bluefin tuna occurs in only comparatively warm waters, so larvae are found within a relatively narrow sea surface temperature (SST) range (23.5–29.5 °C) compared to juveniles and adults (Kimura *et al.,* 2010; Tanaka & Suzuki 2016). Larvae are thought to be transported primarily by the northward flowing Kuroshio Current and are largely found off coastal Japan, both in the Pacific Ocean and Sea of Japan (Kimura *et al.,* 2010).

As discussed above, spawning in Pacific bluefin tuna has been recorded only in two locations: Near the Philippines and Ryukyu Islands, and in the Sea of Japan (Okochi *et al.,* 2016; Shimose & Farley 2016). These two spawning grounds differ in both timing and the size composition of individuals. Near the Philippines and Ryukyu Islands, spawning occurs from April to July and fish are from 6–25 years of age, though most are older than 9 years of age. In the Sea of Japan, spawning occurs later (June to August) and fish are 3–26 years old.

Pacific bluefin tuna exhibit rapid growth, reaching 58 cm or more in length by age 1 and frequently more than 1 m in length by age 3 (Shimose *et al.,* 2009; Shimose and Ishihara 2015). The species tends to reach its maximum length of around 2.3 m at age 15 (Shimose *et al.,* 2009; Shimose and Ishihara 2015). The oldest Pacific bluefin tuna recorded was 26 years old and measured nearly 2.5 m in length (Shimose *et al.,* 2009).

Feeding habits

Pacific bluefin tuna are opportunistic feeders. Small individuals (age 0) feed on small squid and zooplankton (Shimose *et al.,* 2013). Larger individuals (age 1+) have a diverse forage base that is temporally variable and, in both the EPO and WPO, they feed on a variety of fishes, cephalopods, and crustaceans (Pinkas *et al.,* 1971; Shimose *et al.,* 2013; Madigan *et al.,* 2016; O. Snodgrass, NMFS SWFSC, unpublished data). Diet data indicate they forage in surface waters, on mesopelagic prey and even on benthic prey. The SWFSC conducted stomach content analysis of age 1–5 Pacific bluefin tuna caught off the coast of California from 2008 to 2016 and found that Pacific bluefin tuna are generalists altering their feeding habits depending on localized prey abundance (O. Snodgrass, NMFS SWFSC, unpublished data).

Species Finding

Based on the best available scientific and commercial information summarized above, we find that the Pacific bluefin tuna is currently considered a taxonomically-distinct species and, therefore, meets the definition of ''species'' pursuant to section 3 of the ESA. Below, we evaluate whether the species warrants listing as endangered or threatened under the ESA throughout all or a significant portion of its range.

Distinct Population Segment Determination

While we were not petitioned to list a distinct population segment (DPS) of the Pacific bluefin tuna and are therefore not required to identify DPSs, we decided, in this case, to evaluate whether any populations of the species meet the DPS Policy criteria. As described above, the ESA's definition of ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' The DPS Policy requires the consideration of two elements: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; and (2) the significance of the population segment to the species to which it belongs.

A population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation; or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. If a population segment is found to be discrete under one or both of the above conditions, its biological and ecological significance to the taxon to which it belongs is evaluated. Factors that can be considered in evaluating significance may include, but are not limited to: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that the loss of the discrete population segment would result in a significant gap in the range of a taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

Pacific bluefin tuna are currently managed as a single stock with a trans-Pacific range. We considered a number of factors related to Pacific bluefin tuna movement patterns, geographic range, and life history that relate to the discreteness criteria. Among the many characteristics of Pacific bluefin tuna that were discussed as contributing factors to the determination of ESA discreteness, three were regarded as carrying the most weight in the identification of DPSs. The strongest argument for the existence of a DPS was the spatial specificity of Pacific bluefin tuna spawning. The strongest arguments against the existence of a DPS included Pacific bluefin tuna migratory behavior

and genetic characteristics of the Pacific bluefin tuna.

Based on the current understanding of Pacific bluefin tuna movements, Pacific bluefin tuna use one of two areas in the WPO to spawn. There is no evidence to suggest that these represent two separate populations but rather that, as fish increase in size, they shift from using the Sea of Japan to using the spawning ground near the Ryukyu Islands (*e.g.,* Shimose *et al.,* 2016). The spawning areas are also characterized by physical oceanographic conditions (*e.g.,* temperature), rather than a spatially fixed feature (*e.g.,* a seamount or promontory). This implies that the location of the spawning grounds may be temporally and spatially fluid, as conditions change over time. Given these considerations, the existence of two spatially distinct spawning grounds does not provide compelling evidence that discrete population segments exist for Pacific bluefin tuna. In addition, concentrations of adult Pacific bluefin tuna on the spawning grounds are found only during spawning times and not year-round.

Catch data and conventional and electronic tagging data demonstrate the highly migratory nature of Pacific bluefin tuna. Results support broad mixing around the Pacific. While fish cross the Pacific from the WPO to the EPO, results indicate that they then return to the WPO to spawn. Furthermore, the limited genetic data currently available (Tseng *et al.,* 2012; Nomura *et al.,* 2014) do not support the presence of genetically distinct population segments within the Pacific bluefin tuna.

Pacific Bluefin Tuna Stock Assessment

The ISC stock assessment presented population dynamics of Pacific bluefin tuna based on catch per unit effort data from 1952–2015 using a fully integrated age-structured model. The model included various life-history parameters including a length/age relationship and natural mortality estimates from tag-recapture and empirical life-history studies. Specific details on the modelling methods can be found in the ISC stock assessment available at *http://isc.fra.go.jp/reports/stock_assessments.html.*

The 2016 ISC Pacific bluefin tuna stock assessment indicated three major trends: (1) Spawning stock biomass (SSB) fluctuated from 1952–2014; (2) SSB declined from 1996 to 2010; and (3) the decline in SSB has ceased since 2010 yet remains near to its historical low.

Based on the stock assessment model, the 2014 SSB was estimated to be around 17,000 mt, which represents 143,053 individuals capable of spawning. Relative to the theoretical, model-derived SSB had there been no fishing (*i.e.,* the ''unfished'' SSB; 644,466 mt), 17,000 mt represents approximately 2.6 percent of fish in the spawning year classes. It is important to note that unfished SSB is a theoretical number derived from the stock assessment model and does not represent a ''true'' estimate of what the SSB would have been with no fishing. This is because it is based on the equilibrium assumptions of the model (*e.g.,* no environmental or density-dependent effects) and it changes with model structures. That is, in the absence of density-dependent effects on the population, the estimate may overestimate the population size that can be supported by the environment and may change with improved input parameters. When compared to the highest SSB of 160,004 mt estimated by the model in 1959, the SSB in 2014 is 10.6 percent of the 1952–2014 historical peak.

It is important to note that while the SSB as estimated by the ISC stock assessment is 2.6 percent of the theoretical, model-derived, ''unfished'' SSB, this value is based on a theoretical unfished population, and only includes fish of spawning size/age. Based on the estimated number of individuals at each age class, the number of individuals capable of spawning in 2014 was 143,053. However, total population size, including non-spawning capable individuals that have not yet reached spawning age, is estimated at 1,625,837. This yields an 8 percent ratio of spawning-capable individuals to total population. From 1952–2014, this ratio has ranged from 28 percent in 1960 to 2.5 percent in 1984, with a mean of 8 percent. The ratio in 2014 indicates that, relative to population size, there were more spawning-capable fish than in some years even with a similarly low total population size (*e.g.,* 1982–84), and the ratio was at the average for the period 1952–2014.

The 2016 ISC stock assessment was also used to project changes in SSB through the year 2034. The assessment evaluated 11 scenarios in which various management strategies were altered from the status quo (*e.g.,* reduction in landings of smaller vs. larger individuals) and recruitment scenarios were variable (*e.g.,* low to high recruitment). None of these 11 scenarios resulted in a projected reduction in SSB through fishing year 2034.

The stock assessment also indicates that Pacific bluefin tuna is overfished and that overfishing is occurring. This assessment, however, is based on the abundance of the species through 2014. As described in the following section on existing regulatory measures, the first Pacific bluefin tuna regulations that placed limits on harvest were implemented in 2012 with additional regulations implemented in 2014 and 2015.

Summary of Factors Affecting Pacific Bluefin Tuna

As described above, section 4(a)(1) of the ESA and NMFS' implementing regulations (50 CFR 424.11(c)) state that we must determine whether a species is endangered or threatened because of any one or a combination of the following factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We evaluated whether and the extent to which each of the foregoing factors contribute to the overall extinction risk of Pacific bluefin tuna, with a ''significant'' contribution defined, for purposes of this evaluation, as increasing the risk to such a degree that the factor affects the species' demographics (*i.e.,* abundance, productivity, spatial structure, diversity) either to the point where the species is strongly influenced by stochastic or depensatory processes or is on a trajectory toward this point.

For their extinction risk analysis, the SRT members evaluated threats and the extinction risk over two time frames. The SRT used 25 years (~3 generations for Pacific bluefin tuna) for the short time frame and 100 years (~13 generations) for the long time frame. The SRT concluded that the short time frame was a realistic window to evaluate current effects of potential threats with a good degree of reliability, especially when considering the limits of population forecasting models (*e.g.,* projected population trends in stock assessment models). The SRT also concluded that 100 years was a more realistic window through which to evaluate the effects of a threat in the more distant future that, by nature, may not be able to be evaluated over shorter time periods. For example, the potential effects of climate change from external forces are best considered on multi-decadal to centennial timescales, due to the predominance of natural variability in determining environmental conditions in the shorter term.

The following sections briefly summarize our findings and conclusions regarding threats to the Pacific bluefin tuna and their impact on the overall extinction risk of the species. More details can be found in the status review report, which is incorporated here by reference.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Water Pollution

Given their highly migratory nature, Pacific bluefin tuna may be exposed to a variety of contaminants and pollutants. Pollutants vary in terms of their concentrations and composition depending on location, with higher concentrations typically occurring in coastal waters. There are two classes of pollutants in the sea that are most prevalent and that could pose potential risks to Pacific bluefin tuna: Persistent Organic Pollutants (POPs) and mercury. However, the SRT also considered Fukushima derived radiation and oil pollution as independent threats.

Persistent organic pollutants are organic compounds that are resistant to environmental degradation and are most often derived from pesticides, solvents, pharmaceuticals, or industrial chemicals. Common POPs in the marine environment include the organochlorine Dichlorodiphenyltrichloroethane (DDT) and Polychlorinated biphenyls (PCBs). Because they are not readily broken down and enter the food-web, POPs tend to bioaccumulate in marine organisms. In fishes, some POPs have been shown to impair reproductive function (*e.g.,* white croaker; Cross *et al.,* 1988; Hose *et al.,* 1989).

Specific information on POPs in Pacific bluefin tuna is limited. Ueno *et al.* (2002) examined the accumulation of POPs (*e.g.,* PCBs, DDTs, and chlordanes (CHLs)) in the livers of Pacific bluefin tuna collected from coastal Japan. They determined, as expected, that the uptake of these organochlorines was driven by dietary uptake rather than through exposure to contaminated water (*i.e.,* through the gills). This research showed that levels of organochlorines were positively and linearly correlated with body length. Body length normalized values for PCBs, DDTs, and CHLs were calculated as 530–2,600 ng/g lipid weight, 660–800 ng/g lipid weight, and 87–300 ng/g lipid weight, respectively. More recently, Chiesa *et al.* (2016) measured pollutants from Pacific bluefin tuna in the Western Central Pacific Ocean and found that 100 percent of the individuals sampled tested positive for five of the six PCBs assayed. Three POPs (specifically, polybrominated diphenyl ethers) were detected in 5–60 percent of fish examined. Two organochlorines were detected in 30–80 percent of samples. Unlike the findings of Ueno *et al.* (2002) from coastal Japan, no DDT or its end-products were detected in Pacific bluefin tuna in the Western Central Pacific Ocean.

While POPs have been detected in the tissues of Pacific bluefin tuna (see above), much higher levels have been measured in other marine fish (*e.g.,* pelagic sharks; Lyons *et al.,* 2015). While there is a lack of direct experimentation on the potential impacts of POPs on Pacific bluefin tuna, there are currently no studies which indicate that they exist at levels that are harmful to Pacific bluefin tuna. Based on the findings in the status review, we conclude that POPs pose no to low risk of contributing to a decline or degradation of the Pacific bluefin tuna.

Mercury (Hg) enters the oceans primarily through the atmosphere-water interface. Initial sources of Hg are both natural and anthropogenic. One of the main sources of anthropogenic Hg is coal-fired power-plants. Total Hg emissions to the atmosphere have been estimated at 6,500–8,200 Mg/yr, of which 4,600–5,300 Mg/yr (50–75 percent) are from natural sources (Driscoll *et al.,* 2013). In water, elemental Hg is converted to methyl-Hg by bacteria. Once methylated, Hg is easily absorbed by plankton and thus enters the marine food-web. As with POPs, Hg bioaccumulates and concentrations increase in higher trophic level organisms.

As a top predator, Pacific bluefin tuna can potentially accumulate high levels of Hg. Several studies have examined Hg in Pacific bluefin tuna and reported a wide range of concentrations that vary based on geographic location. In the WPO, measured Hg concentrations ranged from 0.66–3.23 μg/g wet mass (Hisamichi *et al.,* 2010; Yamashita *et al.,* 2005), whereas in the EPO they ranged from 0.31–0.508 μg/g wet mass (Lares *et al.,* 2012; Coman *et al.,* 2015). The latter study demonstrated that in the EPO individuals that had recently arrived from the WPO contained higher Hg concentrations than those that had resided in the EPO for 1–3 years, including wild-caught individuals being raised in net pens. By comparison, concentrations of Hg in Atlantic bluefin tuna have been measured at 0.25–3.15 mg/kg wet mass (Lee *et al.,* 2016). Notably, Lee *et al.* (2016) demonstrated that Hg concentrations in Atlantic bluefin tuna declined 19 percent over an 8-year period from the 1990s to the early 2000s, a result of reduced anthropogenic Hg emissions in North America. Tunas are also known to accumulate high levels of selenium (Se), which is suggested to have a detoxifying effect on methyl-Hg compounds (reviewed in Ralston *et al.,* 2016).

The petitioners suggest that since some bluefin products are above 1 ppm, the U.S. Food and Drug Administration's (FDA) threshold, there is cause for concern with regard to bluefin tuna health. The FDA levels are set at the point at which consumption is not recommended for children and women of child bearing age and are not linked to fish health. While methyl Hg compounds have been shown to cause neurobiological changes in a variety of animals, there have been no studies on tuna or tuna-like species showing detrimental effects from methyl Hg. As with the POPs, other marine species have much higher levels of Hg contamination (Montiero and Lopes 1990; Lyons *et al.,* 2015). The SRT was unanimous in the determination that Hg contamination does not pose a direct threat to Pacific bluefin tuna.

We find that water pollution poses no risk of contributing to a decline or degradation of the Pacific bluefin tuna. While we acknowledge that bioaccumulation of pollutants in Pacific bluefin tuna may result in some risk to consumers, the absence of empirical studies showing that water pollution has direct effects on Pacific bluefin tuna implies that water pollution is not a high risk for Pacific bluefin tuna themselves.

Plastic Pollution

Plastics have become a major source of pollution on a global scale and in all major marine habitats (Law 2017). In 2014, global plastic production was estimated to be 311 million metric tons (mt) (Plast. Eur. 2015). Plastics are the most abundant material collected as floating marine debris or from beaches (Law *et al.,* 2010; Law 2017) and are known to occur on the seafloor. Impacts on the marine environment vary with type of plastic debris. Larger plastic debris can cause entanglement leading to injury or death, while ingestion of smaller plastic debris has the potential to cause injury to the digestive tract or accumulation of indigestible material in the gut. Studies have also shown that chemical pollutants may be adsorbed into plastic debris which would provide an additional pathway for exposure (*e.g.,* Chua *et al.,* 2014). Small plastics (microplastics) have been documented as the primary source of ingested plastic materials among fish species, particularly opportunistic planktivores

(*e.g.,* Rochman *et al.,* 2013; 2014; Matsson *et al.,* 2015). Few studies have examined microplastic ingestion by larger predatory fishes such as Pacific bluefin tuna and results from these studies are mixed.

Cannon *et al.* (2016) found no evidence of plastics in the digestive tracts of skipjack tuna (*Katsuwonis pelamis*) and blue mackerel (*Scomber australensis*) in Tasmania. Choy and Drazen (2013) found no evidence of plastic ingestion in *K. pelamis* and yellowfin tuna (*Thunnus albacares*) in Hawaiian waters, but found that approximately 33 percent of bigeye tuna (*Thunnus obesus*) had anthropogenic plastic debris in their stomachs. While no specific studies on plastic ingestion in Pacific bluefin tuna are available, a study of foraging ecology in the EPO found no plastic in over 500 stomachs examined from 2008–2016 (O. Snodgrass, NMFS, unpublished data).

We find that plastic ingestion by Pacific bluefin tuna poses no to low risk of contributing to a decline or degradation of the Pacific bluefin tuna. This was based in large part upon the absence of empirical evidence of large amounts of macro- and micro-plastic directly impacting individual Pacific bluefin tuna health.

Oil and Gas Development

There are numerous examples of oil and gas exploration and operations posing a threat to marine organisms and habitats. Threats include seismic activities during exploration and construction and events such as oil spills or uncontrolled natural gas escape where released chemicals can have severe and immediate effects on wildlife.

Unfortunately, there is limited information on the direct impacts of oil and gas exploration and operation on pelagic fishes such as Pacific bluefin tuna. Studies looking at the impacts of seismic exploration on fish have mixed results. Wardle *et al.* (2001) and Popper *et al.* (2005) documented low to moderate impacts on behavior or hearing, whereas McCauley *et al.* (2003) reported long-term hearing loss from air-gun exposure. Risk associated with seismic exploration would likely be less of a concern for highly migratory species that can move away and do not use sounds to communicate. Reduced catch rates in areas for a period of time after air guns have been used are considered evidence for this avoidance behavior in a range of species (Popper and Hastings 2009).

The effects of seismic exploration on larval Pacific bluefin tuna, however, could be greater than on older individuals due in part to the reduced capacity of larvae to move away from affected areas. Davies *et al.* (1989) stated that fish eggs and larvae can be killed at sound levels of 226–234 decibel (dB), which are typically found at 0.6–3.0 m from an air gun such as those used during seismic exploration. Visual damage to larvae can occur at 216 dB, levels found approximately 5 m from the air gun. Less obvious impacts such as disruptions to developing organs are harder to gauge and are little explored in the scientific literature; however, severe physical damage or mortality appears to be limited to larvae within a few meters of an air gun discharge (Dalen *et al.,* 1987; Patin & Cascio 1999).

The most relevant study, for the purposes of the SRT, is an evaluation of the impacts of oil pollution on the larval stage of Atlantic bluefin tuna. Oil released from the 2010 Deepwater Horizon oil spill in the Gulf of Mexico covered approximately 10 percent of the spawning habitat, prompting concerns about larval survival (Muhling *et al.,* 2012). Modeled western Atlantic bluefin tuna recruitment for 2010 was low compared to historical values, but it is not yet clear whether this was primarily due to oil-induced mortality, or unfavorable oceanographic conditions (Domingues *et al.,* 2016). Results from laboratory studies showed that exposure to oil resulted in significant defects in heart development in larval Atlantic bluefin tuna (Incardona *et al.,* 2014) with a likely reduction in fitness. A similar response would be expected in Pacific bluefin tuna. Consequently, an oil spill in or around the spawning grounds has the potential to impact larval survival of Pacific bluefin tuna. Previous spills near the spawning grounds have mostly been from ships (*e.g.,* Varlamov *et al.,* 1999; Chiau 2005), and have resulted in much smaller, more coastally confined releases into the marine environment than from the Deepwater Horizon incident. However, offshore oil exploration has increased in the region in recent years, potentially increasing the risks of a large-scale spill. Despite these considerations, the overall risks to Pacific bluefin tuna associated with an oil spill were considered to be low for a number of reasons: (1) Large oil spills are rare events; (2) Pacific bluefin tuna larvae are spread over two spawning grounds with little oceanographic connectivity between them, reducing risk to the population as a whole; and (3) the population is broadly dispersed overall.

Oil and gas infrastructure may have beneficial impacts on the marine environment by providing habitat for a range of species and *de facto* no fishing zones. California has been a prime area of research into the effects of decommissioned oil platforms. Claisse *et al.* (2014) showed that offshore oil platforms have the highest measured fish production of any habitat in the world, exceeding even coral reefs and estuaries. Caselle *et al.* (2002) showed that even remnant oil field debris (*e.g.,* defunct pipe lines, piers, and associated structures) harbored diverse fish communities. This pattern is not unique to California. For example, Fabi *et al.* (2004) showed that fish diversity and richness increased within the first year after installation of two gas platforms in the Adriatic Sea, and that biomass of fishes on these platforms was substantial. Consequently, oil platforms may provide forage and refuge for Pacific bluefin tuna.

In summary, we consider oil and gas development to pose no to low risk of contributing to a decline or degradation of the Pacific bluefin tuna.

Wind Energy Development

Concerns about climate impacts linked to the use of petroleum products has led to an increase in renewable energy programs over the past two decades. Offshore and coastal wind energy generating stations have been among the fastest growing renewable energy sectors, particularly in shallow coastal areas, which generally have consistent wind patterns and reduced infrastructure costs due to shallow depths and proximity to land.

Impacts of wind energy generating stations on marine fauna have been well studied (see Köppel, 2017 for examples). There have been some studies predicting negative effects on marine life, particularly birds and benthic organisms, but few empirical studies have demonstrated direct impacts to fishes. Wilson *et al.* (2010) reviewed numerous papers discussing the impacts of wind energy infrastructure and concluded that while they are not environmentally benign, the impacts are minor and can often be ameliorated by proper placement.

Studies on wind energy development and its impact on fishes has largely focused on demersal species assemblages. Similar to oil and gas platforms, wind energy platforms have been shown to have a positive effect on demersal fish communities in that they tend to harbor high diversity and biomass of fish populations (*e.g.,* Wilhelmsson *et al.,* 2006). Following construction of ''wind farms,'' one particular concern has been the effects of noise created by the operating mechanisms on fish. Wahlberg and Westerberg (2005) concluded that wind

farm noise does not have any destructive effects on the hearing ability of fish, even within a few meters. The major impact of the noise is largely restricted to masking communication between fish species which use sounds (Wahlberg and Westerberg, 2005). Given that Pacific bluefin tuna are not known to use sounds for communication, the impact of noise would be minimal if any. Additionally, wind farms are likely to serve as de facto fish aggregating devices and may prove beneficial at attracting prey and thus Pacific bluefin tuna as well. Also, given the highly migratory nature of Pacific bluefin tuna and their broad range, wind farms would not take up a large portion of their range and could be avoided.

We find that wind energy development poses no to low risk of contributing to a decline or degradation of the Pacific bluefin tuna. This was based largely on the ability of Pacific bluefin tuna to avoid wind farms and the absence of empirical evidence showing harm directly to Pacific bluefin tuna.

Large-Scale Aquaculture

Operation of coastal aquaculture facilities can degrade local water quality, mostly through uneaten fish feed and feces, leading to nutrient pollution. The severity of these issues depends on the species being farmed, food composition and uptake efficiency, fish density in net pens, and the location and design of pens (Naylor *et al.,* 2005). There are several offshore culture facilities throughout the world, most being within 25 kilometers (km) of shore.

The petition by CBD highlights a proposed offshore aquaculture facility in California as a potential threat to Pacific bluefin tuna. The proposed Rose Canyon aquaculture project would construct a facility to raise yellowtail jack approximately 7 km from the San Diego coast. The high capacity of the proposed project (reaching up to 5,000 mt annually after 8 years of operation) has raised concerns about resulting impacts to the surrounding marine environment. As the proposed aquaculture facility would act as a point source of pollutants, the potential impacts to widely distributed pelagic species such as Pacific bluefin tuna will depend on oceanographic dispersal of these pollutants within the Southern California Bight (SCB) and surrounding regions.

Data from current meters and Acoustic Doppler Current Profilers (ADCPs) near Point Loma have recorded seasonally reversing, and highly variable, alongshore flows (Hendricks 1977; Carson *et al.,* 2010). However, cross-shelf currents were much weaker. Similarly, Lahet and Stramski (2010) showed that river plumes in the San Diego area identified by satellite ocean color imagery moved variably north or south along the coast until dispersing, but were not advected offshore. Recent studies using high-resolution simulations of a regional oceanic modeling system have also shown limited connectivity between the nearshore region off San Diego and the open SCB (Dong *et al.,* 2009; Mitari *et al.,* 2009). This suggests that pollutants resulting from the proposed Rose Canyon aquaculture facility would likely be dispersed along the southern California and northern Baja California coasts rather than offshore. Pacific bluefin tuna are distributed throughout much of the California Current ecosystem, and are often caught more than 100 km from shore (Holbeck *et al.,* 2017). Tagging studies have also shown very broad habitat use of Pacific bluefin tuna offshore of Baja California and California (Boustany *et al.,* 2010). It should be noted that any aquaculture facilities in the United States are subjected to rigorous environmental reviews and standards prior to being permitted.

We find that habitat degradation from large-scale aquaculture poses no to low risk of contributing to population decline or degradation in Pacific bluefin tuna over both time-scales largely due to the very small proportion of their habitat which would be impacted as well as the absence of empirical evidence showing harm directly to Pacific bluefin tuna.

Prey Depletion

As highly migratory, fast-swimming top predators, tunas have relatively high energy requirements (Olson and Boggs 1986; Korsmeyer and Dewar 2001; Whitlock *et al.,* 2013; Golet *et al.,* 2015). They fulfill these needs by feeding on a wide range of vertebrate and invertebrate prey, the relative contribution of which varies by species, region, and time period. Pacific bluefin tuna in the California Current ecosystem have been shown to prey on forage fish such as anchovy, as well as squid and crustaceans (Pinkas *et al.,* 1971; Snodgrass *et al.,* unpublished data). As commercial fisheries also target some of these species, substantial removals could conceivably reduce the prey base for predators such as Pacific bluefin tuna. Previous studies have used trophic ecosystem models to show that high rates of fishing on forage species could adversely impact other portions of the ecosystem, including higher-order predators (Smith *et al.,* 2011; Pikitch *et al.,* 2012).

Biomass of the two main forage fish in the California Current, sardine and anchovy, has been low in recent years (Lindegren *et al.,* 2013; Lluch-Cota 2013). This likely represents part of the natural cycle of these species, which appear to undergo frequent ''boom and bust'' cycles, even in the absence of industrial-scale fishing (Schwartzlose *et al.,* 1999; McClatchie *et al.,* 2017). Pacific bluefin tuna appear to be generalists and consequently are less impacted by these shifts in abundance than specialists. Pinkas *et al.* (1971) found that Pacific bluefin tuna diets in the late 1960s were mostly anchovy (>80 percent), coinciding with a period of relatively high anchovy biomass. In contrast, more recent data from the 2000s show a much higher dominance of squid and crustaceans in Pacific bluefin tuna diets, with high interannual variability (Snodgrass *et al.,* unpublished data). Neither study recorded a substantial contribution of sardine to Pacific bluefin tuna diets, but both diet studies (Pinkas *et al.,* Snodgrass *et al.,* unpublished data) were conducted during years in which sardine biomass was comparatively low.

This ability to switch between prey species may be one reason why Hilborn *et al.* (2017) found little evidence that forage fish population fluctuations drive biomass of higher order consumers, including tunas. This disconnect is clear for Pacific bluefin tuna. For example, in the 1980s, Pacific bluefin tuna biomass and recruitment were both very low, but forage fish abundances in both the California Current and Kuroshio-Oyashio ecosystems were high (Lindegren *et al.,* 2013; Yatsu *et al.,* 2014). Hilborn *et al.* (2017) considered that a major weakness of previous trophic studies was a lack of consideration of this strongly fluctuating nature of forage fish populations through time. Predators have thus likely adapted to high variability in abundance of forage fish and other prey species by being generalists.

However, although Pacific bluefin tuna have a broad and varied prey base in the California Current, the physiological effects of switching between dominant prey types are not well known. Some species are more energy-rich than others, and may have lower metabolic costs to catch and digest (Olson & Boggs 1986; Whitlock *et al.,* 2013). Fluctuations in the energy content and size spectra of a prey species may also be important, as was found for the closely-related Atlantic bluefin tuna (Golet *et al.,* 2015). It is

therefore not yet clear how periods of strong reliance on anchovy vs. invertebrates, for example, may impact the condition and fitness of Pacific bluefin tuna.

We find that prey depletion poses a very low threat to Pacific bluefin tuna over the 25-year time frame, primarily because it is clear that they are generally adapted to natural fluctuations of forage fish biomass through prey switching. We also find that prey depletion may pose a low to moderate threat over the 100-year timeframe, albeit with low certainty. This was mainly because climate change is expected to alter ecosystem structure and function to produce potentially novel conditions, over an evolutionarily short time period. If this results in a less favorable prey base for Pacific bluefin tuna, in either the California Current or other foraging areas, impacts on the population may be more deleterious than they have been in the past.

B. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

Potential threats to the Pacific bluefin tuna from overutilization for commercial, recreational, scientific or educational purposes also includes illegal, unregulated and unreported fishing. Each of these potential threats is discussed in the following sections.

Commercial Fishing

Commercial fishing for Pacific bluefin tuna has occurred in the western Pacific since at least the late 1800s. Records from Japan indicate that several methods were used prior to 1952 when catch records began to be taken in earnest and included longline, pole and line, drift net, and set net fisheries. Estimates of global landings prior to 1952 peaked around 47,635 mt (36,217 mt in the WPO and 11,418 mt in the EPO) in 1935 (Muto *et al.,* 2008). After 1935, landings dropped in response to a shift in maritime activities caused by World War II. Fishing activities expanded across the North Pacific Ocean after the conclusion of the war, and landings increased consistently for the next decade prior to becoming more variable (Muto *et al.,* 2008).

There are currently five major contributors to the Pacific bluefin tuna fisheries: Japan, Korea, Mexico, Taiwan, and the United States. Each operates in nearshore coastal waters in the Pacific Ocean while a few also operate in distant offshore waters. In modern fisheries, Pacific bluefin tuna are taken by a wide range of fishing gears (*e.g.,* longline, purse seine, set net, troll, pole-and-line, drift nets, and hand line fisheries), which target different size classes (see below). Among these fisheries, purse seine fisheries are currently the primary contributor to landings, with the Japanese fleet being responsible for the majority of the catch. Much of the global purse-seine catch supports commercial grow-out facilities where fish aged approximately 1–3 are kept in floating pens for fattening prior to sale.

Estimates of landings indicate that annual catches of Pacific bluefin tuna by country have fluctuated dramatically from 1952–2015. During this period reported catches from the five major contributors to the ISC peaked at 40,144 mt in 1956 and reached a low of 8,627 mt in 1990, with an average of 21,955 mt. Japanese fisheries are responsible for the majority of landings, followed by Mexico, the United States, Korea and Taiwan. In 2014, the United States reported commercial landings of 408 mt, Taiwan reported 525 mt, Korea reported 1,311 mt, Mexico reported 4,862 mt, and Japan reported 9,573 mt. These represent 2.4 percent, 3 percent, 7.7 percent, 28.4 percent, and 56 percent of the total landings, respectively. Landings in the southern hemisphere are small and concentrated around New Zealand.

The commercial Japanese Pacific bluefin tuna fisheries are comprised of both distant-water and coastal longline vessels, coastal trolling vessels, coastal pole-and-line vessels, coastal set net vessels, coastal hand line vessels, and purse seiners. Each fishery targets specific age classes of Pacific bluefin tuna: Coastal trolling and pole and line target fish less than 1 year old, coastal set net and coastal hand-line target ages 1–5, purse seiners target ages 0–10, and the distant-water and coastal longline vessels target ages 5–20. The distant water longline fisheries have operated for the longest time while the coastal longline fisheries did not begin in earnest until the mid-1960s. Between 1952 and 2015, total annual catches by Japanese fisheries have fluctuated between a maximum of approximately 34,000 mt in 1956 and a minimum of approximately 6,000 mt in 2012, and they have averaged 15,653 mt.

The Japanese troll fleet harvests small, age-0 Pacific bluefin tuna for its commercial aquaculture grow-out facilities. From 2005–2015, the harvest of Pacific bluefin tuna for grow-out by the troll fishery has averaged 14 percent of Japan's total landings (approximately 8.5 percent of global landings) by weight.

Nearly all commercial Pacific bluefin tuna catches by U.S. flagged vessels on the west coast of the United States are landed in California. Historically, the commercial fisheries for Pacific bluefin tuna focused their efforts on the fishing grounds off Baja California, Mexico, until the 1980s. Following the creation of Mexico's EEZ, the U.S. purse seine fisheries largely ceased their efforts in Mexico and became more opportunistic (Aires-da-Silva *et al.,* 2007). Since 1980, commercial landings of Pacific bluefin tuna have fluctuated dramatically, averaging 859.2 mt with two peaks in 1986 (4,731.4 mt) and 1996 (4,687.6 mt). The low catch rates are not caused by the absence of Pacific bluefin tuna, but rather the absence of a dedicated fishery, low market price, and the inability to fish in the Mexican EEZ. In 2014, commercial landings of Pacific bluefin tuna in the United States were 408 mt, representing 2.4 percent of the total global landings.

Mexico's harvest of Pacific bluefin tuna is dominated by its purse seine fisheries, which dramatically increased in size following the creation of Mexico's EEZ. While most of the purse seine fisheries target yellowfin tuna (the dominant species in the catch) in tropical waters, Pacific bluefin tuna are caught by purse seine near Baja California. Since 1952, reported landings in Mexico have ranged from 1–9,927 mt with an average of 1,766.7 mt (ISC catch database *http://isc.fra.go.jp/fisheries_statistics/index.html*). Since grow-out facilities began in Mexico in 1997, the purse seine fishery for Pacific bluefin tuna almost exclusively supports these facilities. These facilities take in age 1–3 Pacific bluefin tuna and ''fatten'' them in floating pens for export and represent virtually all of Mexico's reported capture of Pacific bluefin tuna. From 2005–2015, Mexico's harvest for its grow-out facilities has averaged 26.8 percent of the global landings.

The Korean take of Pacific bluefin tuna is dominated by its offshore purse seine fishery with a small contribution by the coastal troll fisheries. The fisheries generally operate off Jeju Island with occasional forays into the Yellow Sea (Yoon *et al.,* 2014). The purse seine fisheries did not fully develop until the mid-1990s, and landings were below 500 mt prior to this. Landings gradually increased and peaked at 2,601 mt in 2003, but have declined since then, with 676 mt landed in 2015. Since 1952, the average reported Korean landings of Pacific bluefin tuna has been 535 mt (data not reported from 1952–1971).

Historically, the Taiwanese fisheries have used a wide array of gears, but since the early 1990s the fisheries are largely comprised of small-scale longline vessels. These vessels are targeting fish on the spawning grounds

near the Ryukyu Islands. The highest reported catch was in 1990 at 3,000 mt; however, landings declined to less than 1,000 mt in 2008 and to their lowest level of about 200 mt in 2012. Landings have since increased and the preliminary estimate of Pacific bluefin tuna landings in 2015 was 542 mt. Since 1952, Taiwanese landings of Pacific bluefin tuna have averaged 658 mt.

We acknowledge the Petitioner's concern that a large proportion of Pacific bluefin tuna caught are between 0 and 2 years of age. The petition states that 97.6 percent of fish are caught before they have a chance to reproduce, and argues that this is a worrisome example of growth overfishing. The interpretation of the severity of this statement requires acknowledging several factors that are used to evaluate the production (amount of ''new'' fish capable of being produced by the current stock). Importantly, the estimate of production includes considering factors such as recruitment, growth of individuals (thus moving from one age class to the next and potentially reaching sexual maturity), catch, and natural mortality. Excluding all other parameters except catch results in erroneous interpretations of the severity of a high proportion of immature fish being landed on an annual basis. If all year classes are taken into account, the percentage of fish in the entire population (not just in the age 0 age class) that are harvested before reaching maturity is closer to 82 percent. While we acknowledge that this is not an ideal harvest target, it is a more accurate representation of the catch of immature fish.

Growth overfishing occurs when the average size of harvested individuals is smaller than the size that would produce the maximum yield per recruit. The effect of growth overfishing is that total yield (*i.e.,* population size) is less than it would be if all fish were allowed to grow to a larger size. Reductions in yield per recruit due to growth overfishing can be ameliorated by reducing fishing mortality (*i.e.,* reduced landings) and/or increasing the average size of harvested fish, both of which have been recommended by the relevant Regional Fisheries Management Organizations (RFMOs) and adopted for the purse seine fisheries in the western and central Pacific Ocean.

We consider commercial fishing to pose the greatest risk to contribute to the decline or degradation of the Pacific bluefin tuna. Threat scores given by the BRT members for commercial fishing ranged from moderate to high (severity score of 2 to 3 with a mean of 2.29). While we acknowledge that past trends in commercial landings have been the largest contributor to the decline in the Pacific bluefin tuna, we find the population size in the terminal year of the ISC stock assessment (2014; >1,625,000 individuals and >143,000 spawning-capable individuals) as sufficient to prevent extinction in the foreseeable future. This is due to the fact that the population size is large enough to prevent small population effects (*e.g.,* Allee effects) from having negative consequences. We also note that none of the scenarios evaluated in the ISC stock projections showed declining trends. This likely indicates that the proposed reductions in landings in the ISC stock assessment that were adopted by the relevant RFMOs and have been implemented by participating countries are likely to prevent future declines. Therefore, we consider commercial fishing to pose a moderate to high risk to contribute to the degradation of Pacific bluefin tuna.

Recreational Fishing

Recreational fishing for Pacific bluefin tuna occurs to some extent in most areas where Pacific bluefin tuna occur relatively close to shore. The majority of recreational effort appears to be in the United States, although this may be an artifact of a lack of record keeping outside of the United States. From the mid-1980s onward, the majority of U.S. Pacific bluefin tuna landings have been from recreational fisheries. Along the west coast of the United States, the recreational fishing fleet for highly migratory species such as Pacific bluefin tuna is comprised of commercial passenger fishing vessels (CPFVs) and privately owned vessels operating from ports in southern California.

The vast majority of recreational fishing vessels operate from ports in southern California from Los Angeles south to the U.S./Mexico border, with a large proportion operating out of San Diego. Much of the catch actually occurs in Mexican waters. The recreational catch for Pacific bluefin tuna is dominated by hook and line fishing with a very small contribution from spear fishing. The landings for Pacific bluefin tuna are highly variable. This variability is linked to changes in the number of young fish that move from the western Pacific (Bayliff 1994), and potentially regional oceanographic variability, and is not taken to reflect changes in overall Pacific-wide abundance.

In addition to variability in immigration to the EPO, regulatory measures impact the number of fish caught. As mentioned, most U.S. fishing effort occurs in Mexican waters. In July 2014, Mexico banned the capture of Pacific bluefin tuna in its EEZ for the remainder of the year, reducing the catch by the U.S. recreational fleet. In 2015, while this ban was lifted, the United States instituted a two fish per angler per day bag limit and a 6 fish per multi-day fishing trip bag limit on Pacific bluefin tuna, lowered from 10 fish per angler per day and 30 fish total for multi-day trips (80 FR 44887; July 28, 2015). It is difficult to quantify the effects of the reduced bag limit at the current time as there are only two years of landings data following the reduction (2015–16). This is further complicated by an absence of an index of availability of Pacific bluefin tuna to the recreational fishery. Anecdotal evidence in the form of informal crew and fisher interviews suggests that Pacific bluefin tuna have been in high abundance since 2012. CPFV landings in 2014–16 declined following an exceptionally productive year in 2013. Whether this was an effect of the reduced bag limit or an artifact of Pacific bluefin tuna availability is uncertain. While the petition raises the concern that the two fish per day per angler bag limit is insufficient as the fishery is ''open access'' (an angler may fish as many days as they wish), it is important to note that the number of anglers participating in CPFV trips has not increased dramatically since the late 1990s. It should also be noted that the average number of Pacific bluefin tuna caught per angler on an annual basis has never exceeded 1.4 (2013), thus the two fish per day per angler bag limit will effectively prevent a major expansion of the Pacific bluefin tuna recreational landings.

Since 1980, the peak of the U.S. recreational fishery was in 2013 when 63,702 individual fish were reported in CPFV log books, with an estimated weight of 809 tons. This was more than the total U.S. commercial catch in 2013 (10.1 mt), keeping in mind that commercial vessels cannot go into Mexican waters. The average recreational catch is far lower (264 mt average from 2006–2015). The peak recreational CPFV landings in the United States in 2013 represented 7 percent of the total global catch of Pacific bluefin tuna in that same year, whereas in 2015 it represented 3.2 percent of total global catch.

Private vessel landings are more difficult to quantify as they rely on voluntary interviews with fishers at only a few of the many landing ports. In 2015, the estimated landings by private vessels was 6,195 individual Pacific bluefin tuna, which represented approximately 30 percent of all U.S.

recreational landings. Note, that these values are not included in the estimates above and represent additional landings.

At 3.2 percent of the total global landings, we consider the U.S. recreational fishery to be a minor overall contributor to the global catch of Pacific bluefin tuna, and recent measures have been implemented to reduce landings. Given that recreational landings have been reduced through increased management, we consider recreational fishing as posing no or a low risk of contributing to population decline or degradation in Pacific bluefin tuna.

Illegal, Unreported, or Unregulated Fishing

Illegal, Unreported or Unregulated (IUU) fishing, as defined in 50 CFR 300.201, means:

(1) In the case of parties to an international fishery management agreement to which the United States is a party, fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including but not limited to catch limits or quotas, capacity restrictions, bycatch reduction requirements, shark conservation measures, and data reporting;

(2) In the case of non-parties to an international fishery management agreement to which the United States is a party, fishing activities that would undermine the conservation of the resources managed under that agreement;

(3) Overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures, or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks;

(4) Fishing activity that has a significant adverse impact on seamounts, hydrothermal vents, cold water corals and other vulnerable marine ecosystems located beyond any national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement; or

(5) Fishing activities by foreign flagged vessels in U.S. waters without authorization of the United States.

While there is likely some level of IUU fishing for Pacific bluefin tuna in the Pacific, no reports of substantial IUU fishing have emerged, thus the amount cannot be determined. However, improvements to catch document schemes in several countries have been proposed/implemented in an effort to combat IUU harvest, and the most recent advice from the relevant RFMOs requires improvements to reporting. The SRT members had a range of opinions on the effects of IUU fishing on population decline or degradation for Pacific bluefin tuna, ranging from no impact to moderate impact. The SRT therefore performed a SEDM analysis to arrive at the conclusion that the magnitude of potential IUU fishing losses for Pacific bluefin tuna were likely low relative to existing commercial catches and thus not likely to increase substantially in the future; however, the certainty around this determination is low.

Given the absence of estimates of IUU fishing losses for Pacific bluefin tuna, we have a low level of certainty for this threat. However, with the continued improvements in catch documentation and the assumption of low IUU take relative to the commercial harvest, we determined that IUU fishing represented a low to moderate risk of contributing to population decline or degradation in Pacific bluefin tuna.

Scientific and Educational Use

Pacific bluefin tuna are used in scientific research for a range of studies such as migration patterns, stable isotope analysis, and feeding preference. The amount of lethal use of Pacific bluefin tuna in scientific and educational pursuits is negligible, as most tissues used in research (*e.g.* otoliths, muscle samples) are sourced from fish already landed by fishers. We therefore find no evidence that scientific or educational use poses a risk to contribute to the decline or degradation of Pacific bluefin tuna.

C. Disease and Predation

Disease

Studies of disease in Pacific bluefin tuna are largely absent from the literature. Most studies involve the identification of parasites normally associated with cage culture. Parasites are often associated with mortalities and reduced production among farmed marine fishes (Hayward *et al.,* 2007). Epizootic levels of parasites with short, direct, one-host life cycles, such as monogeneans, can be reached very quickly in cultured fish because of the confinement and proximity of these fish (Thoney and Hargis 1991). Among wild marine fishes, parasites are usually considered benign, though they can be associated with reduced fecundity of their hosts (Jones 2005; Hayward *et al.,* 2007).

Munday *et al.* (2003) provided a summary of metazoan infections (myxosporeans, *Kudoa* sp.*,* monogeneans, blood flukes, larval cestodes, nematodes, copepods) in tuna species. Many metazoans infect *Thunnus* spp., but not many are known to cause mortalities; most studies to date have focused on the health and/or economic importance of these diseases. For example, postmortem liquefaction of muscle due to myxosporean infections occurs in albacore, yellowfin tuna, and bigeye tuna (*Thunnus obesus*), and in poorly identified *Thunnus* spp. Lesions caused by *Kudoa* sp. have been found in yellowfin tuna and southern bluefin tuna (Langdon 1990; Kent *et al.,* 2001). Munday *et al.* (2003) report that southern bluefin tuna have been found to be infected with an unidentified, capsalid monogenean that causes respiratory stress but does not lead to mortality.

Young Pacific bluefin tuna are often infected with red sea bream iridoviral, but the disease never appears in Pacific bluefin tuna more than 1 year of age, and occurrence is restricted to periods of water temperatures greater than 24 °C (Munday *et al.,* 2003). Mortality rates rarely reach greater than 10 percent for young fish. The fish either die during the acute phase of the disease, or they become emaciated and die later.

There is no evidence of transmission of parasites or other pathogens from captive Pacific bluefin tuna in tuna ranches. This is likely due to the fact that wild Pacific bluefin tuna are not likely to be in close enough proximity to pens used to house Pacific bluefin tuna.

We find that disease poses no to low risk of contributing to population decline or degradation in Pacific bluefin tuna. This was based largely on the absence of empirical evidence of abnormal levels of natural disease outbreaks in Pacific bluefin tuna, the absence of observations of wild Pacific bluefin tuna swimming in close enough proximity to ''farms'' such that disease transmission is possible, and the absence of empirical evidence showing disease transmission from ''farms'' to wild Pacific bluefin tuna.

Predation

As large predators, Pacific bluefin tuna are not heavily preyed upon naturally after their first few years. Predators of adult Pacific bluefin tuna may include marine mammals such as killer whales (*Orcinus orca*) or shark species such as white (*Carcharodon carcharias*) and mako sharks (*Isurus* spp.) (Nortarbartolo di Sciara 1987; Collette and Klein-MacPhee 2002; de

Stephanis 2004; Fromentin and Powers 2005). Juvenile Pacific bluefin tuna may be preyed upon by larger opportunistic predators and, to a lesser degree, seabirds.

We find that natural predation poses no to low risk of contributing to population decline or degradation in Pacific bluefin tuna. This was based primarily on the limited diversity of predators and absence of empirical evidence showing abnormal decline/degradation of Pacific bluefin tuna by predation.

D. The Inadequacy of Existing Regulatory Mechanisms

The current management and regulatory schemes for Pacific bluefin tuna are intrinsically linked to the patterns of utilization discussed in the previous section ''Overutilization for Commercial, Recreational, Scientific or Educational Purposes.'' The evaluation in this section focuses on the adequacy or inadequacy of the current management and regulatory schemes to address the threats identified in the section on ''Overutilization for Commercial, Recreational, Scientific or Educational Purposes.''

Pacific bluefin tuna fisheries are managed under the authorities of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Tuna Conventions Act of 1950 (TCA), and the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA). The TCA and WCPFCIA authorize the Secretary of Commerce to implement the conservation and management measures of the Inter-American Tropical Tuna Commission (IATTC) and Western and Central Pacific Fisheries Commission (WCPFC), respectively.

International Fisheries Management

Pacific bluefin tuna is managed as a single Pacific-wide stock under two RFMOs: The IATTC and the WCPFC. Both RFMOs are responsible for establishing conservation and management measures based on the scientific information, such as stock status, obtained from the ISC.

The IATTC has scientific staff that, in addition to conducting scientific studies and stock assessments, also provides science-based management advice. After reviewing the Pacific bluefin tuna stock assessment prepared by the ISC, the IATTC develops resolutions. Mexico and the United States are the two IATTC member countries that currently fish for, and have historically fished for, Pacific bluefin tuna in the EPO. Thus, the IATTC resolutions adopted were intended to apply to these two countries.

The WCPFC has a Northern Committee (WCPFC–NC), which consists of a subset of the WCPFC members and cooperating non-members, that meets annually in advance of the WCPFC meeting to discuss management of designated ''northern stocks'' (currently North Pacific albacore, Pacific bluefin tuna, and North Pacific swordfish). After reviewing the stock assessments prepared by the ISC, the WCPFC–NC develops the conservation and management measures for northern stocks and makes recommendations to the full Commission for the adoption of measures. Because Pacific bluefin tuna is a ''northern stock'' in the WCPFC Convention Area, without the recommendation of the Northern Committee, those measures would not be adopted by the WCPFC. The WCPFC's Scientific Committee also has a role in providing advice to the WCPFC with respect to Pacific bluefin tuna; to date its role has been largely limited to reviewing and endorsing the stock assessments prepared by the ISC.

The IATTC and WCPFC first adopted conservation and management measures for Pacific bluefin tuna in 2009, and the measures have been revised five times. The conservation and management measures include harvest limits, size limits, and stock status monitoring plans. In recent years, coordination among both RFMOs has improved in an effort to harmonize conservation and management measures to rebuild the depleted stock. The most relevant resolutions as they relate to recent Pacific bluefin tuna management are detailed below.

In 2012, the IATTC adopted Resolution C–12–09, which set commercial catch limits on Pacific bluefin tuna in the EPO for the first time. This resolution limited catch by all IATTC members to 5,600 mt in 2012 and to 10,000 mt in 2012 and 2013 combined, notwithstanding an allowance of up to 500 mt annually for any member with a historical catch record of Pacific bluefin tuna in the eastern Pacific Ocean (*i.e.,* the United States and Mexico). Resolution C–13–02 applied to 2014 only and, similar to C–12–09, limited catch to 5,000 mt with an allowance of up to 500 mt annually for the United States. Following the advice from the IATTC scientific staff, Resolution C–14–06 further reduced the catch limit by approximately 34 percent—6,000 mt for Mexico and 600 mt for the United States for 2015 and 2016 combined. The IATTC most recently adopted Resolution C–16–08. In accordance with the recommendations of the IATTC's scientific staff, this resolution maintains the same catch limits that were applicable to 2015 and 2016—6,600 mt in the eastern Pacific Ocean during 2017 and 2018 combined. The final rule implementing Resolution C–16–08 was published on April 21, 2017, and had an effective date of May 22, 2017. The most recent regulations represent roughly a 33 percent reduction compared to the average landings from 2010–2014 (5,142 mt). Resolution C–16–08 also outlined next steps in developing a framework for managing the stock in the long-term. This framework included an initial goal of rebuilding the SSB to the median point estimate for 1952–2014 by 2024 with at least 60 percent probability, and further specifies that the IATTC will adopt a second rebuilding target in 2018 to be achieved by 2030. The second Joint IATTC–WCPFC Northern Committee Working Group meeting on Pacific bluefin tuna, that will be held August 28–September 1, 2017, will discuss the development of a rebuilding strategy (second rebuilding target and timeline, etc.) and long-term precautionary management framework (*e.g.* management objectives, limit and target reference points, and harvest control rules).

The conservation and management measures adopted by the WCPFC have become increasingly restrictive since the initial 2009 measure. In 2009, total fishing effort north of 20° N. was limited to the 2002–2004 annual average level. At this time, an interim management objective—to ensure that the current level of fishing mortality rate was not increased in the western Pacific Ocean—was also established. In 2010, Conservation and Management Measure (referred to as CMM) 2010–04 established catch restrictions in addition to the effort limits described above for 2011 and 2012. A similar measure, CMM 2012–06, was adopted for 2013. In 2014 (CMM 2013–09) all catch of Pacific bluefin tuna less than 30 kilograms (kg) was reduced by 15 percent below the 2002–2004 annual average. In 2015 (CMM 2014–04) the harvest of Pacific bluefin tuna less than 30 kilograms was reduced to 50 percent of the 2002–2004 annual average. The CMM 2014–04 also limits all catches of Pacific bluefin tuna greater than 30 kg to no more than the 2002–2004 annual average level. The measure was amended in 2015 (CMM 2015–04) to include a requirement to adopt an ''emergency rule'' where additional actions would be triggered if recruitment in 2016 was extremely poor. However, this emergency rule was not

agreed to at the 2016 Northern Committee annual meeting. It is expected that it will be discussed again at the Northern Committee meeting in August 2017. Lastly, the measure was amended in 2016 (CMM 2016–04) to allow countries to transfer some of their catch limit for Pacific bluefin tuna less than 30 kg to their limit on fish larger than 30 kg (*i.e.,* increase catch of larger fish and decrease catch of smaller fish); the reverse is not allowed. Unlike the IATTC resolutions for Pacific bluefin tuna, the current WCPFC Pacific bluefin tuna measure does not have an expiration date, although it may be amended or removed. Both the IATTC and WCPFC measures require reporting to promote compliance with the provisions of the measures.

In summary, the WCPFC adopted harvest limits for Pacific bluefin tuna in 2010 and further reduced those limits in 2012, 2014, and 2016. The IATTC adopted harvest limits for Pacific bluefin tuna in 2012 and further reduced those limits in 2014 and 2016. Additionally, both RFMOs addressed concerns about monitoring harvest by adopting monitoring and reporting plans in 2010. Furthermore, the ISC stock assessment predicts that under all scenarios the current harvest limits will allow for rebuilding the abundance of Pacific bluefin tuna to targets by 2030.

After thorough discussion, the SRT members had a range of opinions on the effects of international management on population decline or degradation for Pacific bluefin tuna, ranging from no impact to high impact. The SRT therefore used SEDM to arrive at the conclusion that inadequacy of international management poses a low risk of contributing to population decline or degradation in Pacific bluefin tuna over the short time period (25 years) and a moderate risk over the long time period (100 years).

Domestic Fisheries Management

Domestic fisheries are managed under the MSA. The MSA provides regional fishery management councils with authority to prepare Fishery Management Plans (FMPs) for the conservation and management of fisheries in the U.S. EEZ. The MSA was reauthorized and amended in 1996 by the Sustainable Fisheries Act (SFA) and again in 2006 by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). Among other modifications, the SFA added requirements that FMPs include measures to rebuild overfished stocks.

The Pacific Fishery Management Council (Pacific Council) has purview over the U.S. West Coast fisheries, which catch the large majority of Pacific bluefin tuna caught by U.S. vessels. The Pacific Council makes recommendations on the implementation of the FMP for U.S. West Coast Fisheries for highly migratory species (HMS FMP) for consideration by NMFS. Additionally, the Pacific Council makes recommendations to NMFS on issues expected to be considered by the IATTC and WCPFC. During its November 2016 meeting, the Pacific Council, in response to a petition that NMFS received by the Center for Biological Diversity, recommended a review of domestic status determination criteria for Pacific bluefin tuna at upcoming meetings in March, June, and September 2017. The domestic status determination criteria, also commonly referred to as reference points, are targets for fishing effort and abundance of the population. At the March 2017 meeting, NMFS provided a report to the Pacific Council that included domestic status determination criteria for Pacific bluefin tuna.

The Pacific Council, in response to NMFS' 2013 determination that the Pacific bluefin tuna stock was overfished and subject to overfishing (78 FR 41033; July 9, 2013), recommended reducing the bag and possession limits for Pacific bluefin tuna in the recreational fishery. The Pacific Council recommended reducing the daily bag limit from 10 to 2 fish and the possession limit from 30 to 6 fish. Based on analyses conducted at the SWFSC, this was projected to reduce landings by 10.4 percent in U.S. waters and 19.4 percent in U.S. and Mexican waters combined (Stohs, 2016). We published a final rule in 2015 implementing the bag limit of two fish per day and possession limit of six fish per trip (80 FR 44887, July 28, 2015).

NMFS coordinates closely with the California Department of Fish and Wildlife (CDFW) to monitor the Pacific bluefin tuna fishery. The State of California requires that fish landed in California have a corresponding receipt, which indicates quantity landed. Together, NMFS and CDFW monitor landings to ensure catch limits agreed to by the IATTC are not exceeded.

In summary, NMFS initially set limits for commercial and recreational harvest limits in 2010 and further reduced those limits in 2012, 2014, and 2016. The CDFW monitors and reports commercial and recreation harvest to NMFS. When U.S. commercial catch limits are met, NMFS closes the fishery. Furthermore, the ISC stock assessment predicts that the current harvest limits will allow for stable or increasing Pacific bluefin tuna SSB. We expect the current harvest limits to be effective at reducing the impact of domestic commercial and recreational fisheries, and we will continue to monitor the effectiveness of those regulations. We find that U.S. domestic management of commercial and recreational fishing poses no or low risk of contributing to population decline or degradation in Pacific bluefin tuna.

E. Other Natural or Man-Made Factors Affecting Its Continued Existence

The other factors affecting the continued existence of Pacific bluefin tuna that we analyzed are climate change, radiation contamination from Fukushima, and the risks of low abundance levels inherent in small populations.

Climate Change

Over the next several decades climate change models predict changes to many atmospheric and oceanographic conditions. The SRT considered these predictions in light of the best available information. The SRT felt that there were three physical factors resulting from climate change predictions that would have the most impact on Pacific bluefin tuna: Rising sea surface temperatures (SST), increased ocean acidification, and decreases in dissolved oxygen.

Rising Sea Surface Temperatures

Rising SST may affect Pacific bluefin tuna spawning and larval development, prey availability, and trans-pacific migration habits. Pacific bluefin tuna spawning has only been recorded in two locations: Near the Philippines and Ryukyu Islands in spring, and in the Sea of Japan during summer (Okochi *et al.,* 2016; Shimose & Farley 2016). Spawning in Pacific bluefin tuna occurs in comparatively warm waters, and so larvae are found within a relatively narrow temperature range (23.5–29.5 °C) compared to adults (Kimura *et al.,* 2010; Tanaka & Suzuki 2016).

Currently, SSTs within the theoretically suitable range for larvae are present near the Ryukyu Islands between April and June, and in the Sea of Japan during July and August (Caiyun & Ge 2006; Seo *et al.,* 2014; Tanaka & Suzuki 2016). Warming of 1.5–3 °C in the region may shift suitable times to earlier in the year and/or places for spawning northwards. Under the most pessimistic (''business as usual'') CO_2 emission and concentration scenarios, SSTs in the North Pacific are likely to increase substantially by the end of the 21st century (Hazen *et al.,* 2013; Woodworth-Jefcoats *et al.,* 2016). However, there is considerable spatial

heterogeneity in these projections. The southern Pacific bluefin tuna spawning area is projected to warm 1.5–2 °C by the end of the 21st century, with particularly weak warming in the Kuroshio Current region. In contrast, the Sea of Japan may warm by more than 3 °C compared to recent historical conditions (Seo *et al.,* 2014; Scott *et al.,* 2016; Woodworth-Jefcoats *et al.,* 2016).

The precise mechanisms by which warming waters will affect Pacific bluefin tuna larvae are not entirely clear. Kimura *et al.* (2010) assumed that the lethal temperature for larvae was 29.5 °C. However, Muhling *et al.* (2010) and Tilley *et al.* (2016) both reported larvae of the closely-related Atlantic bluefin tuna in the Gulf of Mexico at SSTs of between 29.5 and 30.0 °C. In addition, tropical tuna larvae can tolerate water temperatures of well above 30 °C (Sanchez-Velasco *et al.,* 1999; Wexler *et al.,* 2011; Muhling *et al.,* 2017). Pacific bluefin tuna larvae may have fundamentally different physiology from that of these other species, or it is possible that the observed upper temperature limit for Pacific bluefin tuna larvae in the field is more a product of the time and place of spawning, rather than an upper physiological limit.

Similar to other tuna species, larval Pacific bluefin tuna appear to have highly specialized and selective diets (Uotani *et al.,* 1990; Llopiz & Hobday 2015). Smaller larvae rely primarily on copepod nauplii, before moving to cladocerans, copepods such as *Farranula* and *Corycaeus* spp. and other zooplankton. In the Sea of Japan region, the occurrence of potentially favorable prey organisms for larval Pacific bluefin tuna appears to be associated with stable post-bloom conditions during summer (Chiba & Saino, 2003). This suggests a potential phenological match to Pacific bluefin tuna spawning. Environmentally-driven changes in the evolution of this zooplankton community, or the timing of spawning, could thus affect the temporal match between larvae and their prey. Woodworth-Jefcoats *et al.* (2016) project a 10–20 percent decrease in overall zooplankton density in the western Pacific Ocean, but how this may relate to larval Pacific bluefin tuna prey availability is not yet known.

Climate change may affect the foraging habitats of Pacific bluefin tuna. Adult and older juvenile (>1 year) Pacific bluefin tuna disperse from the spawning grounds in the western Pacific and older juveniles can make extensive migrations, using much of the temperate North Pacific. An unknown proportion of 1–2 year old fish migrate to foraging grounds in the eastern North Pacific (California Current LME) and typically remain and forage in this region for several years (Bayliff *et al.,* 1991; Bayliff 1994; Rooker *et al.,* 2001; Kitagawa *et al.,* 2007; Boustany *et al.,* 2010; Block *et al.,* 2011; Madigan *et al.,* 2013; Whitlock *et al.,* 2015).

Sea surface temperatures in the California Current are expected to increase up to 1.5–2 °C by the end of the 21st century (Hazen *et al.,* 2013; Woodworth-Jefcoats *et al.,* 2016). Pacific bluefin tuna tagged in the California Current demonstrate a seasonal north-south migration between Baja California (10° N.) and near the California-Oregon border (42° N.) (Boustany *et al.,* 2010; Block *et al.,* 2011; Whitlock *et al.,* 2015), although some fish travel as far north as Washington State. The seasonal migration follows local peaks in productivity (as measured by surface chlorophyll), such that fish move northward from Baja California after the local productivity peak in late spring to summer (Boustany *et al.,* 2010; Block *et al.,* 2011). Uniform warming in this region could impact Pacific bluefin tuna distribution by moving their optimal temperature range (and thermal tolerance) northward. However, it is unlikely that rising temperatures will be a limiting factor for Pacific bluefin tuna, as appropriate thermal habitat will likely remain available.

The high productivity and biodiversity of the California Current is driven largely by seasonal coastal upwelling. Although there is considerable uncertainty on how climate change will impact coastal upwelling, basic principles indicate a potential for upwelling intensification (Bakun 1990). Bakun's hypothesis suggested that the rate of heating over land would be enhanced relative to that over the ocean, resulting in a stronger cross-shore pressure gradient and a proportional increase in alongshore winds and resultant upwelling (Bakun *et al.,* 2015; Bograd *et al.,* 2017). A recent publication (Sydeman *et al.,* 2014) described a meta-analysis of historical studies on the Bakun hypothesis and found general support for upwelling intensification, but with significant spatial (latitudinal) and temporal (intraseasonal) variability between and within the eastern boundary current systems. In the California Current, a majority of analyses indicated increased upwelling intensity during the summer (peak) months, though this signal was most pronounced in the northern California Current (Sydeman *et al.,* 2014).

To date, global climate models have generally been too coarse to adequately resolve coastal upwelling processes (Stock *et al.,* 2010), although recent studies analyzing ensemble model output have found general support for projected increases in coastal upwelling in the northern portions of the eastern boundary current systems (Wang *et al.,* 2015; Rykaczewski *et al.,* 2015). Using an ensemble of more than 20 global climate models from the IPPC's Fifth Assessment Report, Rykaczewski *et al.* (2015) found evidence of a small projected increase in upwelling intensity in the California Current north of 40° N. latitude and a decrease in upwelling intensity to the south of this range by the end of the 21st century under RCP 8.5. Pacific bluefin tuna are more commonly found to the south of the 40° N. latitude mark. Perhaps more importantly, Rykaczewski *et al.* (2015) described projected changes in the phenology of coastal upwelling, with an earlier transition to positive upwelling within the peak upwelling domain. Overall, these results suggest a poleward displacement of peak upwelling and potential lengthening of the upwelling season in the California Current, even if upwelling intensity may decrease. The phenological changes in coastal upwelling may be most important, as these may lead to spatial and temporal mismatches between Pacific bluefin tuna and their preferred prey (Cushing 1990; Edwards and Richardson 2004; Bakun *et al.,* 2015). However, the bluefin tuna's highly migratory nature and plasticity in migratory patterns may help to mitigate shifts in phenology.

The information directly relating to food web alterations that may impact Pacific bluefin tuna is scarce. While changes to upwelling dynamics in foraging areas have been examined, it is still relatively speculative, and literature on the potential impacts of the projected changes is limited. Given their trophic position as an apex predator, and the fact that Pacific bluefin tuna are opportunistic feeders that can change their preferred diet from year to year, alterations to the food web may have less impact on Pacific bluefin tuna than on other organisms that are reliant on specific food sources.

Climate change may affect the Pacific bluefin tuna's migratory pathways. Pacific bluefin tuna undergo trans-Pacific migrations, in both directions, between the western Pacific spawning grounds and eastern Pacific foraging grounds (Boustany *et al.,* 2010; Block *et al.,* 2011). For both migrations, Pacific bluefin tuna remain within a relatively narrow latitudinal band (30–40° N.) within the North Pacific Transition Zone (NPTZ), which is characterized by generally temperate conditions. This

region, marking the boundary between the oligotrophic subtropical and more productive subarctic gyres, is demarcated by the seasonally-migrating Transition Zone Chlorophyll Front (TZCF; Polovina *et al.,* 2001; Bograd *et al.,* 2004). Climate-driven changes in the position of the TZCF, and in the thermal environment and productivity within this region, could impact the migratory phase of the Pacific bluefin tuna life cycle.

Under RCP 8.5, SSTs in the NPTZ are expected to increase by 2–3 °C by the end of the 21st century (Woodworth-Jefcoats *et al.,* 2016), with the highest increases on the western side. The increased temperatures within the NPTZ are part of the broader projected changes in the central North Pacific Ocean, including an expansion of the oligotrophic Subtropical Gyre, a northward displacement of the transition zone, and an overall decline in productivity (Polovina *et al.,* 2011). The impacts of these changes on species that make extensive use of the NPTZ could be substantial, resulting in a gain or loss of core habitat, distributional shifts, and regional changes in biodiversity (Hazen *et al.,* 2013). Using habitat models based on a multi-species biologging dataset, and a global climate model run under ''business-as-usual'' forcing (the A2 CO_2 emission scenario from the IPCC's fourth assessment report), Hazen *et al.* (2013) found a substantial loss of core habitat for a number of highly migratory species, and small gains in viable habitat for other species, including Pacific bluefin tuna. Although the net change in total potential Pacific bluefin tuna core habitat was positive, the projected physical changes in the bluefin tuna's migratory pathway could negatively impact them. The northward displacement of the NPTZ and TZCF could lead to longer migrations requiring greater energy expenditure. The generally lower productivity of the region could also diminish the abundance or quality of the Pacific bluefin tuna prey base.

A recent study of projected climate change in the North Pacific that used an ensemble of 11 climate models, including measures of primary and secondary production, found that increasing temperatures could alter the spatial distribution of tuna and billfish species across the North Pacific (Woodworth-Jefcoats *et al.,* 2016). As with Hazen *et al.* (2013), this study found species richness increasing to the north following the northward displacement of the NPTZ. They also estimated a 2–5 percent per decade decline in overall carrying capacity for commercially important tuna and billfish species, driven by warming waters and a basin-scale decline in zooplankton densities (Woodworth-Jefcoats *et al.,* 2016). While there is still substantial uncertainty inherent in these climate models, we can say with some confidence that the central North Pacific, which encompasses a key conduit between Pacific bluefin tuna spawning and foraging habitat, is likely to become warmer and less productive through the 21st century.

Increasing Ocean Acidification and Decreasing Dissolved Oxygen

As CO_2 uptake by the oceans increases, ocean pH will continue to decrease (Feely *et al.,* 2009), with declines of between 0.2 and 0.4 expected in the western North Pacific by 2100 under the Intergovernmental Panel on Climate Change's Representative Concentration Pathway (RCP) 8.5 (Ciais *et al.,* 2013). RCP 8.5 is a high emission scenario, which assumes that radiative forcing due to greenhouse gas emissions will continue to increase strongly throughout the 21st century (Riahi *et al.,* 2011). Rearing experiments on larval yellowfin tuna suggest that ocean acidification may result in longer hatch times, sub-lethal organ damage, and decreased growth and survival (Bromhead *et al.,* 2014; Frommel *et al.,* 2016). Other studies on coral reef fish larvae show that acidification can impair sensory abilities of larvae, and in combination with warming temperatures, can negatively affect metabolic scope (Munday *et al.,* 2009a,b; Dixson *et al.,* 2010; Simpson *et al.,* 2011). Surface ocean pH on Pacific bluefin tuna spawning grounds is currently higher than that in the broader North Pacific (8.1–8.2) (Feely *et al.,* 2009). How this may affect the ability of Pacific bluefin tuna larvae (in particular) to adapt to ocean acidification is unknown. Recent studies have shown that future adaptation to rising CO_2 and acidification could be facilitated by individual genetic variability (Schunter *et al.,* 2017). In addition, transgenerational plasticity may allow surprisingly rapid adaptation across generations (Rummer & Munday 2017). However, these studies examined small coral reef fish species, so results may not transfer to larger, highly migratory species such as Pacific bluefin tuna. As well as incurring direct effects on Pacific bluefin tuna, ocean acidification is also likely to change the prey base available to all life stages of this species. Different organisms vary substantially in their sensitivity to the combined effects of acidification and warming (Byrne 2011). A shift in the prey assemblage towards organisms more tolerant to acidification is therefore likely in the future.

Current projections estimate a future decline in dissolved oxygen of 3–6 percent by 2100 under RCP 8.5 (Bindoff *et al.,* 2013; Ciais *et al.,* 2013). This may be most relevant for spawning-sized adult Pacific bluefin tuna, which may be subject to greater metabolic stress on spawning grounds. While some studies exist on the effects of temperature on metabolic rates, cardiac function and specific dynamic action in juvenile Pacific bluefin tuna (*e.g.* Blank *et al.,* 2004; 2007; Clark *et al.,* 2008; 2010; 2013; Whitlock *et al.,* 2015), there are no published studies on larger adults, or on larvae. While future warming and decreases in dissolved oxygen may reduce the suitability of some parts of the Pacific bluefin tuna range (*e.g.* Muhling *et al.,* 2016), likely biological responses to this are not yet known.

Another factor to include in considerations of climate change impacts is biogeochemical changes. Driven by upper ocean warming, changes in source waters, enhanced stratification, and reduced mixing, the dissolved oxygen content of mid-depth oceanic waters is expected to decline (Keeling *et al.,* 2010). This effect is especially important in the eastern Pacific, where the Oxygen Minimum Zone (OMZ) shoals to depths well within the vertical habitat of Pacific bluefin tuna and other highly migratory species and, in particular, their prey (Stramma *et al.,* 2010; Moffit *et al.,* 2015). The observed trend of declining oxygen levels in the Southern California Bight (Bograd *et al.,* 2008; McClatchie *et al.,* 2010; Bograd *et al.,* 2015), combined with an increase in the frequency and severity of hypoxic events along the U.S. West Coast (Chan *et al.,* 2008; Keller *et al.,* 2010; Booth *et al.,* 2012), suggests that declining oxygen content could drive ecosystem change. Specifically, the vertical compression of viable habitat for some benthic and pelagic species could alter the available prey base for Pacific bluefin tuna. Given that Pacific bluefin tuna are opportunistic feeders, they could have resilience to these climate-driven changes in their prey base.

The effects of increasing hypoxia on marine fauna in the California Current may be magnified by ocean acidification. Ekstrom *et al.* (2015) predicted the West Coast is highly vulnerable to ecological impacts of ocean acidification due to reduction in aragonite saturation state exacerbated by coastal upwelling of ''corrosive,'' lower pH waters (Feely *et al.,* 2008). The most

acute impacts would be on calcifying organisms (some marine invertebrates and pteropods), which are not generally part of the adult Pacific bluefin tuna diet. While direct impacts of ocean acidification on Pacific bluefin tuna may be minimal within their eastern Pacific foraging grounds, some common Pacific bluefin tuna prey do rely on calcifying organisms (Fabry *et al.,* 2008).

Climate Change Conclusions

We find that ocean acidification and changes in dissolved oxygen content due to climate change pose a very low risk to the decline or degradation of the Pacific bluefin tuna on the short-term time scale (25 years), and low to moderate threat on the long-time scale (100 years). The reasoning behind this decision for acidification centered primarily on the disconnect between Pacific bluefin tuna and the lower trophic level prey which would be directly affected by acidification as well as by the lack of information on direct impacts on acidification on pelagic fish. Conclusions by the SRT members on the rising SST due to climate change required SEDM, as the range of values assigned by each SRT member was large. Following the SEDM, the SRT concluded that SST rise poses a low risk of contributing to population decline or degradation in PBF over the short (25 year) and long (100 year) time frames. This decision was reached primarily due to the highly migratory nature of Pacific bluefin tuna; despite likely latitudinal shifts in preferred habitat, it would take little effort for Pacific bluefin tuna to shift their movements along with the changing conditions.

Fukushima Associated Radiation

On 11 March, 2011, the Tōhoku megathrust earthquake at magnitude 9.1 produced a devastating tsunami that hit the Pacific coast of Japan. As a result of the earthquake, the Fukushima Daiichi Nuclear Power Plant was compromised, releasing radionuclides directly into the adjacent sea. The result was a 1- to 2-week pulse of emissions of the caesium radioisotopes Caesium-134 and Caesium-137. These isotopes were biochemically available to organisms in direct contact with the contaminated water (Oozeki *et al.,* 2017).

Madigan *et al.* (2012) reported on the presence of Caesium-134 and Caesium-137 in Pacific bluefin tuna caught in California in ratios that strongly suggested uptake as a result of the Fukushima Daiichi accident. The results indicated that highly migratory species can be vectors for the trans-Pacific movement of radionuclides. Importantly, the study highlighted that while the radiocaesium present in the Pacific bluefin tuna analyzed was directly traceable to the Fukushima accident, the concentrations were 30 times lower than background levels of naturally occurring radioisotopes such as potassium-40. In addition, Madigan *et al.* (2012) estimated the dose to human consumers of fish from Fukushima derived Caesium-137 was at 0.5 percent of the dose from Polonium-210, a natural decay product of Uranium-238, which is ubiquitously present and in constant concentrations globally.

Fisher *et al.* (2013) further evaluated the dosage and associated risks to marine organisms and humans (by consumption of contaminated seafood) of the caesium radioisotopes associated with the Fukushima Daiichi accident. They confirmed that dosage of radioisotopes from consuming seafood were dominated by naturally occurring radionuclides and that those stemming directly from Fukushima derived radiocaesium were three to four orders of magnitude below doses from these natural radionuclides. Doses to marine organisms were two orders of magnitude lower than the lowest benchmark protection level for ecosystem health (ICRP 2008). The study concluded that even on the date at which the highest exposure levels may have been reached, dosages were very unlikely to have exceeded reference levels. This indicates that the amount of Fukushima derived radionuclides is not cause for concern with regard to the potential harm to the organisms themselves.

We find that Fukushima associated radiation poses no risk of contributing to population decline or degradation in Pacific bluefin tuna. This was based largely on the absence of empirical evidence showing negative effects of Fukushima derived radiation on Pacific bluefin tuna.

Small Population Concerns

Small populations face a number of inherent risks. These risks are tied to survival and reproduction (*e.g.* Allee or other depensation effects) via three mechanisms: Ecological (*e.g.,* mate limitation, cooperative defense, cooperative feeding, and environmental conditioning), genetic (*e.g.,* inbreeding and genetic drift), and demographic stochasticity (*i.e.,* individual variability in survival and recruitment) (Berec *et al.,* 2007). The actual number at which populations would be considered critically low and at risk varies depending on the species and the risk being considered. While the Pacific bluefin tuna is estimated to contain at least 1.6 million individuals, of which more than 140,000 are reproductively capable, the SRT deemed it prudent to examine the factors above that are traditionally used to evaluate the impacts of relatively low population numbers. In the paragraphs that follow we discuss how small population size can affect reproduction, demographic stochasticity, genetics, and how it can be affected by stochastic and catastrophic events, and Allee effects.

In small populations, individuals may have difficulty finding a mate. However, the probability of finding a mate depends largely on density on the spawning grounds rather than absolute abundance. Pacific bluefin tuna are a schooling species and individual Pacific bluefin tuna are not randomly distributed throughout their range. They also exhibit regular seasonal migration patterns that include aggregating at two separate spawning grounds (Kitigawa *et al.,* 2010). This schooling and aggregation behavior serves to increase their local density and the probability of individuals finding a mate. This mating strategy could reduce the effects of small population size on finding mates over other strategies that do not concentrate individuals. It is unknown whether spawning behavior is triggered by environmental conditions or densities of tuna. If density of adults triggers spawning, then reproduction could be affected by high levels of depletion. However, the abundance of Pacific bluefin tuna has reached similar lows in the past and rebounded. The number of adult Pacific bluefin tuna is currently estimated to be 2.6 percent of its unfished SSB. The number of adult Pacific bluefin tuna reached a similar low in 1984 of 1.8 percent and rebounded in the 1990s to 9.6 percent, the second highest level since 1952.

Another concern with small populations is demographic stochasticity. Demographic stochasticity refers to the variability of annual population change arising from random birth and death events at the individual level. When populations are very small (*e.g.,* <100 individuals), chance demographic events can have a large impact on the population. Species with low mean annual survival rates are generally at greater population risk from demographic stochasticity than those that are long-lived and have high mean annual survival rates. In other words, species that are long-lived and have high annual survival rates have lower ''safe'' abundance thresholds, above which the risk of extinction due to chance demographic processes becomes negligible. Even though the percentage of adult Pacific bluefin tuna relative to historical levels is low, they still

number in the hundreds of thousands. In addition, the total population size in 2014 as estimated by the 2016 ISC stock assessment was 1,625,837. The high number of individuals, both mature and immature, should therefore counteract a particular year with low survivorship.

Small populations may also face Allee effects. If a population is critically small in size, Allee effects can act upon genetic diversity to reduce the prevalence of beneficial alleles through genetic drift. This may lower the population's fitness by reducing adaptive potential and increasing the accumulation of deleterious alleles due to increased levels of inbreeding. Population genetic theory typically sets a threshold of 50 individuals (*i.e.,* 25 males, 25 females) below which irreversible loss of genetic diversity is likely to occur in the near future. This value, however, is not necessarily based upon the number of individuals present in the population (*i.e.,* census population size, N_C) but rather on the effective population size (N_E), which is linked to the overall genetic diversity in the population and is typically less than N_C. In extreme cases N_E may be much (*e.g.* 10–10,000 times) smaller, typically for species that experience high variance in reproductive success (*e.g.,* sweepstakes recruitment events). N_E may also be reduced in populations that deviate from a 1:1 sex ratio and from species that have suffered a genetic bottleneck.

With respect to considerations of N_E in Pacific bluefin tuna, the following points are relevant. Although there are no available data for nuclear DNA diversity in Pacific bluefin tuna, the relatively high number of unique mitochondrial DNA haplotypes (Tseng *et al.,* 2014) can be used as a proxy for evidence of high levels of overall genetic diversity currently within the population. With two separate spawning grounds, and adult numbers remaining in the hundreds of thousands, genetic diversity is expected to still be at high levels with little chance for inbreeding, given that billions of gametes combine in concentrated spawning events.

Animals that are highly mobile with a large range are less susceptible to stochastic and catastrophic events (such as oil spills) than those that occur in concentrated areas across life history stages. Pacific bluefin tuna are likely to be resilient to catastrophic and stochastic events for the following reasons: (1) They are highly migratory, (2) there is a large degree of spatial separation between life history stages, (3) there are two separated spawning areas, and (4) adults reproduce over many years such that poor recruitment even over a series of years will not result in reproductive collapse. As long as this spatial arrangement persists and poor recruitment years do not exceed the reproductive age span for the species, Pacific bluefin tuna should be resilient to both stochastic and catastrophic events.

Although Pacific bluefin tuna are resilient to many of the risks that small populations face, there is increasing evidence for a reduction in population growth rate for marine fishes that have been fished to densities below those expected from natural fluctuations (Hutchings 2000, 2001). These studies focus on failure to recover at expected rates. A far more serious issue is not just reducing population growth but reducing it to the point that populations decrease (death rates exceed recruitment). Unfortunately, the reviews of marine fish stocks do not make a distinction between these two important categories of depensation: Reduced but neutral or positive growth versus negative growth. Many of the cases reviewed suggested depensatory effects for populations reduced to relatively low levels (0.2 to 0.5 SSB_{msy}) that would increase time to recovery, but no mention was made of declining towards extinction. However, these cases did not represent the extent of reduction observed in Pacific bluefin tuna (0.14 SSB_{msy}). Thus, this case falls outside that where recovery has been observed in other marine fishes and thus there remains considerable uncertainty as to how the species will respond to reductions in fishing pressure.

Hutchings *et al.* (2012) also show that there is no positive relationship between per capita population growth rate and fecundity in a review of 233 populations of teleosts. Thus, the prior confidence that high fecundity provides more resilience to population reduction and ability to quickly recover should be abandoned. These findings, although not providing examples that marine fishes exploited to low levels will decline towards extinction, suggest that at a minimum such populations may not recover quickly. However, Pacific bluefin tuna recently showed an instance of positive growth from a population level similar to the most recent stock assessment. This suggests potential for recovery at low population levels. However, the conditions needed to allow positive growth remain uncertain.

Small Populations Conclusion

We find that small population concerns pose low risk of contributing to population decline or degradation in Pacific bluefin tuna over both the 25- and 100-year time scales, though with low certainty. This was largely due to the estimated population size of more than 1.6 million individuals, of which at least 140,000 are reproductively capable. This, coupled with previous evidence of recovery from similarly low numbers and newly implemented harvest regulations, strongly suggests that small population concerns are not particularly serious in Pacific bluefin tuna.

Analysis of Threats

As noted previously, the SRT conducted its analysis in a 3-step progressive process. First, the SRT evaluated the risk of 25 different threats (covering all of the ESA section 4(a)(1) categories) contributing to a decline or degradation of Pacific bluefin tuna. The second step was to evaluate the extinction risk in each of the 4(a)(1) categories. Finally, they performed an overall extinction risk analysis over two timeframes—25 years and 100 years.

In step one, the evaluation of the risk of individual threats contributing to a decline or degradation of Pacific bluefin tuna considered how these threats have affected and how they are expected to continue to affect the species. The threats were evaluated in light of the vulnerability of and exposure to the threat, and the biological response. This evaluation of individual threats and the potential demographic risk they pose forms the basis of understanding used during the extinction risk analysis to inform the overall assessment of extinction risk.

Within each threat category, individual threats have not only different magnitudes of influence on the overall risk to the species (weights) but also different degrees of certainty. The overall threat within a category is cumulative across these individual threats. Thus, the overall threat is no less than that for the individual threat with the highest influence but may be greater as the threats are taken together. For example, some of the individual threats rated as ''moderate'' may result in an overall threat for that category of at least ''moderate'' but potentially ''high.'' When evaluating the overall threat, individual team members considered all threats taken together and performed a mental calculation, weighting the threats according to their expertise using the definitions below.

Each team member was asked to record his or her confidence in their overall scoring for that category. If, for example, the scoring for the overall threat confidence was primarily a function of a single threat and that threat had a high level of certainty, then

they would likely have a high level of confidence in the overall confidence score. Alternatively, the overall confidence score could be reduced due to a combination of threats, some of which the team members had a low level of certainty about and consequently communicated this lower overall level of confidence with a corresponding score (using the definitions below). Generally, the level of confidence will be most influenced by the level of certainty in the threats of highest severity. The level of confidence for threats with no to low severity within a category that contains moderate to high severity threats will not be important to the overall level of confidence.

The level of severity is defined as the level of risk of this threat category contributing to the decline or degradation of the species over each time frame (over the next 25 years or over the next 100 years). Specific rankings for severity are: (1) High: The threat category is likely to eliminate or seriously degrade the species; (2) moderate: The threat category is likely to moderately degrade the species; (3) low: The threat category is likely to only slightly impair the species; and (4) none: The threat category is not likely to impact the species.

The level of confidence is defined as the level of confidence that the threat category is affecting, or is likely to affect, the species over the time frame considered. Specific rankings for confidence are: (1) High: There is a high degree of confidence to support the conclusion that this threat category is affecting, or is likely to affect, the species with the severity ascribed over the time frame considered; (2) moderate: There is a moderate degree of confidence to support the conclusion that this threat category is affecting, or is likely to affect, the species with the severity ascribed over the time frame considered; (3) low: There is a low degree of confidence to support the conclusion that this threat category is affecting, or is likely to affect, the species with the severity ascribed over the time frame considered; and (4) none: There is no confidence to support the conclusion that this threat category is affecting, or is likely to affect, the species with the severity ascribed over the time frame considered.

Based on the best available information and the SRT's SEDM analysis, we find that overutilization, particularly by commercial fishing activities, poses a moderate risk of decline or degradation of the species over both the 25 and 100-year time scales. While the degree of certainty for this risk assessment was moderate for the 25-year time frame, it was low for the 100-year time frame. This largely reflects the inability to accurately predict trends in both population size and catch over the longer time frame. In addition, management regimes may shift in either direction in response to the population trends at the time.

Over the short and long time frames, we find that habitat destruction, disease, and predation are not likely to pose a risk to the extinction of the Pacific bluefin tuna. Among the specific threats in the Habitat Destruction category, water pollution was ranked the highest (mean severity score 1.5). This was largely due to the fact that any degradation to Pacific bluefin tuna by water pollution is a passive event. That is, behavioral avoidance might not be possible, whereas other specific threats involved factors where active avoidance would be possible.

We also find that based on the best available information and the SRT's SEDM analysis, the inadequacy of existing regulatory mechanisms poses a low risk of decline or degradation to the species over both the 25- and 100-year time scales, given the stable or upward trends of future projected SSB over the short time scale from various harvest scenarios in the 2016 ISC stock assessment. The confidence levels were moderate for the 25-year time frame and low for the 100-year time frame.

Lastly, we find that other natural or manmade factors, which included climate change and small population concerns, pose a low risk of decline or degradation to the species over the 25-year time frame and moderate risk over the 100-year time frame.

Extinction Risk Analysis

As described previously, following the evaluation of the risk of 25 specific threats contributing to the decline or degradation of Pacific bluefin tuna, the SRT then conducted step 2 and step 3 to perform an extinction risk analysis. In step two the SRT used SEDM to evaluate the contribution of each section 4(a)(1) factor to extinction risk. Finally, in step 3 the SRT performed an overall extinction risk analysis over two timeframes—25 years and 100 years.

This final risk assessment considered the threats, the results from the recent stock assessment, the species life history, and historical trends. After considering all factors, team members were asked to distribute 100 plausibility points into one of three risk categories for the short term and long term time frames. The short-term time frame was 25 years and the long-term time frame was 100 years.

The SRT defined the extinction risk categories as low, moderate, and high. The species is deemed to be at low risk of extinction if at least one of the following conditions is met: (1) The species has high abundance or productivity; (2) There are stable or increasing trends in abundance; and (3) The distributional characteristics of the species are such that they allow resiliency to catastrophes or environmental changes. The species is deemed to be at moderate risk of extinction if it is not at high risk and at least one of the following conditions is met: (1) There are unstable or decreasing trends in abundance or productivity which are substantial relative to overall population size; (2) There have been reductions in genetic diversity; or (3) The distributional characteristics of the species are such that they make the species vulnerable to catastrophes or environmental changes. Finally, the species is deemed to be at high risk of extinction if at least one of the following conditions is met: (1) The abundance of the species is such that depensatory effects are plausible; (2) There are declining trends in abundance that are substantial relative to overall population size; (3) There is low and decreasing genetic diversity; (4) There are current or predicted environmental changes that may strongly and negatively affect a life history stage for a significant period of time; or (5) The species has distributional characteristics that result in vulnerability to catastrophes or environmental changes.

The SRT members distributed their plausibility points across all three risk categories, with most members placing their points in the low and moderate risk categories. Over the 25-year time frame, a large proportion of plausibility points were assigned to the low and moderate risk by some team members. Over the 100-year time frame, more points were assigned to the moderate risk category by all members and a few members assigned points to the high risk category. After the scores were recorded, the SRT calculated the average number of points for each risk category under both the 25 and 100-year timeframes. For both timeframes, the greatest number of points were in the low risk category. The average number of points for the low risk category was 68 for the 25-year timeframe and 51 for the 100-year timeframe.

There are a number of factors that contributed to the low ranking of the overall extinction risk over both the 25 and 100-year time frames. The large number of mature individuals, while small relative to the theoretical, model-derived unfished population, coupled

with the total estimated population size, was deemed sufficiently large for Pacific bluefin tuna to avoid small population effects. Harvest regulations have been adopted by member nations to reduce landings and rebuild the population, with all model results from the ISC analysis showing stable or increasing trends under current management measures. Also, the SRT noted that over the past 40 years the SSB has been low relative to the theoretical, model-derived unfished population (less than 10 percent of unfished), and it has increased before. While the SRT agreed that climate change has the potential to negatively impact the population, many members of the team felt that the Pacific bluefin tuna's broad distribution across habitat, vagile nature, and generalist foraging strategy were mitigating factors in terms of extinction risk.

After evaluating the extinction risk SEDM analysis conducted by the SRT over the 25-year and 100-year timeframes, we considered the overall extinction risk categories described below:

High risk: A species or DPS with a high risk of extinction is at or near a level of abundance, productivity, spatial structure, and/or diversity that places its continued persistence in question. The demographics of a species or DPS at such a high level of risk may be highly uncertain and strongly influenced by stochastic or depensatory processes. Similarly, a species or DPS may be at high risk of extinction if it faces clear and present threats (*e.g.,* confinement to a small geographic area; imminent destruction, modification, or curtailment of its habitat; or disease epidemic) that are likely to create present and substantial demographic risks.

Moderate risk: A species or DPS is at moderate risk of extinction if it is on a trajectory that puts it at a high level of extinction risk in the foreseeable future (see description of ''High risk'' above). A species or DPS may be at moderate risk of extinction due to projected threats or declining trends in abundance, productivity, spatial structure, or diversity. The appropriate time horizon for evaluating whether a species or DPS is more likely than not to be at high risk in the foreseeable future depends on various case- and species-specific factors. For example, the time horizon may reflect certain life history characteristics (*e.g.,* long generation time or late age-at-maturity) and may also reflect the time frame or rate over which identified threats are likely to impact the biological status of the species or DPS (*e.g.,* the rate of disease spread). (The appropriate time horizon is not limited to the period that status can be quantitatively modeled or predicted within predetermined limits of statistical confidence. The biologist (or Team) should, to the extent possible, clearly specify the time horizon over which it has confidence in evaluating moderate risk.)

Low risk: A species or DPS is at low risk of extinction if it is not at moderate or high level of extinction risk (see ''Moderate risk'' and ''High risk'' above). A species or DPS may be at low risk of extinction if it is not facing threats that result in declining trends in abundance, productivity, spatial structure, or diversity. A species or DPS at low risk of extinction is likely to show stable or increasing trends in abundance and productivity with connected, diverse populations.

The SRT evaluation of extinction risk placed the majority of distributed points in the low risk category for both the 25-year and 100-year timeframes. The SRT members explained their assessment of low risk over those timeframes recognizing that the large number of mature individuals, while small relative to the theoretical, model-derived unfished population, coupled with the total estimated population size, was deemed sufficiently large for Pacific bluefin tuna to avoid small population effects. Harvest regulations have been adopted by member nations to reduce landings and rebuild the population, with all model results from the ISC stock assessment analysis (ISC 2016) showing stable or increasing trends under current management measures. Also, the SRT noted that over the past 40 years the SSB has been low relative to the theoretical, model-derived unfished population (less than 10 percent of unfished), and it has increased before. While the SRT agreed that climate change has the potential to negatively impact the population, many members of the team felt that the Pacific bluefin tuna's broad distribution across habitat, its vagile nature, and its generalist foraging strategy were mitigating factors in terms of extinction risk.

Based upon the expert opinion of the SRT and for the reasons described above, we determine that the overall extinction risk to Pacific bluefin tuna is most accurately characterized by the description of the low risk category as noted above.

Review of Conservation Efforts

Section 4(b)(1) of the ESA requires that NMFS make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We are not aware of additional conservation efforts being made by any state or foreign nation to protect and conserve the species other than the fishery management agreements already considered, thus no additional measures were evaluated in this finding.

Significant Portion of Its Range Analysis

As the definitions of ''endangered species'' and ''threatened species'' make clear, the determination of extinction risk can be based on either assessment of the rangewide status of the species, or the status of the species in a ''significant portion of its range'' (SPR). Because we determined that the Pacific bluefin tuna is at low risk of extinction throughout its range, the species does not warrant listing based on its rangewide status. Next, we needed to determine whether the species is threatened or endangered in a significant portion of its range. According to the SPR Policy (79 FR 37577; July 1, 2014), if a species is found to be endangered or threatened in a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the ESA's protections apply to all individuals of the species wherever found.

On March 29, 2017, the Arizona District Court in *Center for Biological Diversity, et al.,* v. *Zinke, et al.,* 4:14–cv–02506–RM (D. Ariz.), a case brought against the U.S. Fish and Wildlife Service (FWS), remanded and vacated the joint FWS/NMFS SPR Policy after concluding that the policy's definition of ''significant'' was invalid. NMFS is not a party to the litigation. On April 26, 2017, the FWS filed a Motion to Alter or Amend the Court's Judgment, which is pending. In the meantime, we based our SPR analysis on our joint SPR Policy, as discussed below.

The SPR Policy sets out the following three components:

(1) *Significant:* A portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range.

(2) The range of a species is considered to be the general geographical area within which that species can be found at the time NMFS

makes any particular status determination. This range includes those areas used throughout all or part of the species' life cycle, even if they are not used regularly (*e.g.,* seasonal habitats). Lost historical range is relevant to the analysis of the status of the species, but it cannot constitute a SPR.

(3) If the species is endangered or threatened throughout a significant portion of its range, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

When we conduct a SPR analysis, we first identify any portions of the range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be of relatively greater biological significance, or in which a species may not be endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a SPR, rather, it is a step in determining whether a more detailed analysis of the issue is required. Making this preliminary determination triggers a need for further review, but does not prejudge whether the portion actually meets these standards such that the species should be listed.

If this preliminary determination identifies a particular portion or portions that may be significant and that may be threatened or endangered, those portions must then be evaluated under the SPR Policy as to whether the portion is in fact both significant and endangered or threatened. In making a determination of significance under the SPR Policy we would consider the contribution of the individuals in that portion to the viability of the species. That is, we would determine whether the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction or likely to become so in the foreseeable future. Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. If we determine that a portion of the range we are examining is not significant, we would not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in the portion of the range we are examining, then we would not need to determine if that portion is significant.

Because Pacific bluefin tuna range broadly throughout their lifecycle around the Pacific basin, there was no portion of the range that, if lost, would increase the population's extinction risk. In other words, risk of specific threats to Pacific bluefin tuna are buffered both in space and time. To be thorough, the SRT examined the potential for a SPR by considering the greatest known threats to the species and whether these were localized to a significant portion of the range of the species. The main threats to Pacific bluefin tuna identified by the SRT were overutilization, inadequacy of management, and climate change. Generally, these threats are spread throughout the range of Pacific bluefin tuna and not localized to a specific region.

We also considered whether any potential SPRs might be identified on the basis of threats faced by the species in a portion of its range during one part of its life cycle. We further evaluated the potential for the two known spawning areas to meet the two criteria for a SPR. The spawning areas for Pacific bluefin tuna are likely to be somewhat temporally and spatially fluid in that they are characterized by physical oceanographic conditions (*e.g.,* temperature) rather than a spatially explicit area. While commercial fisheries target Pacific bluefin tuna on the spawning grounds, spatial patterns of commercial fishing have not changed significantly over many decades. The historical pattern of exploitation on the spawning areas was part of the consideration in evaluating the threat of overexploitation to the species as a whole, and was determined to not significantly increase the species' risk of extinction for the members utilizing that portion of the range for the spawning stage of their life cycle. Given that the species has persisted throughout this time frame and has experienced similarly low levels of standing stock biomass, it has shown the ability to rebound and has yet to reach critically low levels. Therefore, it was determined that this fishery behavior has not significantly increased the species' risk of extinction for this life cycle phase.

Significant Portion of Its Range Determination

Pacific bluefin tuna range broadly throughout their life cycle around the Pacific basin, and there is no portion of the range that merits evaluation as a potential SPR. If a threat was determined to impact the fish in the spawning area, it would impact the fish throughout its range and, therefore, the species would warrant listing as threatened or endangered based on its status throughout its entire range. Based on our review of the best available information, we find that there are no portions of the range of the Pacific bluefin tuna that were likely to be of heightened biological significance (relative to other areas) or likely to be either endangered or threatened themselves.

Final Determination

Section 4(b)(1) of the ESA requires that NMFS make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best available scientific and commercial information including the petition, public comments submitted on the 90-day finding (81 FR 70074; October 11, 2016), the status review report, and other published and unpublished information, and have consulted with species experts and individuals familiar with Pacific bluefin tuna. We considered each of the statutory factors to determine whether it presented an extinction risk to the species on its own, now or in the foreseeable future, and also considered the combination of those factors to determine whether they collectively contributed to the extinction risk of the species, now or in the foreseeable future.

Our determination set forth here is based on a synthesis and integration of the foregoing information, factors and considerations, and their effects on the status of the species throughout its entire range. Based on our consideration of the best available scientific and commercial information, as summarized here and in the status review report, we conclude that no population segments of the Pacific bluefin tuna meet the DPS policy criteria and that the Pacific bluefin tuna faces an overall low risk of extinction. Therefore, we conclude that the species is not currently in danger of extinction throughout its range nor is it

likely to become so within the foreseeable future. Additionally, we did not identify any portions of the species' range that were likely to be of heightened biological significance (relative to other areas) or likely to be either endangered or threatened themselves. Accordingly, the Pacific bluefin tuna does not meet the definition of a threatened or endangered species, and thus, the Pacific bluefin tuna does not warrant listing as threatened or endangered at this time.

This is a final action, and, therefore, we are not soliciting public comments.

References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 3, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2017–16668 Filed 8–7–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–34]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–34 with attached Policy Justification and Sensitivity of Technology.

Dated: August 2, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUL 10 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-34, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Australia for defense articles and services estimated to cost $101.4 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 17–34

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$100.0 million
Other	$1.4 million
TOTAL	$101.4 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Thirty-two (32) Multifunctional Information Distribution Systems—Joint Tactical Radio System (MIDS JTRS) with four channel Concurrent Multi-Network (CMN–4)

Thirty-nine (39) AN/ALQ–214A(V)4 Countermeasure Systems

Non-MDE includes: Also included in this sale are system integration and testing, software development/integration, test sets and support equipment, spare and repair parts, publications and technical documents, U.S. Government and contractor technical assistance, and other related elements of logistical and program support.

(iv) *Military Department:* Navy (XX–P–GQF A1)

(v) *Prior Related Cases, if any:*

AT–P–SAF—$2.2B—02 May 07 (F/A–18F aircraft procurement)

AT–P–GQY—$358M—6 May 11 (first AF/A–18F sustainment)

AT–P–LEN—$992M—13 September 12 (Airborne Electronic Attack kit procurement)

AT–P–SCI—$1.3B—4 July 13 (EA–18G aircraft procurement)

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 10, 2017.

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia—Upgrades for F/A–18E/F Super Hornet Aircraft

The Government of Australia requested the possible sale of thirty-two (32) Multifunctional Information Distribution System Joint Tactical Radio System (MIDS JTRS) with four channel Concurrent Multi-Network (CMN–4), and thirty-nine (39) AN/ALQ–214A(V)4 Countermeasure Systems. This will also include all system integration and testing, component improvement, test and tools equipment upgrades, support equipment replenishment, supply support, publications and technical document updates, personnel training and training equipment upgrades, aircrew trainer device upgrades, U.S. Government and contractor technical assistance and other related elements of logistical and program support. The total estimated program cost is $101.4 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major contributor to political stability, security, and economic development in the Western Pacific. Australia is an important Major non-NATO Ally and partner that contributes significantly to peacekeeping and humanitarian operations around the world. It is vital to the U.S. national interest to assist our ally in developing and maintaining a strong and ready self-defense capability.

The proposed sale will improve Australia's capability in current and future coalition efforts. This equipment will help the Royal Australian Air Force better communicate with and protect its F/A–18 aircraft, and the addition of MIDS JTRS will accomplish the goal of making U.S. and Australian aircraft more interoperable when supporting operational forces. Australia will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment does not alter the basic military balance in the region.

The prime contractors will be the Harris Corporation, Melbourne, FL. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale may require the assignment of U.S. contractor representatives to Australia which will be determined at a later date.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–34

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. Multifunctional Information Distribution System (MIDS) Joint Tactical Radio System (JTRS) Concurrent Multi-Network (CMN–4) is classified CONFIDENTIAL. MIDS JTRS CMN–4 is a secure data and voice communication network using the Link-16 architecture. The system provides enhanced situational awareness, positive identification of participants with the network, secure fighter-to-fighter connectivity, and secure voice capability. It provides three major functions: Air Control, Wide Area Surveillance, and Fighter-to-Fighter. The MIDS JTRS CMN–4 can be used to transfer data in Air-to-Air, Air-to-Surface and Fighter-to-Fighter scenarios.

2. The AN/ALQ–214A(V)4 is an advanced airborne Integrated Defensive Electronic Countermeasures (IDECM) programmable modular automated system capable of intercepting, identifying, processing received radar signals (pulsed and continuous) and applying an optimum probability of survival from a variety of surface-to-air and air-to-air RF threats. The system operates in a standalone or Electronic Warfare (EW) suite mode. In the EW suite mode, the system operates various dispensable countermeasures and the onboard radar in the F/A–18E/F in a coordinated, non-interference manner, sharing information for enhanced information. The ALQ–214 was designed to operate in a high-density Electromagnetic Hostile Environment with the ability to identify and counter a wide variety of multiple threats including those with Doppler characteristics. Hardware with the AN/ALQ–214A(V)4 is classified CONFIDENTIAL.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent system which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Australia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Australia.

[FR Doc. 2017–16612 Filed 8–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–25]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–25 with attached Policy Justification and Sensitivity of Technology.

Dated: August 2, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

JUL 11 2017

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-25, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the Netherlands for defense articles and services estimated to cost $34 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 17–25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* The Government of the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$30 million
Other	$4 million
Total	$34 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Foreign Military Sales (FMS) case NE–B–WFV, implemented in June 2013, was below congressional notification threshold at $26.3M ($20M in MDE) and included one hundred and eighty (180) AGM–114R Hellfire II Missiles and twenty-four (24) M36E8 Captive Air Training Missiles (CATM). The Netherlands has requested the case be amended to include an additional seventy (70) AGM–114R Hellfire II missiles. This amendment will push the current case above the MDE notification threshold and thus requires notification of the entire case.

Major Defense Equipment (MDE):

Two hundred fifty (250) AGM–114R Hellfire II Missiles

Twenty-four (24) M36E8 Captive Air Training Missiles (CATM)

Non-MDE includes: Hellfire missile cutaway model, AGM–114R missile spare parts, a Launcher Test Station (LTS), LTS spares, two (2) maintenance support devices, integrated logistics support tools, M299 launcher software upgrade and testing, aircrew familiarization training, launcher test station training, unclassified publications, technical assistance, AN/AWM–101A software, CATM spare parts and related support services, and other related elements of logistics and program support.

(iv) *Military Department:* Army

(v) *Prior Related Cases, if any:* NE–B–WFV

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 11, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of the Netherlands—AGM–114R Hellfire Missiles

The Government of the Netherlands has requested the possible sale of an additional seventy (70) AGM–114R Hellfire II missiles to a previously implemented case for Hellfire missiles. The original FMS case, valued at $26.3M, included one hundred and eighty (180) AGM–114R Hellfire II Missiles and twenty-four (24) M36E8 Captive Air Training Missiles (CATM) with various support elements. Therefore, this case is for a total of two hundred fifty (250) AGM–114R Hellfire II Missiles, twenty-four (24) M36E8 CATMs, to include Hellfire missile cutaway model, AGM–114R missile spare parts, a Launcher Test Station (LTS), LTS spares, two (2) maintenance support devices, integrated logistics support tools, M299 launcher software upgrade and testing, aircrew familiarization training, launcher test station training, unclassified publications, technical assistance, AN/AWM–101A software, CATM spare parts and related support services, and other related elements of logistics and program support. The estimated total case value is $34 million.

This proposed sale will enhance the foreign policy and national security objectives of the United States by helping to improve the security of the Netherlands which has been, and continues to be an important force for political stability and economic progress in Europe. It is vital to the U.S. national interests to assist the Netherlands to develop and maintain a strong and ready self-defense capability.

The proposed sale will improve the Netherlands' capability to meet current and future threats and will be employed on the Netherlands' AH–64D Apache helicopters. The Netherlands will use this capability to strengthen its homeland defense, deter regional threats, and provide direct support to coalition operations. The Netherlands will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of these missiles will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) *Sensitivity of Technology:*

1. AGM–114R: The AGM–114R is used against heavy and light armored targets, thin skinned vehicles, urban structures, bunkers, caves and personnel. The missile is Inertial Measurement Unit (IMU) based, with a variable delay fuse, improved safety and reliability. The highest level for release of the AGM–114R is SECRET. Software and firmware documentation (*e.g.,* Data Processing, Software Requirements, Source Code, Algorithms) are not authorized for disclosure. The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is up to and including SECRET. The highest level that must be disclosed for production, maintenance, or training is up to and including SECRET. Vulnerability data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified SECRET or CONFIDENTIAL. Detailed information to include discussions, reports and studies of system capabilities, vulnerabilities and limitations that leads to conclusions on specific tactics or other counter-countermeasures (CCM) are not authorized for disclosure. Reverse engineering could reveal SECRET information.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapons systems effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the Government of the Netherlands can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to the furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification.

4. All defense articles and services listed in this transmittal are authorized for release and export to the Government of the Netherlands.

[FR Doc. 2017–16632 Filed 8–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–35]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107 *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–35 with attached Policy Justification and Sensitivity of Technology.

Dated: August 2, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUL 10 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-35, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Romania for defense articles and services estimated to cost $3.9 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 17–35

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Romania

(ii) *Total Estimated Value:*

Major Defense Equipment *	$1.3 billion
Other	$2.6 billion
TOTAL	$3.9 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Seven (7) Phased Array Tracking to Intercept of Target (Patriot) Configuration-3+ Modernized Fire Units consisting of:

Major Defense Equipment (MDE):

Seven (7) AN/MPQ–65 Radar Sets
Seven (7) AN/MSQ–132 Engagement Control Stations
Thirteen (13) Antenna Mast Groups
Twenty-eight (28) M903 Launching Stations
Fifty-six (56) Patriot MIM–104E Guidance Enhanced Missile Tactical Ballistic Missile (GEM–T) Missiles
One hundred sixty-eight (168) Patriot Advanced Capability-3 (PAC–3) Missile Segment Enhancement (MSE) Missiles
Seven (7) Electrical Power Plants (EPP) III

Non-MDE includes:

Also included with this request are communications equipment, tools and test equipment, support equipment, prime movers, generators, publications and technical documentation, training equipment, spare and repair parts, personnel training, TAFT team, U.S. Government and contractor technical, engineering, and logistics support services, Systems Integration and Checkout (SICO), field office support, and other related elements of logistics and program support.

(iv) *Military Department:* Army

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* July 10, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Romania—Patriot Air Defense System and Related Support and Equipment

The Government of Romania has requested the possible sale of seven (7) Patriot Configuration-3+ Modernized Fire Units consisting of: seven (7) AN/MPQ–65 radar sets, seven (7) AN/MSQ–132 engagement control stations, thirteen (13) antenna mast groups, twenty-eight (28) M903 launching stations, fifty-six (56) Patriot MIM–104E Guidance Enhanced Missile-TBM (GEM–T) missiles, one hundred and sixty-eight (168) Patriot Advanced Capabilty-3 (PAC–3) Missile Segment Enhancement (MSE) missiles, and seven (7) Electrical Power Plants (EPP) III. Also included with this request are communications equipment, tools and test equipment, support equipment, prime movers, generators, publications and technical documentation, training equipment, spare and repair parts, personnel training, TAFT team, U.S. Government and contractor technical, engineering, and logistics support services, Systems Integration and Checkout (SICO), field office support, and other related elements of logistics and program support. The total estimated program cost is $3.9 billion.

This proposed sale will enhance the foreign policy and national security objectives of the United States by helping to improve the security of a NATO ally that has been, and continues to be an important force for political stability and economic progress within Europe. The proposed sale of the Patriot system will support Romania's needs for its own self-defense and support NATO defense goals.

Romania will use the Patriot missile system to strengthen its homeland defense and deter regional threats. The proposed sale will increase the defensive capabilities of the Romanian military to guard against aggression and shield the NATO allies who often train and operate within Romania's borders. Romania should have no difficulty absorbing this system into its armed forces.

The proposed sale of these missiles and equipment will not alter the basic military balance in the region.

The prime contractors will be Raytheon Corporation in Andover, Massachusetts, and Lockheed-Martin in Dallas, Texas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require approximately 30 U.S. Government and 40 contractor representatives to travel to Romania for an extended period for equipment de-processing/fielding, system checkout, training, and technical and logistics support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–35

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Patriot Air Defense System contains classified CONFIDENTIAL hardware components, SECRET tactical software and CRITICAL/SENSITIVE technology. Patriot ground support equipment and Patriot missile hardware is classified CONFIDENTIAL and the associated launcher hardware is UNCLASSIFIED. Information on system performance capabilities, effectiveness, survivability, missile seeker capabilities, select software/software documentation and test data are classified up to and including SECRET. The items requested represent significant technological advances for Romania Patriot. The Patriot Air Defense System continues to hold a significant technology lead over other surface-to-air missile systems in the world.

2. The Patriot Air Defense System's sensitive/critical technology is primarily in the area of design and production know-how and primarily inherent in the design, development and/or manufacturing data related to certain components. The list of components is classified CONFIDENTIAL. For more information contact the PEO Missiles and Space Lower Tier Project Office.

3. The loss of this hardware, software, documentation and/or data could permit development of information which may lead to a significant threat to future U.S. military operations. If an adversary were to obtain this sensitive technology, the missile system effectiveness could be compromised through reverse engineering techniques.

4. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Romania.

[FR Doc. 2017–16621 Filed 8–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: This notice is to announce that the following meetings of the Defense Science Board (DSB) and the 2017 DSB Summer Study Task Force on Countering Anti-access Systems with Longer Range and Standoff Capabilities (''the Long Range Effects 2017 Summer Study Task Force'') will meet in closed session.

DATES: The Defense Science Board 2017 Defense Science Board (DSB) Summer Study Task Force on Countering Antiaccess Systems with Longer Range and Standoff Capabilities will meet from July 31 to August 4, 2017, from 8:30 a.m. to 5:00 p.m.; and August 7 to August 10, 2017, from 8:30 a.m. to 5:00 p.m. The Defense Science Board will meet on August 9, 2017, from 11:00 a.m. to 1:00 p.m. and August 11, 2017, from 9:30 a.m. to 12:00 p.m.

ADDRESSES: Arnold and Mabel Beckman Center of the National Academies of Sciences and Engineering, 100 Academy Way, Irvine, CA 92617.

FOR FURTHER INFORMATION CONTACT: Defense Science Board Designated Federal Officer (DFO) Ms. Karen D.H. Saunders, (703) 571–0079 (Voice), (703) 697–1860 (Facsimile), *karen.d.saunders.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Web site: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Defense Science Board was unable to provide public notification concerning its meeting on August 9 and August 11, 2017, of the Defense Science Board as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Defense Science Board was unable to provide public notification concerning its meeting on July 31, 2017 through August 4, 2017, and August 7 through August 10, 2017, of the Defense Science Board 2017 Summer Study Task Force on Countering Anti-access Systems with Longer Range and Standoff Capabilities, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

The mission of the DSB is to provide independent advice and recommendations on matters relating to the Department of Defense's (DoD) scientific and technical enterprise. The objective of the Long Range Effects 2017 Summer Study Task Force is to explore new defense systems and technologies that will enable cost effective power projection that relies on the use of longer stand-off distances than current capabilities. System components may be deployed on manned or unmanned platforms with a range of potential autonomous capabilities. Use of cost reducing technology and advanced production practices from defense and commercial industry may be a major part of the strategy for deploying adequate numbers of weapons. This nine-day session will focus on coalescing all the information from briefings presented during the January, February, March, April, May, June and July meetings of the Long Range Effects 2017 Summer Study Task Force. The four panels (Architecture; Intelligence, Surveillance, and Reconnaissance; Basing, Delivery, and Weapons; and Command, Control, Communications, and Cyber) will meet simultaneously to discuss topics and analyze data in support of the study.

Additionally, the DSB members will attend a working luncheon on August 9, 2017, from 11:00 a.m. to 1:00 p.m. to deliberate and vote on the findings and recommendations from the 2017 DSB Summer Study on Long Range Effects, and on August 11, 2017, from 9:30 a.m. to 12:00 p.m. to present the final outbriefing of the Long Range Effects 2017 Summer Study Task Force to DoD senior leaders.

In accordance with section 10(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that the Defense Science Board and the Long Range Effects 2017 Summer Study Task Force meetings will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology, and Logistics), in consultation with the DoD Office of General Counsel, has determined in writing that the DSB meetings and the Long Range Effects 2017 Summer Study Task Force meeting will be closed to the public because matters covered by 5 U.S.C. 552b(c)(1) will be considered. The determination is based on the consideration that it is expected that discussions throughout the DSB meetings and the Long Range Effects 2017 Summer Study Task Force meeting will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meetings to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

In accordance with section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the Long Range Effects 2017 Summer Study Task Force members at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB's DFO—Ms. Karen D.H. Saunders, Executive Director, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301, via email at *karen.d.saunders.civ@mail.mil* or via phone at (703) 571–0079 at any point; however, if a written statement is not received at least 3 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Long Range Effects 2017 Summer Study Task Force. The DFO will review all submissions with the Long Range Effects 2017 Summer Study Task Force Co-Chairs and ensure they are provided to Long Range Effects 2017 Summer Study Task Force members prior to the beginning of this nine-day meeting on July 31, 2017.

Dated: August 2, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–16633 Filed 8–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–30]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–30 with attached Policy Justification and Sensitivity of Technology.

Dated: August 2, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 17–30

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* The Government of Switzerland

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$25 million
Other	$90 million
Total	$115 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

The following defense articles and services have been requested as part of a Service Life Extension Program for Switzerland's F/A–18C/D aircraft:

Major Defense Equipment (MDE): Up to fifty (50) Multifunctional Information Distribution System Joint Tactical Radio System (MIDS JTRS) with Concurrent Multi-Net 4 (CMN–4) Capability

Non-MDE includes: Fifty (50) ARC–210 GEN 5 RT–1900A(C) radios w/Second Generation Anti-Jam Tactical UHF Radio for NATO (SATURN) frequency hopping; twenty (20) Joint Helmet Mounted Cueing System (JHMCS) Night Vision Cueing Display (NVCD); CIT Automated Dependence Surveillance-Broadcast (ADS–B) Out; software enhancements to the APG–73 radar; improvements to the F/A–18 Software Configuration Set (SCS) 29C; and sustainment for the ALQ–165 Airborne Self Protection Jammer (ASPJ) system. Operational support for these modifications will be provided through upgrades to the purchaser's unique Mission Data System. Also included are: system integration and testing; software development and integration; support equipment; spare and repair parts; maintenance personnel and pilot familiarization training; software support; publications and technical documents; U.S. Government and contractor technical assistance; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (XX–P–LAS)

(v) *Prior Related Cases, if any:* SZ–P–LAN

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* July 28, 2017.

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of Switzerland—F/A–18 Upgrades

The Government of Switzerland has requested the possible sale of a Service Life Extension Program for its F/A–18C/D aircraft to include up to fifty (50) Multifunctional Information Distribution System Joint Tactical Radio System (MIDS JTRS) with Concurrent Multi-Net 4 (CMN–4) capability; fifty (50) ARC–210 GEN 5 RT–1900A(C) radios w/Second Generation Anti-Jam Tactical UHF Radio for NATO (SATURN) frequency hopping; twenty (20) Joint Helmet Mounted Cueing System (JHMCS) Night Vision Cueing Display (NVCD); CIT Automated Dependence Surveillance-Broadcast (ADS–B) Out; software enhancements to the APG–73 radar; improvements to the F/A–18 Software Configuration Set (SCS) 29C; and sustainment for the ALQ–165 Airborne Self Protection Jammer (ASPJ) system. Operational support for these modifications will be provided through upgrades to the purchaser's unique Mission Data System. Also included are: System integration and testing; software development and integration; support equipment; spare and repair parts; maintenance personnel and pilot familiarization training; software support; publications and technical documents; U.S. Government and contractor technical assistance; and other related elements of logistics and program support. The estimated total case value is $115 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of Switzerland which has been, and continues to be an important force for political stability and economic progress in Europe. Switzerland is also a member of the NATO Partnership for Peace (PfP) program.

The proposed sale will allow the Swiss Air Force to extend the useful life of its F/A–18 fighter aircraft and enhance their survivability. Further, the proposed sale will increase Switzerland's tactical aviation operational capabilities. Switzerland will have no difficulty absorbing this equipment and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be the Boeing Company, McDonnell Douglas Corporation, St. Louis, MO; Data Link Solutions LLC, Wayne, NJ; Rockwell Collins, Cedar Rapids, IA; Rockwell Collins ESA Vision System LLC, Fort Worth, TX. There are no known offset agreements associated with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Switzerland. However, multiple trips to Switzerland involving U.S. Government and contractor representatives will be required for technical reviews/support, and program management.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUL 28 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-30, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Switzerland for defense articles and services estimated to cost $115 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Gregory M. Kausner
Acting Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 17–30

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) *Sensitivity of Technology:*

1. The hardware and software being purchased is being used to upgrade Switzerland's existing F/A–18C/D Hornet aircraft. Description and classification of the hardware and software being purchased are detailed in the following paragraphs.

a. The MIDS/JTRS with CMN–4 is a secure, scalable, modular, wireless, and jam-resistant digital information system currently providing Tactical Air Navigation (TACAN), Link-16, and J-Voice to airborne, ground, and maritime joint and coalition warfighting platforms. MIDS provides real-time and low-cost information and situational awareness via digital and voice, communications within the JTRS Enterprise. The MIDS/JTRS hardware is UNCLASSIFIED. The MIDS/JTRS software requires a crypto key be loaded in order to function. The crypto key required for operation is a Controlled Cryptographic Item (CCI).

b. The ARC–210 GEN 5 RT–1990A(C) is a digital radio capable of transmit and receipt of Digital Communication System, Variable Message Format (DCS/VMF) encrypted data messages. The RT–1990 hardware is UNCLASSIFIED. The RT 1900 software requires a crypto key be loaded in order to function. The crypto key required for operation is a Controlled Cryptographic Item (CCI).

c. The AN/AVS–11 Night Vision Cueing Device (NVCD) is UNCLASSIFIED but is capable of high resolution imaging. This capability allows reduced visibility weapon delivery using Switzerland's F/A–18C/D aircraft. While the NVCD hardware is UNCLASSIFIED, this item requires Enhanced End Use Monitoring (EEUM).

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapons systems effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the Government of Switzerland can provide substantially the same degree of

protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to the furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification.

4. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Switzerland.

[FR Doc. 2017–16628 Filed 8–7–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0066]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical Education Act of 2006

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 7, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0066. 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 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact John Haigh, 202–245–7735.

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: Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical Education Act of 2006.

OMB Control Number: 1830–0569.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 55.

Total Estimated Number of Annual Burden Hours: 9,020.

Abstract: The purpose of this information collection package—the Consolidated Annual Report (CAR)—is to gather narrative, financial, and performance data as required by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV). Perkins IV requires the Secretary to provide the appropriate committees of Congress copies of annual reports received by the Department from each eligible agency that receives funds under the Act. The Office of Career, Technical, and Adult Education (OCTAE) will determine each State's compliance with basic provisions of Perkins IV and the Education Department General Administrative Regulations [Annual Performance Report] and Part 80.41 [Financial Status Report]. OCTAE will review performance data to determine whether, and to what extent, each State has met its State adjusted levels of performance for the core indicators described in section 113(b)(4) of Perkins IV.

Dated: August 3, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–16678 Filed 8–7–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2017–FSA–0056]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of a new and rescinded system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled ''Integrated Partner Management'' (IPM) system (18–11–21), and a rescinded system of records entitled ''Postsecondary Education Participants System'' (PEPS) (18–11–09).

DATES: Submit your comments on this proposed new and rescinded system of records notice on or before September 7, 2017.

The Department has filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Acting Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on July 7, 2017. This new and rescinded system of records will become effective upon publication in the **Federal Register** on August 8, 2017, unless the new and rescinded system of records needs to be changed as a result of public comment or OMB review. The routine uses listed under ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES'' will become effective on September 7, 2017, unless the new system of records notice needs to be revised as a result of OMB review or public comment. The Department will publish any changes to the system of records or routine uses that result from public comment or OMB review.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the term ''Integrated Partner Management'' at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''Help'' tab.

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this system of records, address them to: Michele Brown, Director, Technical and Business Support Service Group, Program Compliance, Federal Student Aid, U.S. Department of Education, 830 First Street NE., Union Center Plaza (UCP), Room 82D4, Washington, DC 20202. Telephone: (202) 377–3203.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Michele Brown, Director, Technical and Business Support Service Group, Program Compliance, Federal Student Aid, U.S. Department of Education, 830 First Street NE., Union Center Plaza (UCP), Room 82D4, Washington, DC 20202. Telephone: (202) 377–3203.

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

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a(e)(4) and (11)) requires each Federal agency to publish in the **Federal Register** a notice of a new and rescinded system of records. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to information about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with the individual, such as a name or Social Security number (SSN). The information about the individual is called a ''record,'' and the system, whether manual or computer based, is called a ''system of records.''

The Privacy Act requires Federal agencies to publish a notice of a new system of records in the **Federal Register** and to submit a report to OMB whenever the agency publishes a new system of records or makes a significant change to an established system of records. Each agency is also required to send copies to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House Committee on Oversight and Government Reform. These reports are intended to permit an evaluation of the probable or potential effect of the proposal on the privacy rights of individuals.

The Privacy Act also requires Federal agencies to publish in the **Federal Register** a notice of rescindment when an agency stops maintaining a previously established system of records, but the rescission is not within the purview of subsection (r) of the Privacy Act; therefore, it is not required to be reported to OMB and Congress.

The Department identifies the PEPS system of records (18–11–09), as published in the **Federal Register** on June 4, 1999 (64 FR 30106, 30171–30173), and as amended on December 27, 1999 (64 FR 72384, 72405), to be rescinded because some of the records covered by this system of records will be maintained in the Department's IPM system (18–11–21). The Department takes this action so that it does not maintain duplicate systems of records.

The IPM system is a web-accessible system created by the Department to support eligibility determination and enrollment of entities seeking to participate in student aid programs under title IV of the Higher Education Act of 1965, as amended (HEA), and to oversee those entities' compliance with title IV, HEA's statutory and regulatory requirements.

The IPM system contains information on individuals with substantial ownership interests in, or control over, authorized entities (postsecondary schools, lenders, guaranty agencies, or third-party servicers that participate in title IV, HEA student financial aid programs) regarding the eligibility, administrative capabilities, and financial responsibility of the schools, lenders, guaranty agencies, and third-party servicers. Such information includes, but is not limited to, the names, taxpayer identification numbers, bank account numbers, SSNs, personal identification numbers, personal addresses, personal phone numbers, and personal email addresses of the individuals with substantial ownership interests in, or control over, those entities.

The IPM system also contains information about individuals affiliated with authorized entities who request electronic access to title IV, HEA, Federal Student Aid (FSA) systems. Such information includes, but is not limited to, the individual's name, SSN, date of birth, address, phone number, and authentication information (user ID, password, and security challenge questions and answers).

The IPM system will integrate a number of core partner management functions to deliver significant improvements from both a cost and customer satisfaction perspective. The partner management functions include enrollment, eligibility, and oversight processes used to manage partner entities as they administer title IV financial assistance. The IPM system will integrate the services currently provided by legacy systems into a single IPM solution. This integration will take an end-to-end view of FSA's entire partner eligibility and oversight business, which includes the following legacy systems: Postsecondary Education Participants System (PEPS), Electronic Application for Approval to Participate in Federal Student Financial Aid Programs (eApp), eZ-Audit, Integrated Partner Management Document Management (IPM DM), and Lender's Application Process (LAP). The benefits of integrating these legacy systems will include:

• Improved workflow automation to ensure timely completion of partner eligibility and enrollment processes;

• Improved efficiency in case management;

• A seamless repository of information;

• A scalable and configurable platform that will provide maximum flexibility to meet future needs;

• Reduced risks from leveraging current technologies to replace outdated and unsupported technologies;
• An established base of secure and accessible information;
• More efficient processes to meet internal and external reporting requirements;
• Improved overall program quality by reducing errors; and
• Reduction of the risk of FSA failing to detect a non-compliant partner.

Upon implementation of the IPM system, the PEPS legacy systems will be retired. However, some legacy systems may be kept alive for a short period of time to ensure the continued operation of our business until the new IPM system is fully functional.

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

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

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

Dated: August 3, 2017.

Matthew D. Sessa,

Acting Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Acting Chief Operating Officer of Federal Student Aid (FSA) of the U.S. Department of Education (Department) publishes a notice of a new and a rescinded system of records to read as follows:

RESCINDED SYSTEM NAME AND NUMBER:

Postsecondary Education Participants System (PEPS) (18–11–09) published in the **Federal Register** on June 4, 1999 (64 FR 30106, 30171–30173), and amended on December 27, 1999 (64 FR 72384, 72405).

NEW SYSTEM NAME AND NUMBER:

Integrated Partner Management (IPM) system (18–11–21).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Student Aid Virtual Data Center (VDC), Dell Systems, Plano Technology Center, 2300 West Plano Parkway, Plano, TX 75075.

Effective December 2017, the Department expects to relocate the IPM system to: Hewlett Packard Enterprise Services Mid-Atlantic Data Center (HPES MDC), Federal Student Aid Next Generation Data Center (FSA NGDC), 250 Burlington Drive, Clarkesville, VA 23927.

SYSTEM MANAGER:

Program Director, Integrated Partner Management, Federal Student Aid, U.S. Department of Education, 830 First Street NE., Room 82D4, Washington, DC 20202.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The data collected and stored in the IPM system is authorized under sections 131, 481, 487, and 498 of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1088, 1094, 1099c), and the Debt Collection Improvement Act of 1996 (31 U.S.C. 7701). The collection of Social Security numbers (SSNs) in this system is authorized by 31 U.S.C. 7701 and Executive Order 9397 (November 22, 1943), as amended by Executive Order 13478 (November 18, 2008).

The Government Paperwork Elimination Act (GPEA), Public Law 105–277, 44 U.S.C. 3504 note, Title XVII, Section 1704, requires agencies, by October 21, 2003, to provide the option of electronic submission of information by the public when practicable. The Freedom to E-File Act, E-Government Act, and the President's Management Agenda authorize eGovernment functions as alternatives to traditional paper-based processes.

PURPOSE(S) OF THE SYSTEM:

The information contained in the IPM system will be used for the purposes of determining initial and continued eligibility, administrative capability, and financial responsibility of postsecondary schools, lenders, and guaranty agencies that participate in title IV, HEA student assistance programs, and third-party servicers contracted by these entities; tracking changes to those entities; maintaining a history of this information for all entities that have ever applied to participate or have participated in these programs; documenting any protective or corrective action against an entity or an individual associated with the entity; and establishing the identity of individuals who request access to title IV, HEA Federal student aid systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The IPM system contains records about individual owners (either solely or as partners or shareholders), officials, and individuals acting as authorized agents of postsecondary institutions, lenders, and guaranty agencies that participate in the student assistance programs authorized under title IV of the HEA; members of boards of directors or trustees of such entities; employees of foreign entities that evaluate the quality of education; employees of third-party servicers, including contact persons, that contract with schools, lenders, or guaranty agencies; and individuals affiliated with authorized entities who request electronic access to title IV, HEA student assistance systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the IPM system will include, but are not limited to, names, taxpayer identification numbers (TINs), and bank account numbers of individuals with substantial ownership interests in, or control over, schools, lenders, guaranty agencies, or third party servicers. The IPM system will also contain SSNs, personal identification numbers assigned by the Department, personal addresses, personal phone numbers, and personal email addresses of the individuals with substantial ownership interests in, or control over, those entities.

Records for individuals affiliated with authorized entities (schools, lenders, guaranty agencies, or third-party servicers) who request electronic access to title IV, HEA student assistance systems will also be included in the system. Such information will include, but is not limited to, the individual's name, SSN, and date of birth, address, phone number, and authentication information (User ID and password).

RECORD SOURCE CATEGORIES:

Information is obtained from applications submitted by postsecondary institutions and other entities that seek to participate in the student financial assistance programs and from components of the Department; from other Federal, State, Tribal, and local governmental agencies; and from non-governmental agencies and organizations that acquire information relevant to the purposes of the IPM system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual when the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement (CMA).

The routine uses for the IPM system are as follows:

(1) *Program Purposes.* The Department may disclose information contained in the IPM system to appropriate guaranty agencies, educational and financial institutions, accrediting agencies, State agencies, and appropriate Federal, State, or local agencies, in order to verify and assist with the determination of eligibility, administrative capability, and financial responsibility of postsecondary institutions that have applied to participate in the student financial assistance programs.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records in the IPM system, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed below is involved in judicial or administrative litigation or alternative dispute resolution (ADR), or has an interest in judicial or administrative litigation or ADR, the Department may disclose records in the IPM system to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice (DOJ) has agreed to or has been requested to provide or arrange for representation for the employee;

(iv) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or to an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to that adjudicative body, entity, or individual.

(d) *Disclosure to Parties, Counsel, Representatives, or Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(4) *Employment, Benefit, and Contracting Disclosure.*

(a) *For decisions by the Department.* The Department may disclose records to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For decisions by Other Public Agencies and Professional Organizations.* The Department may disclose records to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in the IPM system to another agency of the Federal government if the record is relevant to a complaint, grievance, disciplinary, or competency determination proceeding regarding a present or former employee of the Department. The disclosure may only be made during the course of the proceeding.

(6) *Labor Organization Disclosure.* The Department may disclose a record in the IPM system to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(8) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act

safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

(13) *Feasibility Study Disclosure.* The Department may disclose information from this system of records to other Federal agencies, and to guaranty agencies and to their authorized representatives, to determine whether computer matching programs should be conducted by the Department for purposes such as to locate a delinquent or defaulted debtor or to verify compliance with program regulations.

(14) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(15) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(16) *Disclosure in Assisting Another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or entity when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(17) *Disclosure to Third Parties through Computer Matching Programs.* Unless otherwise prohibited by other laws, any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program that is conducted under a computer matching agreement between the Department and the third party, and requires that the matching be conducted in compliance with the requirements of the Privacy Act. The purposes of these disclosures may be: (a) To establish or verify program eligibility and benefits; (b) to establish or verify compliance with program regulations or statutory requirements, such as to investigate possible fraud or abuse; and (c) to recoup payments or delinquent debts under any Federal benefit programs, such as to locate or take legal action against a delinquent or defaulted debtor.

(18) *Disclosure of Information to U.S. Department of the Treasury (Treasury).* The Department may disclose records of this system to (a) a Federal or State agency, its employees, agents (including contractors of its agents), or contractors, or (b) a fiscal or financial agent designated by the Treasury, including employees, agents, or contractors of such agent, for the purpose of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a State in a State-administered, federally funded program; and disclosure may be made to conduct computerized comparisons for this purpose.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained in electronic data files on the IPM system servers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The records in this system are indexed by the name of the institution or organization, and may be retrieved by an identifying number, such as, but not limited to, the Routing ID (RID) of the organization, the Entity Identification Number (EIN), or Partner ID or Data Universal Numbering System (DUNS) of the entity; or the name, SSN, or the TIN of an individual associated with the institution or organization.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained for 30 years after the final action is completed in accordance with the Department's records retention and disposition schedule 074 FSA Guaranty Agency, Financial & Education Institution Eligibility, Compliance, Monitoring and Oversight Records.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

In accordance with the Federal Information Security Management Act of 2002, as amended by the Federal Information Security Modernization Act of 2014 (FISMA), every Federal Student Aid information system must receive a signed Authority to Operate (ATO) from a designated official. The ATO process includes a rigorous assessment of security controls, a plan of action and milestones to remediate any identified deficiencies, and a continuous monitoring program.

The IPM system controls include a combination of FISMA management, operational, and technical controls, including the following control families: Access control, awareness and training, audit and accountability, security assessment and authorization, configuration management, contingency planning, identification and authentication, incident response, maintenance, media protection, physical and environmental protection, planning, personnel security, privacy, risk assessment, system and services acquisition, system and communications protection, system and information integrity, and program management.

All physical access to the Department's Virtual Data Center system is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to staff of the Department, schools, guarantors, authorized third-party servicer employees, lenders, accrediting agencies, State agencies, and

Department contractors on a ''need-to-know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RECORD ACCESS PROCEDURES:

You may gain access to any records in the IPM system that pertain to you. This is done by contacting the system manager and following the procedures for notification listed above. You must meet the requirements of 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

You may contest the content of a record in the IPM system pertaining to you by presenting to the system manager, either in writing or in person, a request to amend or correct that information. The request to amend, or for an appointment to present an oral request, must be made in writing mailed to the system manager at the address provided above. The request must identify the particular record within the IPM system that you wish to have changed, state whether you wish to have the record amended, corrected, or rescinded, and explain the reasons why you wish to have the record changed. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in the IPM system, provide the system manager with your name, date of birth, and SSN. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity. You may address your request, or present that request in person, to the system manager at the address above.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) (as set forth in 31 U.S.C. 3711(e)): Disclosures may be made from this system to ''consumer reporting agencies,'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Improvement Act (31 U.S.C. 3701(a)(3)).

EXEMPTIONS PROMULATED FOR THE SYSTEM:

None.

HISTORY:

Pursuant to the requirements of OMB Circular No. A–108, the last full **Federal Register** publication of the PEPS system of records (18–11–09), which this system of records rescinds and replaces, was published in the **Federal Register** on June 4, 1999 (64 FR 30106, 30171–30173), and amended on December 27, 1999 (64 FR 72384, 72405).

[FR Doc. 2017–16658 Filed 8–7–17; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of public meeting agenda.

DATES: Wednesday, August 16, 2017, (2:00–3:00 p.m.—EDT).

ADDRESSES: U.S. Election Assistance Commission,1335 East West Highway (Suite 104), Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (301) 563–3961.

SUPPLEMENTARY INFORMATION:

Agenda: Commissioners will hold a public meeting to receive updates on the following topics: (1) Cybersecurity in Elections; (2) Help America Vote Act Payments and Grants; and (3) the Election Administration and Voting Survey. Commissioners will receive a project update from the Inspector General. Commissioners will consider and vote on a commission organization chart. Commissioners will announce upcoming 2017 EAC Elections Awards.

Status: This Meeting Will Be Open to the Public.

Bryan Whitener,

Director of National Clearinghouse on Elections, U.S. Election Assistance Commission.

[FR Doc. 2017–16778 Filed 8–4–17; 4:15 pm]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection Extension, With Changes

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy (EERE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for a three-year extension, with changes, of a collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will provide DOE with the information necessary to meet its statutory and regulatory obligations under the National Environmental Policy Act (NEPA) of 1969 and the DOE NEPA implementing regulations, which requires EERE to perform environmental impact analyses prior to making a decision to provide Federal funding for research, development and demonstration projects funded by DOE.

DATES: Comments regarding this collection must be received on or before September 7, 2017.

ADDRESSES: Written comments should be sent to: DOE Desk Officer at Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to: Lisa Jorgensen at U.S. Department of Energy, 15013 Denver West Parkway, Golden, CO 80401, by fax at (720–562–1640), or by email at: *EEREEQComments@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the EERE Environmental Questionnaire should be directed to Lisa Jorgensen at: 720–356–1569 or by email at: *EEREEQComments@ee.doe.gov.* The EERE Environmental Questionnaire also is available for viewing in the Golden Field Office Public Reading Room at: *www.energy.gov/node/2299401.*

If you anticipate difficulty in submitting comments by the deadline, contact the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

SUPPLEMENTARY INFORMATION: This information collection request contains:

1. *OMB No.:* 1910–5175;
2. *Information Collection Request Title:* Office of Energy Efficiency and Renewable Energy (EERE) Environmental Questionnaire;
3. *Type of Request:* Extension, with changes;
4. *Purpose:* The DOE's EERE provides Federal funding through Federal assistance programs to businesses, industries, universities, and other groups for renewable energy and energy efficiency research and development and demonstration projects. The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) requires that an environmental analysis be completed for all major Federal actions significantly affecting the environment including projects entirely or partly financed by Federal agencies.

To effectively perform environmental analyses for these projects, the DOE's EERE needs to collect project-specific information from Federal financial assistance awardees. DOE's EERE has developed its Environmental Questionnaire to obtain the required information and ensure that its decision-making processes are consistent with NEPA as it relates to renewable energy and energy efficiency research and development and demonstration projects. Minor changes have been made to the Environmental Questionnaire that help to clarify certain questions, but do not change the meaning of the questions being asked;

5. *Annual Estimated Number of Total Responses:* 300;

6. *Average Hours per Response:* 1; and

7. *Annual Estimated Number of Burden Hours:* 300.

Statutory Authority: National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*).

Issued in Golden, CO, on July 21, 2017.

Robin L. Sweeney,

Director, Environment, Safety, and Health, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2017–16598 Filed 8–7–17; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[9965–35–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Illinois' request to revise its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA approves of the State of Illinois' authorized program revision(s) as of August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On July 19, 2017, the Illinois Environmental Protection Agency (IEPA) submitted an application titled ''NPDES e-Reporting Tool'' for revision to its EPA-approved program under title 40 CFR to allow new electronic reporting. EPA reviewed IEPA's request to revise its EPA-authorized Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Illinois's request to revise its Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program to allow electronic reporting under 40 CFR parts 122 and 125 is being published in the **Federal Register**.

IEPA was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017–16693 Filed 8–7–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 17–724]

Opening of First Priority Filing Window for Eligible Full Power and Class A Television Stations

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the first priority filing window for eligible full power and Class A television stations to file applications for alternate channels or expanded facilities will be open from August 9, 2017 through September 8, 2017.

DATES: August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* or Kevin Harding, *Kevin.Harding@fcc.gov,* Video Division, Media Bureau, Federal Communications Commission.

SUPPLEMENTARY INFORMATION: Auction 1000, which was conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, was completed on April 13, 2017, and the Commission initiated a transition period during which broadcast television stations that received new channel assignments in the April 13, 2017 Closing and Channel Reassignment Public Notice will be reauthorized and relicensed. The deadline for applications for construction permits consistent with the requirements of that Public Notice were due July 12, 2017.

The first priority filing window, which opens on Wednesday, August 9, 2017 and closes at 11:59 p.m. EDT on Friday, September 8, 2017, is limited to: (1) 25 reassigned stations that were granted a waiver of the July 12, 2017 filing deadline because they were ''unable to construct'' the specified facilities assigned to them in the Closing and Channel Reassignment Public Notice; (2) stations entitled to protection in the repacking process that are predicted to experience a loss of population served in excess of one percent as a result of the auction repacking process; and (3) Class A stations that did not receive protection and were displaced in the repacking

process. Applications filed by stations that received a waiver of the July 12, 2017 filing deadline and displaced Class A stations are exempt from a filing fee.

Eligible stations may file applications for expanded facilities that qualify as a minor change under the Commission's rules, or for alternate channels which will be treated as major change applications under the Commission's rules. Applicants must protect the construction permit facilities of stations assigned to new channels, whether those stations' applications have been granted or remain pending, and must also protect the facilities specified in applications that were filed before the April 2013 freeze on applications proposing to extend a station's contour. Applications filed by displaced Class A stations must also demonstrate that the proposal would not cause interference to a low power television or translator facility previously authorized or proposed. A station that files an application that is incomplete or defective will be afforded an opportunity to submit an amendment to correct any defects, and failure to correct will result in dismissal of the application. If an application filed by (1) a station that was unable to construct the facilities specified in the Closing and Channel Reassignment Public Notice or (2) a displaced Class A station is dismissed, then the station must file a new application within 15 days of dismissal and pay the requisite filing fee.

Applications filed during the first priority filing window will be treated as filed on the last day of the window for purposes of determining mutual exclusivity. Stations with mutually exclusive applications will be notified and given a 90-day period to resolve their mutual exclusivity by proposing a technical solution or settlement in an amendment to their pending applications.

Federal Communications Commission.

Barbara Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2017–16663 Filed 8–7–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice Of Termination; 10411 SunFirst Bank, St. George, Utah

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10411 SunFirst Bank, St. George, Utah (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of SunFirst Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective August 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: August 2, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–16618 Filed 8–7–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10515—Premier Bank, Denver, Colorado

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Premier Bank, Denver, Colorado (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Premier Bank on July 10, 2015. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: August 3, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–16664 Filed 8–7–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10415—Premier Community Bank of the Emerald Coast Crestview, Florida

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC) as Receiver for Premier Community Bank of the Emerald Coast, Crestview, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Premier Community Bank of the Emerald Coast on December 16, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: August 2, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–16619 Filed 8–7–17; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–417]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 10, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–417 Hospice Request for Certification and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Hospice Request for Certification and Supporting Regulations; *Use:* The Hospice Request for Certification Form is the identification and screening form used to initiate the certification process and to determine if the provider has sufficient personnel to participate in the Medicare program. *Form Number:* CMS–417 (OMB Control number: 0938–0313); *Frequency:* Annually; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 851; *Total Annual Responses:* 851; *Total Annual Hours:* 213. (For policy questions regarding this collection contact Sarah Fahrendorf at 410–786–3112.)

Dated: August 3, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–16704 Filed 8–7–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Personal Responsibility Education Program (PREP) Promising Youth Programs (PYP).

OMB No.: New Collection.

Description: The Personal Responsibility Education Program (PREP) grantees provide education to adolescents on both abstinence and contraception for the prevention of pregnancy and sexually transmitted infections, as well as education on additional topics to prepare youth for adulthood. PREP programs are overseen by the Family and Youth Services Bureau (FYSB), in the Administration for Children and Families (ACF), in the U.S. Department of Health and Human Services (HHS).

The Promising Youth Programs (PYP) project supports PREP programming in two ways. First, it supports PREP grantees as they collaborate with independent evaluators to conduct evaluations of their programs. Second, it is working to develop curricula to address PREP-related needs for underserved youth. PYP is overseen by ACF's Office of Planning, Research, and Evaluation (OPRE). To support the PYP project, FYSB and OPRE seek approval to collect the following information:

(1) *Abstract template:* We will annually ask grantees and their independent evaluators to develop/update abstracts about their evaluations.

(2) *CONSORT (CONsolidated Standards of Reporting Trials) diagram template:* We will bi-annually ask grantees and their independent evaluators for information about study recruitment, enrollment, and retention.

(3) *Baseline equivalence template:* We will bi-annually ask grantees and their independent evaluators for information that demonstrates whether program and comparison groups are comparable.

(4) *Youth discussions topic guide:* We will hold discussions with youth from target populations about their perceptions of PREP-related programming.

Respondents: Grantees and their independent evaluators; and youth from target populations.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent (annually)	Average burden hours per response	Annual burden hours
(1) Abstract template	29	29	1	3	87
(2) CONSORT diagram template	29	29	2	1	58
(3) Baseline equivalence template	16	16	2	2	64
(4) Youth discussions topic guide	64	21	*1	1.5	32

*Total.

Estimated Total Annual Burden Hours: 241.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–16671 Filed 8–7–17; 8:45 am]

BILLING CODE 4184–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0349]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Providing Waiver-Related Materials in Accordance With the Guidance for Industry on Providing Post-Market Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by September 7, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0771. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Providing Waiver-Related Materials in Accordance With the Guidance for Industry on Providing Post-Market Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format (Periodic Benefit-Risk Evaluation Report); OMB Control Number 0910–0771—Extension

The International Conference on Harmonisation (ICH) of Technical Requirements for Registration of Pharmaceuticals for Human Use issued, on November 15, 2012, the ICH harmonized tripartite guideline entitled ''Periodic Benefit-Risk Evaluation Report (PBRER) E2C(R2)'' (the PBRER guideline) (available at *https://www.ich.org/products/guidelines/efficacy/article/efficacy-guidelines.html*). The PBRER guideline is intended to promote a consistent approach to periodic post-marketing safety reporting among the ICH regions, to enhance efficiency and reduce burden by reducing the number of reports generated for submission to the regulatory authorities. The PBRER is intended to provide a common standard for periodic reporting on approved drugs or biologics among the ICH regions.

FDA currently has OMB approval for the required submission of periodic adverse drug experience reports (PADER) for drugs subject to a new drug application (NDA) or an abbreviated new drug application (ANDA) (§ 314.80(c)(2) (21 CFR 314.80(c)(2)) (OMB control number 0910–0230), and for the required submission of periodic adverse experience reports (PAER) for drugs subject to a biologics license application (BLA) (§ 600.80(c)(2) (21 CFR 600.80(c)(2)) (OMB control number 0910–0308).

There is considerable overlap in the information required under §§ 314.80(c)(2) and 600.80(c)(2) and the information requested in a periodic safety report using the ICH E2C(R2) PBRER format. Applicants subject to periodic safety reporting requirements under FDA regulations could choose to continue to submit the reports as specified in those regulations, and would be permitted to submit reports in the PBRER format and submit reports as specified in FDA regulations with an approved waiver. Companies who submit periodic reports on the same drug to multiple regulators, including not only the United States, but, also the European Union, Japan, and regulators in other countries who have elected to adopt the ICH standards, may find it in their interest to prepare a single PBRER, rather than preparing multiple types of reports for multiple regulators. As a result, FDA, in the **Federal Register** of November 29, 2016 (81 FR 85976), announced the availability of the guidance for industry entitled ''Providing Post-marketing Periodic Safety Reports in the ICH E2C(R2) Format (Periodic Benefit-Risk Evaluation Report)'' to indicate its willingness to accept post-market periodic safety reports using the ICH PBRER format in lieu of the specific reports described in FDA regulations.

Because FDA regulations in §§ 314.80(c)(2) and 600.80(c)(2) include specific requirements for periodic safety reports, in order for an applicant to submit an alternative report, such as the PBRER, for a given product, FDA must grant a waiver. Existing regulations permit applicants to request waivers of any post-marketing safety reporting requirement, and the information collections associated with such waiver requests generally are approved under existing control numbers. (See § 314.90(a), waivers for drugs subject to NDAs and ANDAs, approved under OMB control number 0910–0001, and § 600.90(a), waivers for products subject to BLAs, approved under OMB control number 0910–0308.) The November 29, 2016, guidance both explains conditions under which applicants that have previously received waivers to submit reporting information in the format of the previous ICH guidance would be permitted to apply those existing waivers to the submission of PBRERs, and also advises how applicants that have not previously obtained a waiver may submit waiver requests to submit the PBRER.

There are information collections proposed in the November 29, 2016, guidance that are related to waivers specifically to enable the submission of PBRERs, and these information collections are not already addressed under the approved control numbers covering waiver submissions and periodic safety reports generally. FDA has previously granted waiver requests, submitted under §§ 314.90(a) and 600.90(a), that allow applicants to prepare and submit reports using the periodic safety update report (PSUR) format described in FDA's 1996 and 2004 ICH E2C guidance. In accordance with the recommendations of the November 29, 2016, guidance, if an applicant already has a PSUR waiver in place for a given approved application, FDA will consider the existing PSUR waiver to allow the applicant to submit a PBRER instead of a PSUR because the PBRER replaces the PSUR for post-marketing periodic safety reporting for that application. The applicant would not need to submit a new waiver request unless the applicant wishes to change the frequency of reporting. FDA will consider requests to be waived of the quarterly reporting requirement but will not waive applicants of the annual reporting requirement.

If an applicant submits a PBRER in place of the PSUR and uses a different data lock point, the applicant should submit overlapping reports or submit a one-time PADER/PAER in order to cover the gap in reporting intervals. The applicant should submit notification to the application(s), indicating the change in data lock point and should include a description of the measures taken to ensure that there are no resulting gaps in reporting.

If an applicant submits a PBRER in place of the PSUR and uses a different reporting frequency for the PBRER than was used for the PSUR, the continued validity of the waiver will be conditioned on the submission of a PADER/PAER as needed to fulfill the reporting frequency requirement under FDA regulations. The applicant should submit a notification to the application(s), describing this change and the measures taken to ensure that the periodicity requirements are being met.

FDA expects approximately 187 waiver requests and notifications to include the additional information described previously in this document for using a different data lock point and/or for using a different reporting frequency when submitting a PBRER. FDA expects approximately 55 applicants to make these submissions, and we estimate that the time for submitting the additional information described previously would be on average approximately 1 hour for each waiver request or notification.

If an applicant does not have a PSUR waiver in place for an approved application, the applicant may submit a waiver request under § 314.90(a) or § 600.90(a) to submit a PBRER instead of the PADER/PAER. The applicant should submit a request to FDA for each approved application for which a waiver is requested, and a single waiver request letter can include multiple applications. Waiver requests should be submitted to each of the application(s) in the request, and may be submitted electronically or by paper as described in the November 29, 2016, guidance. Each PBRER waiver request should include the following information:

- The product name(s) and application number(s);
- a brief description of the justification for the request;
- the U.S. approval date for the product(s) and current reporting interval used;
- the reporting interval of the last PADER/PAER submitted for the product(s); and
- the data lock point that will be used for each PBRER. If a data lock point other than one aligned to the U.S. approval date is proposed, the applicant should describe how he/she will ensure that there are no gaps in reporting intervals (*e.g.,* by submitting overlapping reports; submitting a one-time PADER/PAER to cover the gap period; or, if the gap is less than 2 months, extending the reporting interval of the final PADER/PAER to close the gap).
- The frequency for submitting the PBRER, as described in section IV.C of the April 8, 2013, draft guidance.
- The email address and telephone number for the individual who can provide additional information regarding the waiver request.

As explained earlier, existing regulations at § 314.90(a) or 600.90(a) permit applicants to request waivers of any post-marketing safety reporting requirement, and the information collections associated with such waiver requests generally are approved under OMB control numbers 0910–0001 and 0910–0308. FDA believes that the information submitted under numbers 1–4 and number 7 in the list in the previous paragraph is information that is typical of any waiver request regarding post-marketing safety reporting and is accounted for in the existing approved collections of information for waiver requests and reports. Concerning numbers 5 and 6, FDA expects approximately 67 waiver requests to include the additional information for using a different data lock point and/or for using a different

reporting frequency when submitting a PBRER. FDA expects approximately 29 applicants to make these submissions, and we estimate that the time for submitting the additional information described in the previous paragraph would be on average approximately 2 hours for each waiver request.

In the **Federal Register** of May 23, 2017 (82 FR 23578), we published a 60-day notice requesting public comment on the proposed extension of this collection of information. No comments were received.

We therefore estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Additional information and/or notifications for using a different data lock point and/or a different reporting frequency	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Applicants that have a PSUR waiver for an approved application	55	3.4	187	1	187
Applicants that do not have a PSUR waiver for an approved application	29	2.3	67	2	134
Total					321

[1] There are no capital or operating and maintenance costs associated with the information collection.

Dated: August 2, 2017.

Anna K. Abram,

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

[FR Doc. 2017–16647 Filed 8–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1848]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Cosmetic Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by September 7, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0599. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Cosmetic Labeling Regulations—21 CFR Part 701

OMB Control Number 0910–0599—Extension

The Federal Food, Drug, and Cosmetic Act (the FD&C Act) and the Fair Packaging and Labeling Act (the FPLA) require that cosmetic manufacturers, packers, and distributors disclose information about themselves or their products on the labels or labeling of their products. Sections 201, 301, 502, 601, 602, 603, 701, and 704 of the FD&C Act (21 U.S.C. 321, 352, 361, 362, 363, 371, and 374) and sections 4 and 5 of the FPLA (15 U.S.C. 1453 and 1454) provide authority to FDA to regulate the labeling of cosmetic products. Failure to comply with the requirements for cosmetic labeling may render a cosmetic adulterated under section 601 of the FD&C Act or misbranded under section 602 of the FD&C Act.

FDA's cosmetic labeling regulations are published in part 701 (21 CFR part 701). Four of the cosmetic labeling regulations have information collection provisions. Section 701.3 requires the label of a cosmetic product to bear a declaration of the ingredients in descending order of predominance. Section 701.11 requires the principal display panel of a cosmetic product to bear a statement of the identity of the product. Section 701.12 requires the label of a cosmetic product to specify the name and place of business of the manufacturer, packer, or distributor. Section 701.13 requires the label of a cosmetic product to declare the net quantity of contents of the product.

In the **Federal Register** of May 23, 2017 (82 FR 23576), FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was received which described ingredients used in the creation of cosmetics but was not PRA-related and will not be addressed here.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section/activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
701.3—Ingredients in order of predominance	1,518	21	31,878	1	31,878
701.11—Statement of identity	1,518	24	36,432	1	36,432

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]—Continued

21 CFR section/activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
701.12—Name and place of business	1,518	24	36,432	1	36,432
701.13—Net quantity of contents	1,518	24	36,432	1	36,432
Total					141,174

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The hour burden is the additional or incremental time that establishments need to design and print labeling that includes the following required elements: A declaration of ingredients in decreasing order of predominance, a statement of the identity of the product, a specification of the name and place of business of the establishment, and a declaration of the net quantity of contents. These requirements increase the time establishments need to design labels because they increase the number of label elements that establishments must take into account when designing labels. These requirements do not generate any recurring burden per label because establishments must already print and affix labels to cosmetic products as part of normal business practices.

The estimated annual third-party disclosure is based on data available to the Agency, our knowledge of and experience with cosmetic labeling, and our communications with industry. We estimate there are 1,518 cosmetic product establishments in the United States. We calculate label design costs based on stock keeping units (SKUs) because each SKU has a unique product label. Based on data available to the Agency and on communications with industry, we estimate that cosmetic establishments will offer 94,800 SKUs for retail sale in 2017. This corresponds to an average of 62 SKUs per establishment.

One of the four provisions that we discuss in this information collection, § 701.3, applies only to cosmetic products offered for retail sale. However, the other three provisions, §§ 701.11, 701.12, and 701.13, apply to all cosmetic products, including non-retail professional-use-only products. We estimate that including professional-use-only cosmetic products increases the total number of SKUs by 15 percent to 109,020. This corresponds to an average of 72 SKUs per establishment.

Finally, based on the Agency's experience with other products, we estimate that cosmetic establishments may redesign up to one-third of SKUs per year. Therefore, we estimate that the number of disclosures per respondent will be 21 (31,878 SKUs) for § 701.3 and 24 each (36,432 SKUs) for §§ 701.11, 701.12, and 701.13.

We estimate that each of the required label elements may add approximately 1 hour to the label design process. We base this estimate on the hour burdens the Agency has previously estimated for food, drug, and medical device labeling and on the Agency's knowledge of cosmetic labeling. Therefore, we estimate that the total hour burden on members of the public for this information collection is 141,174 hours per year.

Dated: August 2, 2017.

Anna K. Abram,

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

[FR Doc. 2017–16649 Filed 8–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0588]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by September 7, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0614. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile; OMB Control Number 0910–0614—Extension

Under the Public Health Service Act (PHS Act), the Department of Health and Human Services stockpiles medical products that are essential to the health security of the Nation (see the PHS Act, 42 U.S.C. 247d–6b). This collection of medical products for use during national health emergencies, known as the Strategic National Stockpile (SNS), is to ''provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.'' It may be appropriate for certain medical products that are or will be held in the SNS to be labeled in a manner that would not comply with certain FDA labeling regulations given their anticipated circumstances of use in an emergency. However, noncompliance with these labeling requirements could render such products misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352).

Under 21 CFR 201.26, 610.68, 801.128, and 809.11 (§§ 201.26, 610.68, 801.128, and 809.11), the appropriate FDA Center Director may grant a request for an exception or alternative to certain regulatory provisions pertaining to the labeling of human drugs, biological products, medical devices, and in vitro diagnostics that currently are or will be included in the SNS if certain criteria are met. The appropriate FDA Center Director may grant an exception or alternative to certain FDA labeling requirements if compliance with these labeling requirements could adversely affect the safety, effectiveness, or availability of products that are or will be included in the SNS. An exception or alternative granted under the regulations may include conditions or safeguards so that the labeling for such products includes appropriate information necessary for the safe and effective use of the product given the product's anticipated circumstances of use. Any grant of an exception or alternative will only apply to the specified lots, batches, or other units of medical products in the request. The appropriate FDA Center Director may also grant an exception or alternative to the labeling provisions specified in the regulations on his or her own initiative.

Under §§ 201.26(b)(1)(i) (human drug products), 610.68(b)(1)(i) (biological products), 801.128(b)(1)(i) (medical devices), and 809.11(b)(1)(i) (in vitro diagnostic products for human use), an SNS official or any entity that manufactures (including labeling, packing, relabeling, or repackaging), distributes, or stores such products that are or will be included in the SNS may submit, with written concurrence from a SNS official, a written request for an exception or alternative to certain labeling requirements to the appropriate FDA Center Director. Except when initiated by an FDA Center Director, a request for an exception or alternative must be in writing and must:

- Identify the specified lots, batches, or other units of the affected product;
- Identify the specific labeling provisions under the regulations that are the subject of the request;
- Explain why compliance with the specified labeling provisions could adversely affect the safety, effectiveness, or availability of the product subject to the request;
- Describe any proposed safeguards or conditions that will be implemented so that the labeling of the product includes appropriate information necessary for the safe and effective use of the product given the anticipated circumstances of use of the product;
- Provide copies of the proposed labeling of the specified lots, batches, or other units of the affected product that will be subject to the exception or alternative; and
- Provide any other information requested by the FDA Center Director in support of the request.

If the request is granted, the manufacturer may need to report to FDA any resulting changes to the new drug application, biologics license application, premarket approval application, or premarket notification (510(k)) in effect, if any. The submission and grant of an exception or an alternative to the labeling requirements specified in the regulations may be used to satisfy certain reporting obligations relating to changes to product applications under §§ 314.70, 601.12, 814.39 and 807.81 (21 CFR 314.70 (human drugs), 21 CFR 601.12 (biological products), 21 CFR 814.39 (medical devices subject to premarket approval), or 21 CFR 807.81 (medical devices subject to 510(k) clearance requirements)).

The information collection provisions in §§ 314.70, 601.12, 807.81, and 814.39 have been approved under OMB control numbers 0910–0001, 0910–0338, 0910–0120, and 0910–0231, respectively. On a case-by-case basis, the appropriate FDA Center Director may also determine when an exception or alternative is granted that certain safeguards and conditions are appropriate, such as additional labeling on the SNS products, so that the labeling of such products would include information needed for safe and effective use under the anticipated circumstances of use.

Respondents to this collection of information are entities that manufacture (including labeling, packing, relabeling, or repackaging), distribute, or store affected SNS products. Based on data from fiscal years 2014 and 2015, FDA estimates an average of one request annually for an exception or alternative received by FDA. FDA estimates an average of 24 hours preparing each request. The average burden per response for each submission is based on the estimated time that it takes to prepare a supplement to an application, which may be considered similar to a request for an exception or alternative. To the extent that labeling changes not already required by FDA regulations are made in connection with an exception or alternative granted under the regulations, FDA is estimating one occurrence annually in the event FDA would require any additional labeling changes not already covered by FDA regulations. FDA estimates 8 hours to develop and revise the labeling to make such changes. The average burden per response for each submission is based on the estimated time to develop and revise the labeling to make such changes.

In the **Federal Register** of May 23, 2017 (82 FR 23584), we published a 60-day notice requesting public comment on the proposed extension of this collection of information. No comments were received.

We therefore estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	24	24
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	8	8
Total					32

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 2, 2017.

Anna K. Abram,

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

[FR Doc. 2017–16648 Filed 8–7–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Office of Patient Advocacy/Be The Match® Patient Services Survey, OMB No. 0906–0004, Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than October 10, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Office of Patient Advocacy/Be The Match® Patient Services Survey, OMB No. 0906–0004—Revision.

Abstract: The National Marrow Donor Program®/Be The Match® is a HRSA contractor dedicated to helping patients and families get the support and information they need to learn about their disease and treatment options, prepare for a blood stem cell transplant, and thrive after a transplant procedure. The information and resources provided help individuals navigate the bone marrow or cord blood transplant process. Participant feedback is essential to understand the needs for transplant support services and educational information across a diverse population. This information is used to determine helpfulness of existing services and resources. Feedback is also used to identify areas for improvement and develop future programs.

Need and Proposed Use of the Information: Barriers to access to bone marrow or cord blood transplant related care and educational information are multi-factorial. Feedback from participants is essential to better understand the changing needs for services and information as well as to demonstrate the effectiveness of existing services. The primary use for information gathered through the survey is to determine helpfulness of participants' initial contact with Be The Match® Patient Services Coordinators (PSC) and to identify areas for improvement in the delivery of services. In addition, stakeholders use this evaluation data to make program and resource allocation decisions.

The survey includes items to measure the following: (1) Reason for contacting Be The Match®, (2) if the PSC was able to answer questions and was easy to understand, (3) if the contact helped the participant to feel better prepared to discuss transplants with their care team, (4) increase in awareness of available resources, (5) timeliness of response, and (6) overall satisfaction.

The proposed changes to the survey instrument include minor changes to both selected survey questions and the instructions. The updated survey questions include simplified language and the references to race and ethnicity are updated to better match preliminary U.S. Census Bureau question format and statements from the U.S. Department of Education. The question format changes will better allow individuals to self-identify their ethnicity and race and permit individuals to select more than one race and/or ethnicity. These changes will not increase respondent burden.

Likely Respondents: Respondents will include all patients, caregivers and family members who have contact with Be The Match Patient Services Coordinators via phone or email for transplant navigation services and support. The decision to survey all participants was made based on historic evidence of patients' unavailability due to frequent transitions in health status as well as between home and the hospital for initial treatment and care for complications.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Be The Match Patient Services Survey	420	1	420	0.25	105
Total	420		420		105

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance

the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2017–16686 Filed 8–7–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0723]

Public Workshop on Marine Technology and Standards

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The American Society of Mechanical Engineers, in coordination with the United States Coast Guard, is sponsoring a two-day public workshop on marine technology and standards in Washington, DC. This document provides information regarding the workshop, including registration information. The workshop will provide a unique opportunity for industry groups, classification societies, standards development organizations, government organizations, and other interested members of the public to come together for a professional exchange of information on topics ranging from technological impacts on the marine industry, corresponding coverage in related codes and standards, and government regulations.

DATES: The two-day workshop will be held on Monday, October 16, 2017, and Tuesday, October 17, 2017. The deadline for advance registration is Monday, October 2, 2017.

See **SUPPLEMENTARY INFORMATION** below for a list of proposed topics, fees, and information on how to register for the workshop.

ADDRESSES: The workshop will be held at the Liaison Capitol Hill hotel in Washington, DC. The hotel is located at 415 New Jersey Avenue NW., Washington, DC. For registration information or to obtain further information about this workshop, visit the USCG Web site at *http://www.uscg.mil/marine_event.*

FOR FURTHER INFORMATION CONTACT: If you have questions about this document you may contact a USCG/ASME representative via email at *workshop@uscg.mil.* You may also contact Wayne Lundy, Office of Design and Engineering Standards, USCG, by telephone at (202) 372–1379; or Mr. Joseph S. Brzuszkiewicz, Project Engineering Manager, ASME, by telephone at (212) 591–8533, or email: *BrzuszkiewiczJ@asme.org.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

The American Society of Mechanical Engineers/United States Coast Guard (ASME/USCG) Workshop on Marine Technology and Standards provides a unique opportunity for classification societies, industry groups, standards development organizations, government agencies, and interested members of the public to come together for a professional exchange of information on topics ranging from technological impacts on the marine industry, corresponding coverage in related codes and standards, and government regulations.

The public workshop is sponsored by the ASME in coordination with the USCG Office of Design and Engineering Standards. ASME is a standards setting organization with wide-ranging volunteer committee membership, which includes USCG-supported personnel who serve as members of various ASME committees in support of USCG missions in maritime safety and environmental protection. The USCG Office of Design and Engineering Standards is responsible for developing and promulgating national regulations and standards that govern the safe design and construction of ships and shipboard equipment, including hull structure, stability, electrical and mechanical systems, lifesaving and fire safety equipment, and related equipment approval and laboratory acceptance.

This workshop is an opportunity for the public to provide expertise on technical matters affecting the marine industry, to leverage new technologies, and to improve future policymaking, standards development, and rulemaking. Public engagement on regulations and design standards enhances both the effectiveness and the quality of policy development.

Topics for the workshop are listed below and include application of various marine technologies to promote safe and environmentally conscious operation of ships and offshore vessels and platforms.

The workshop will be held in Washington, DC, over a two-day period on Monday, October 16, 2017, and Tuesday, October 17, 2017. See **ADDRESSES** above for event location information.

Topics of Meeting

This workshop comprises a series of panel sessions over a two-day period covering a variety of topics. Proposed topics include:

Transport and Use of Natural Gas

Considers shipboard systems involved in the handling and transport of CNG/LNG as cargo. This panel will also consider the handling and use of natural gas as a shipboard fuel, addressing, among other things, systems, containment, fuel quality, safety considerations. Will also consider recent international and domestic requirements, including environmental considerations.

Use of Alternative Fuels for Ship Systems

Considers containment and handling systems, bunkering systems and safety considerations for fuels other than natural gas. Also considers the latest requirements and standards used by ship owners and designers, including the IMO Gas-Fueled Ships Code (IGF Code). Some examples include biofuels, hydrogen, and methanol. Also considers costs associated with infrastructure, training, operations and maintenance.

Infrastructure for Alternative Energy Sources

Considers international and domestic requirements for infrastructure such as offshore structures and servicing vessels for alternative energy sources such as wind farms and tidal generators.

Offshore Marine Technology

Considers technological advancements in a variety of subjects affecting the offshore industry and the marine transportation system. This includes systems for ensuring the safe and effective offshore exploration and extraction of energy resources, including dynamic positioning, hazardous areas, and safety systems. Will consider lessons learned from operations as well as application of related standards.

Shipboard Technologies for Energy Efficiency

Considers technologies and best practices for improving energy efficiency in the design and operation of ship equipment and systems. Potential topics include Energy Efficiency Design Index, Energy Efficiency Operational Indicator, and Ship Energy Efficiency Management Plan.

Polar Ship Design, Construction, and Operation

Consider requirements within the recently adopted IMO Polar Code and the IACS Polar Class rules. This includes vessel design considerations for low temperature environments. Also considers experiences of organizations operating ships in Polar Waters.

Marine Environmental Protection (MARPOL 73/78)

Considers issues, technologies, equipment and standards under the Annexes to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). Topics include pollution prevention requirements and standards for oil, sewage, garbage, ballast water, and air emissions.

Pressure Vessels for Human Occupancy

Considers operation, training, safety, design and maintenance issues as well as the requirements within the ASME PVHO–1 & PVHO–2 Code and the IMO guidelines for diving systems (IMO Code of Safety for Diving Systems) and passenger submersibles (MSC/Circ.981—Guidelines for the design, construction and operation of passenger submersible craft).

Autonomous Ship Technology, Automation & Cybersecurity

Considers issues/advancements regarding automation and autonomous ship technology, as well as the intercept with cybersecurity.

Regulatory/Classification Society Developments

Considers latest international and domestic developments and requirements regarding safety and environmental protection impacting the maritime community.

Web Sites

For additional information on this workshop, visit the USCG Web site at *http://www.uscg.mil/marine_event.*

Registration

Registration is now open; to register for this workshop, visit the ASME Web site: *https://urldefense.proofpoint.com/v2/url?u=https-3A__www.asme.org_events_uscoastguard&d=DwIFAg&c=0NKfg44GVknAU-XkWXjNxQ&r=LhLRaZ6Kl2vKuhI6SnRTNEJ9kbmze_HQ29FMACS_FZQ&m=dDJr4AEQR77fGQhJMGn4koZHI6Yn9W90-7cI-hvINPs&s=TqXhhS-pwGqMf3vT1Sd7vxuFsFW2KSGrMzCwIJPiCwI&e=.*

The USCG Web site for the event is: *http://www.uscg.mil/marine_event.* While the workshop is open to the public, meeting space is limited by room capacity. Since seating is limited, we ask anyone interested in attending the workshop to register in advance. The deadline for advance registration is Monday, October 2, 2017. Registration on the first day of the workshop will be permitted on a space-available basis. The registration fee for this event is $325 USD if submitted on or before October 2, 2017 and $375 USD if submitted after October 2, 2017. The registration fee includes admission for one person to each panel session for the two day event, several coffee breaks, and a reception on the first day of the event.

Proceedings

Material presented at the workshop will be made available to the public on the USCG Web site listed above after the conclusion of this event. For additional information on material presented at this event, you may contact one of the individuals listed above in **FOR FURTHER INFORMATION CONTACT**. Summaries of comments made and materials presented will be available on the docket at the conclusion of this event. To view the docket, see instructions above in **ADDRESSES**.

Information on Services for Individuals With Disabilities

Persons with disabilities who require special assistance should advise us of their anticipated special needs as early as possible by one of the individuals listed above in **FOR FURTHER INFORMATION CONTACT**.

Adjournment

Please note that the workshop may adjourn early if all business is finished.

Authority

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

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2017–16694 Filed 8–7–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0025]

Agency Information Collection Activities: Report of Diversion

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than October 10, 2017) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0025 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Report of Diversion.

OMB Number: 1651–0025.

Form Number: CBP Form 26.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected on Form 26.

Type of Review: Extension (without change).

Abstract: CBP Form 26, *Report of Diversion,* is used to track vessels traveling coastwise from U.S. ports to other U.S. ports when a change occurs in scheduled itineraries. This form is initiated by the vessel owner or agent to notify and request approval by CBP for a vessel to divert while traveling coastwise from a U.S. port to another U.S. port, or a vessel traveling to a foreign port having to divert to a U.S. port when a change occurs in the vessel itinerary. CBP Form 26 collects information such as the name and nationality of the vessel, the expected port and date of arrival, and information about any related penalty cases, if applicable. This information collection is authorized by 46 U.S.C. 60105 and is provided for in 19 CFR 4.91. CBP Form 26 is accessible at *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%2026_0.pdf.*

Affected Public: Businesses.

Estimated Number of Respondents: 1,400.

Estimated Number of Annual Responses per Respondent: 2.

Estimated Number of Total Annual Responses: 2,800.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 233.

Dated: August 3, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–16659 Filed 8–7–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0015; OMB No. 1660–0025]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Non-Disaster (ND) Grants System

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before September 7, 2017.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, or email address *FEMA-Information-Collections-Management@fema.dhs.gov.* Or, Everett Yuille, Branch Chief (Systems and Business Support Branch), FEMA, Grant Programs Directorate, Grant Operations Division, at (202) 786–9457.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on May 11, 2017 at 82 FR 22013 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Non-Disaster (ND) Grants System.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0025.

Form Titles and Numbers: FEMA Form 080–0–0–15, Non-Disaster (ND) Grants System.

Abstract: ND Grants is a web-based grants management system that fulfills FEMA's strategic initiative to consolidate the entire non-disaster grants management lifecycle into a single system. Currently, ND Grants has functionality that supports the grantee application process, award acceptance, amendments, and performance reporting.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 2,380.

Estimated Number of Responses: 52,598.

Estimated Total Annual Burden Hours: 26,299 hours.

Estimated Total Annual Respondent Cost: The estimated annual cost to respondents for the hour burden is $988,053.43.

Estimated Respondents' Operation and Maintenance Costs: There are no annual costs to respondents' operations and maintenance costs for technical services.

Estimated Respondents' Capital and Start-Up Costs: There are no annual start-up or capital costs.

Estimated Total Annual Cost to the Federal Government: The cost to the Federal Government is $8,244,902.03.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be

collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: August 2, 2017.

Tammi Hines,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–16627 Filed 8–7–17; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0079]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Replacement/Initial Nonimmigrant Arrival-Departure Document

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 7, 2017. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0079 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on March 14, 2017, at 82 FR 13651, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice. The commenter expressed an opinion on immigration generally. USCIS will not make any changes to the information collection as a result of the comment.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0011 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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 submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Replacement/Initial Nonimmigrant Arrival-Departure Document.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–102; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Nonimmigrants temporarily residing in the United States can use this form to request a replacement of lost, stolen, or mutilated arrival-departure records, or to request a new arrival-departure record, if one was not issued when the nonimmigrant was last admitted but is now in need of such a record. U.S. Citizenship and Immigration Services (USCIS) uses the information provided by the requester to verify eligibility, as well as his or her status, process the request and issues a new or replacement arrival-departure record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–102 is 6,899 and the estimated hour burden per response is .75 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 5,174 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,892,870.

Dated: August 2, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–16709 Filed 8–7–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–23595; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Defense, Army Corps of Engineers, Nashville District, Nashville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers, Nashville District, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the U.S. Army Corps of Engineers, Nashville District. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the U.S. Army Corps of Engineers, Nashville District, at the address in this notice by September 7, 2017.

ADDRESSES: Dr. Valerie McCormack, Archaeologist, Department of Defense, Nashville District, Corps of Engineers, U.S. Army Corps of Engineers, Nashville District, 110 9th Avenue South, Room A–405, Nashville, TN 37203, telephone (615) 736–7847, email *valerie.j.mccormack@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Army Corps of Engineers, Nashville District, Nashville, TN. The human remains and associated funerary objects were removed from Lyon County, KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the U.S. Army Corps of Engineers, Nashville District, and the St. Louis District's Mandatory Center for Expertise for the Curation and Management of Archaeological Collections (MCX–CMAC) professional staff in consultation with representatives of the Absentee Shawnee Tribe of Indians of Oklahoma, Cherokee Nation, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Shawnee Tribe, The Chickasaw Nation, The Osage Nation (previously listed as the Osage Tribe), and United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1959, human remains representing, at minimum, 128 individuals were removed from the Tinsley Hill Cemetery site (15LY18b). The remains include 21 adult males, 5 adult probable males, 20 adult females, 6 adult probable females, 27 adults of indeterminate sex, 29 subadults, 19 infants, and 1 individual of indeterminate age and sex. No known individuals were identified. The 478 associated funerary objects are 271 pottery sherds, 5 burned clay, 2 projectile points, 11 chipped stone tool fragments, 2 stone drill fragment, 2 stone cores, 1 stone celt, 1 flint chisel, 38 debitage, 2 quartz, 1 sandstone, 24 UID stone, 20 cannel coal, 1 splinter bone awl, 1 worked antler tip, 2 deer teeth, 1 elk tooth, 8 UID bone, 9 pieces of shell, 17 shells, 9 pieces of charcoal, 1 mica, 3 red ochre, 3 crinoids, 1 fossil coral, 19 iron nails, 5 pieces of iron, 1 metal carpet tack, 2 plastic buttons, 13 ceramics, 1 brown glass, and 1 lead.

In 1960 and 1962, human remains representing, at minimum, nine individuals were removed from site 15LY18a, the Tinsley Hill Village. Berle Clay of the University of Kentucky excavated the village area of the site in 1960. During this field season, Clay excavated eight individuals. In 1962, he returned to the site and removed a ninth individual from the village area. Information on the excavations can be found in the publications ''Excavations at Tinsley Hill Village, 1960'' and ''Tinsley Hill Village, 1962'' by Clay. The nine individuals are infants. No known individuals were identified. The 7 associated funerary objects are 3 pottery sherds, 1 broken antler tip drilled lengthwise through the base, and 3 faunal fragments.

The University of Kentucky undertook excavations at Tinsley Hill with funds provided by the National Park Service under the River Basins Archaeological Salvage Program. The work occurred prior to the inundation of Lake Barkley. The human remains and associated funerary objects have been in the physical custody of the Webb Museum, University of Kentucky, since excavation, but under the control of the U.S. Army Corps of Engineers.

In the winter and spring of 1958, Douglas W. Schwartz and Tacoma G. Sloan identified site 15LY18 as the only large Mississippian site below Lake Barkley's inundation pool. The site covered approximately 20 acres and contained two mounds, a village area, and a stone box cemetery.

Determinations Made by the U.S. Army Corps of Engineers, Nashville District

Officials of the U.S. Army Corps of Engineers, Nashville District, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 137 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 485 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Cherokee Nation, Eastern Band of Cherokee Indians, and United Keetoowah Band of Cherokee Indians in Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of human remains from site 15LY18 may be jointly to the Cherokee Nation, Eastern Band of Cherokee Indians, and United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to: Dr. Valerie McCormack, Archaeologist, Department of Defense, Nashville District, Corps of Engineers, U.S. Army Corps of Engineers, Nashville District, 110 9th Avenue South, Room A–405, Nashville, TN 37203, telephone (615) 736–7847, email *valerie.j.mccormack@usace.army.mil,* by September 7, 2017. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cherokee Nation, Eastern Band of Cherokee Indians, and United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The U.S. Army Corps of Engineers, Nashville District is responsible for notifying the Absentee Shawnee Tribe of Indians of Oklahoma, Cherokee Nation, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Shawnee Tribe, The Chickasaw Nation, The Osage Nation, and United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: June 19, 2017.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2017–16624 Filed 8–7–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–23598; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Department of Environment and Conservation, Division of Archaeology, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Tennessee Department of Environment and Conservation, Division of Archaeology. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Tennessee Department of Environment and Conservation, Division of Archaeology, at the address in this notice by September 7, 2017.

ADDRESSES: Michael C. Moore, Tennessee Department of Environment and Conservation, Division of Archaeology, 1216 Foster Avenue, Cole Building 3, Nashville, TN 37243, (615) 687–4776, *mike.c.moore@tn.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN. The human remains and associated funerary objects were removed from Polk County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Tennessee Department of Environment and Conservation, Division of Archaeology, professional staff in consultation with representatives of the Cherokee Nation of Oklahoma, Eastern Band of Cherokee Indians, and United Keetoowah Band of Cherokee Indians of Oklahoma.

History and Description of the Remains

From 1986 to 1987, human remains representing, at minimum, six individuals were removed from the Hiwassee Old Town site (40PK3) in Polk County, TN. The Tennessee Division of Archaeology (TDOA) discovered the human remains during construction of the State Division of Forestry, East Tennessee Nursery. The human remains represent one subadult approximately 9–10 years of age; one subadult of indeterminate age; and four individuals of indeterminate age or sex. No individuals were identified. The 46 associated funerary objects are 1 greenstone celt, 1 stone elbow pipe, 1 coiled brass hairplucker, 4 iron buckles, 2 gunflints, 1 metal razor, 1 metal awl, and 35 clay beads.

The associated funerary objects were transferred to the McClung Museum at the University of Tennessee-Knoxville (UT-Knoxville) for analysis during the late 1980s, but were returned to the TDOA in 2009. One associated funerary object noted in the original NAGPRA inventory, a small piece of lead, was not present when the associated funerary objects were returned to the TDOA. The McClung Museum does not know the location of this item and it is not included in this notice.

The Hiwassee Old Town site (40PK3) represents a multi-component Native American site located on the north bank of the Hiwassee River in Polk County, TN. Archeological investigations conducted from 1986 to 1987 by TDOA determined prehistoric and historic Native American deposits to be present, including deposits associated with the previously documented Hiwassee Old Town occupied by Overhill Cherokee during the 18th and early 19th centuries (Riggs et al. 1988). The associated funerary objects are consistent with previously identified historic period Native American artifacts, based upon the range and style of artifacts.

Determinations Made by the Tennessee Department of Environment and Conservation, Division of Archaeology

Officials of the Tennessee Department of Environment and Conservation, Division of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 46 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Eastern Band of Cherokee Indians.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michael C. Moore, Tennessee Department of Environment and Conservation, Division of Archaeology, 1216 Foster Avenue, Cole Building 3, Nashville, TN 37243, (615) 687–4776, *mike.c.moore@tn.gov,* by September 7, 2017. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Eastern Band of Cherokee Indians may proceed.

The Tennessee Department of Environment and Conservation, Division of Archaeology is responsible for notifying the Eastern Band of Cherokee Indians, the Cherokee Nation of Oklahoma, and the United Keetoowah Band of Cherokee Indians of Oklahoma that this notice has been published.

Dated: June 20, 2017.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2017–16623 Filed 8–7–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–23599; PCU00RP14.R50000–PPWOCRDN0]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC; and University of Nevada, Reno, Anthropology Research Museum, Reno, NV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Indian Affairs, and the University of Nevada, Reno, Anthropology Research Museum, have completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and have determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Bureau of Indian Affairs. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Bureau of Indian Affairs at the address in this notice by September 7, 2017.

ADDRESSES: Anna Pardo, Museum Program Manager/NAGPRA Coordinator, U.S. Department of the Interior, Bureau of Indian Affairs, 12220 Sunrise Valley Drive, Room 6084, Reston, VA 20191, telephone (703) 390–6343, email *Anna.Pardo@bia.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the University of Nevada, Reno, Anthropology Research Museum, Reno, NV. The human remains and associated funerary objects were removed from several sites near Pyramid Lake in Washoe County, NV.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the U.S. Department of the Interior, Bureau of Indian Affairs, professional staff in consultation with representatives of the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

History and Description of the Remains

At an unknown date in 1968, human remains representing, at minimum, one individual were removed by an amateur archeologist from a site located one mile east of Needles, at Pyramid Lake in Washoe County, NV. The human remains were donated to the Nevada Archaeological Survey (NAS) in the same year. NAS later became part of the University of Nevada, Reno, Department of Anthropology, where the human remains have continued to be housed. The Anthropology Research Museum is part of the Department of Anthropology and provides curation. No known individual was identified. No associated funerary objects are present.

In April of 1968, human remains representing, at minimum, one individual were removed from site 26WA1616, located approximately 50 yards from the shoreline of Pyramid Lake in Washoe County, NV. The human remains were deposited at the University of Nevada, Reno, Department of Anthropology. The Anthropology Research Museum is part of the Department of Anthropology and provides curation. No known individual was identified. No associated funerary objects are present.

At an unknown date in 1972, human remains representing, at minimum, one individual were removed from site 26WA162, located in the northwest corner of Pyramid Lake in Washoe County, NV. The human remains were donated to NAS in the same year. NAS later became part of the University of Nevada, Reno, Department of Anthropology, where the human remains have continued to be housed. The Anthropology Research Museum is part of the Department of Anthropology and provides curation. No known individual was identified. The five associated funerary objects are two quartzite flakes and three animal bones.

Geographic, historic, and anthropological evidence indicates that the human remains from these sites are Native American. The location of the burial is within the boundaries of the Pyramid Lake Reservation. Historic documents and archeological and consultation evidence, including tribal oral history, indicate that this area has been occupied by the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada, since pre-contact times. Based on this evidence, the human remains have been determined to be culturally affiliated with the

Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

Determinations Made by the Bureau of Indian Affairs

Officials of the Bureau of Indian Affairs have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the five objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Anna Pardo, Museum Program Manager/NAGPRA Coordinator, U.S. Department of the Interior, Bureau of Indian Affairs, 12220 Sunrise Valley Drive, Room 6084, Reston, VA 20191, telephone (703) 390–6343, email *Anna.Pardo@bia.gov,* by September 7, 2017. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada, may proceed.

The Bureau of Indian Affairs is responsible for notifying the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada, that this notice has been published.

Dated: June 20, 2017.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2017–16626 Filed 8–7–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–23560; PPWOCRADN0–PCU00RP15.R50000]

Native American Graves Protection and Repatriation Review Committee; Postponement of Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The July 2017 Native American Graves Protection and Repatriation Review Committee meeting has been postponed.

DATES: The meeting via teleconference scheduled for July 11, 2017, will be rescheduled at a later date. We will publish a future notice with new meeting date and location.

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program (2253), National Park Service, 1849 C Street NW., Room 7360, Washington, DC 20240, (202) 354–2201 or via email *nagpra_dfo@nps.gov.*

SUPPLEMENTARY INFORMATION: The 7-member Review Committee monitors and reviews the implementation of the inventory and identification processes and repatriation activities under Sections 5, 6, and 7 of the Native American Graves Protection and Repatriation Act of 1990.

Additional information is available in the meeting notice published on October 21, 2016 (81 FR 72827).

Authority: 25 U.S.C. 3006a–i; 5 U.S.C. Appendix 1–16.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2017–16643 Filed 8–7–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–23594; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Pennsylvania Museum of Archaeology and Anthropology has completed an inventory of human remains in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Pennsylvania Museum of Archaeology and Anthropology. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Pennsylvania Museum of Archaeology and Anthropology at the address in this notice by September 7, 2017.

ADDRESSES: Dr. Julian Siggers, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104, telephone (215) 898–4050.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA. The human remains were removed from the Brakebill Mound site (40KN55), Knox County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Pennsylvania Museum of Archaeology and Anthropology professional staff in consultation with representatives of the Alabama-Quassarte Tribal Town; Cherokee Nation; Eastern Band of

Cherokee Indians; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); The Muscogee (Creek) Nation; Thlopthlocco Tribal Town; and United Keetoowah Band of Cherokee Indians in Oklahoma (herein referred to as ''The Consulted Tribes'').

History and Description of the Remains

At some time prior to February of 1837, human remains representing, at minimum, one individual were removed from the Brakebill Mound site (40KN55) in Knox County, TN, by Professor Gerard Troost (b. 1776–d.1850). Professor Troost was a founding member of the Academy of Natural Sciences in Philadelphia and state geologist for Tennessee (1831–1839). The mound is situated at the junction of the French Broad and Holston Rivers on private land. At some time prior to October of 1838, the human remains were loaned to Dr. Samuel G. Morton for his study of human crania from around the world, and accessioned into his collections between 1839 and 1840. In 1853, Dr. Morton's collections were formally presented to the Academy of Natural Sciences of Philadelphia, loaned to the University of Pennsylvania Museum of Archaeology and Anthropology in 1966, and formally gifted to the University of Pennsylvania Museum of Archaeology and Anthropology in 1997 (UPM no. 97–606–992). The human remains consist of a cranium representing a single male, over 50 years old. No known individuals were identified.

Archival records and museum documentation do not designate a specific culture for this individual. Published anthropological information indicates that the Brakebill Mound site is a Dallas Phase archeological site dating from 1300 to 1600 CE. Based on consultation information and published ethnographic and anthropological literature, current evidence suggest that the Dallas Phase archeological culture may be associated with the Muscogee Creek and/or Cherokee cultural traditions. Today, these groups are represented by The Consulted Tribes.

Determinations Made by the University of Pennsylvania Museum of Archaeology and Anthropology

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Consulted Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Julian Siggers, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104, telephone (215) 898–4050, by September 7, 2017. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted Tribes may proceed.

The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: June 19, 2017.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2017–16625 Filed 8–7–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1185 (Review)]

Steel Nails From the United Arab Emirates; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on steel nails from the United Arab Emirates would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: July 7, 2017.

FOR FURTHER INFORMATION CONTACT: Calvin Chang (202–205–3062), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 7, 2017, the Commission determined that the domestic interested party group response to its notice of institution (82 FR 16229, April 03, 2017) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 3, 2017, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before August 8, 2017 and may not contain new factual

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Mid Continent Steel & Wire, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by August 8, 2017. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules with respect to filing were revised effective July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *https://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 3, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–16677 Filed 8–7–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as importers of various classes of schedule I or II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as importers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted and no requests for hearing were submitted for these notices.

Company	FR docket	Published
Cambridge Isotope Laboratories	82 FR 19083	April 25, 2017.
Janssen Ortho LLC	82 FR 19083	April 25, 2017.
Galephar Pharmaceutical Research, Inc.	82 FR 23069	May 19, 2017.
Mallinckrodt LLC	82 FR 23071	May 19, 2017.
Cerilliant Corporation	82 FR 25335	June 1, 2017.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrants to import the applicable basic classes of schedule I or II 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 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. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I or II controlled substances to the above listed persons.

Dated: August 2, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–16698 Filed 8–7–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Leia A. Frickey, M.D.; Decision and Order

On February 28, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Leia A. Frickey, M.D. (Registrant), of New Orleans, Louisiana. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration, the denial of any applications to renew or modify her registration, and the denial of any applications for any other DEA registration on the ground that she lacks ''state authority to handle controlled substances'' in Louisiana, the State in which she is registered with the DEA. Order to Show Cause, at 1 (citing 21 U.S.C. 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered as a practitioner in schedules II through V, pursuant to DEA Certificate of Registration BF5029574, at the address of 3312 South I–10 Service Road, Metairie, Louisiana. *Id.* The Order also alleged that this registration does not expire until September 30, 2017. *Id.*

As substantive grounds for the proceeding, the Show Cause Order alleged that on May 6, 2016, the Louisiana State Board of Medical Examiners issued a ''Notice of Summary Suspension of Medical License, summarily suspending [Registrant's] medical license.'' [1] *Id.* at 1. As a result, the Order alleged that Registrant is ''currently without authority to practice medicine or handle controlled substances in . . . Louisiana, the [S]tate in which [she is] registered with the DEA.'' *Id.* at 2. Thus, based on her ''lack of authority to [dispense] controlled substances in . . . Louisiana,'' the Order asserted that ''DEA must revoke'' her

[1] The Show Cause Order also alleges that ''on July 25, 2016, the Louisiana Board of Pharmacy issued a Notice of Suspension, suspending [Registrant's] Louisiana CDS license, number CDS.024813–MD, effective May 6, 2016.'' *Id.* at 1–2. Although those exact facts are not reflected in the record, the record does show that on November 16, 2016, the Louisiana State Board of Pharmacy issued an Order that Registrant's ''LOUISIANA CONTROLLED SUBSTANCE LICENSE No. 024813 is hereby indefinitely suspended in accordance with the suspension of her medical license by the Louisiana State Board of Medical Examiners on May 6, 2016.'' *See* Government Exhibit (GX) 4, at 1.

registration. *Id.* (citing 21 U.S.C. 824(a)(3); 21 CFR 1301.37(b)).

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

The Government states that on March 16, 2017, ''[p]ersonnel from DEA's New Orleans Field Division served the Order on Registrant.'' Government Request for Final Agency Action (RFFA), at 1 (citing Government Exhibit (GX) 5). Specifically, a DEA Diversion Investigator (DI) and DEA Task Force Officer traveled to a medical center in Louisiana on March 16, 2017, where the nursing staff escorted them to her room where they found the Registrant. GX5, at 1. The DI advised Registrant that he had a Show Cause Order to serve on her. *Id.* According to the DI's affidavit, the Registrant then responded '' 'You will not take my DEA number' and she refused to take the [Show Cause Order] document.'' *Id.* The DI ''then placed the [Order] on the night stand next to [Registrant's] bed.'' *Id.*

On May 19, 2017, the Government forwarded its Request for Final Agency Action and an evidentiary record to my Office. Therein, the Government represents that Registrant has neither requested a hearing nor ''otherwise corresponded or communicated with DEA regarding'' the Show Cause Order. RFFA, at 2. Based on the Government's representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Registrant, and she has neither requested a hearing nor submitted a written statement in lieu of a hearing. *Id.* at 2 (citing 21 CFR 1301.43(d)). Accordingly, I find that Registrant has waived her right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

Findings of Fact

Registrant is a physician who is registered as a practitioner in schedules II–V pursuant to Certificate of Registration BF5029574, at the address of 3312 South I–10 Service Road, Metairie, Louisiana. GX 1, at 1. The registration does not expire until September 30, 2017. *Id.*

On May 6, 2016, the Louisiana State Board of Medical Examiners summarily suspended Registrant's medical license and stated that the suspension was ''effective immediately.'' GX 3, at 1. On November 16, 2016, the Louisiana State Board of Pharmacy ''indefinitely suspended'' Registrant's controlled substance license ''in accordance with the suspension of her medical license by the Louisiana State Board of Medical Examiners on May 6, 2016.'' GX 4, at 1. Based on the above, I find that Registrant does not currently have authority under the laws of Louisiana to dispense controlled substances.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, ''upon a finding that the registrant . . . has had [her] State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever she is no longer authorized to dispense controlled substances under the laws of the State in which she engages in professional practice. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR 27616 (1978).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost her state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Louisiana State Board of Medical Examiners has employed summary process in suspending Registrant's state medical license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in Louisiana, the State in which she is registered. I will therefore order that her registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. BF5029574, issued to Leia A. Frickey, M.D., be, and it hereby is, revoked. I further order that any pending application of Leia A. Frickey to renew or modify the above registration, or any pending application of Leia A. Frickey for any other registration, be, and it hereby is, denied. This Order is effective immediately.

Dated: July 31, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–16700 Filed 8–7–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Almac Clinical Services Incorp (ACSI)

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before September 7, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before September 7, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 7, 2017, Almac Clinical Services Incorp (ACSI), 25 Fretz Road, Souderton, Pennsylvania 18964 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Oxycodone	9143	II
Hydromorphone	9150	II
Morphine	9300	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to import small quantities of the listed controlled substances in dosage form to conduct clinical trials.

Dated: August 2, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–16699 Filed 8–7–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On August 1, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Central District of California in the lawsuit entitled *United States* v. *The Bionetics Corporation,* Civil Action No. 17–5677.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for the recovery of costs that the United States incurred responding to releases of hazardous substances at certain Installation Restoration Program (IRP) Sites at Vandenberg Air Force Base in Santa Barbara County, California. The consent decree requires the defendant The Bionetics Corporation to pay $219,000 to the United States. In return, the United States agrees not to sue the defendant under sections 106 and 107 of CERCLA at certain IRP Sites at Vandenberg Air Force Base.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *The Bionetics Corporation,* D.J. Ref. No. 90–11–3–10477/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–16695 Filed 8–7–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities, Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 10, 2017.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by

fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) Surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions, (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation, and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal government agencies. Public and private users of price statistics, including Congress and the economic policymaking agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policymakers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand from the public and private sectors for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over four calendar quarters. The sample for each quarter is divided into three panels, with CUs being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Current Action

Office of Management and Budget clearance is being sought for the proposed revision of the Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

As part of an ongoing effort to improve data quality, maintain or increase response rates, and reduce data collection costs, CE is making the below changes.

Several changes will be implemented in the Quarterly Interview Survey including the addition of a veterans question, point of purchase or outlet questions, and two studies.

One question will be added asking whether members of the consumer unit aged 16 and over have ever served on active duty in the armed forces. The addition of this question will enable CE to publish estimates on expenditures by veteran status.

CE will continue to test the addition of outlet questions, adding in the remaining sections of the Quarterly Interview Survey instrument. These questions will be added beginning July 2018.

CE will test the effect of providing respondents with a Spending Summary Report (SSR) on respondent cooperation and survey experience. The test will be fielded from July through September 2018 and April through May 2019. The test is designed to address response rates, which have been trending downward over the past twenty years. At the end of the 1st Interview, respondents will be offered the option to receive a SSR. Results of the field test will be used to inform the final design of the CE Gemini Redesign's use of a similar Spending Summary Report.

CE will also test the addition of a Quarterly Interview Survey Worksheet to be fielded April through May 2019 and October through December 2019. CE will evaluate both the feasibility of using this worksheet based on debriefing questions and the effect of using the worksheet on the data.

No changes will be made in Diary.

A full list of the proposed changes to the Quarterly Interview Survey are available upon request.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title of Collection: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Type of Review: Revision, of a currently approved collection.

Affected Public: Individuals or Households.

TOTAL RESPONSE BURDEN FOR THE QUARTERLY INTERVIEW AND DIARY SURVEYS

	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden
Quarterly Interview Survey	6075	4.5959	27,920	59.3897	27,636
Diary Survey	5,680	4.2007	23,860	59.9925	23,857
Totals	11,755		51,780		51,493

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 2nd day of August 2017.

Kimberley Hill,

Chief, Division of Management Systems.

[FR Doc. 2017–16692 Filed 8–7–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0030]

Ionizing Radiation Standard; Extension of the Office of Management and Budget's (OMB) Approval of Collections of Information (Paperwork)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the collections of information specified in the Ionizing Radiation Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by October 10, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0030, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2010–0030) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The basic purpose of the collections of information in the Ionizing Radiation Standard is to document that employers are providing their workers with protection from ionizing radiation exposure. The collections of information contained in the Standard include: Monitoring worker exposure to ionizing radiation, posting caution signs at radiation areas, reporting worker overexposures to OSHA, maintaining exposure records, and providing exposure records to current and former workers.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collections of information are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collections of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting an adjustment increase of 6,719 burden hours from 45,217 to 51,936 hours. This increase is the result of an adjustment of the number of establishments and workers used in this analysis based on updated data. The increase is off-set by a reduction in burden hours due to the determination that employers providing training to workers under paragraph (i)(2) is not considered to be a collection of information. Also, the increase is off-set by a reduction in the predicted number of notification of incidents (paragraph (l)) and of overexposure and excessive levels and concentrations (paragraph (m)). The total estimated number of establishments affected by the regulation increased from 12,719 to 13,012, a total adjustment of 293 more establishments.

Type of Review: Extension of a currently approved collection.

Title: Ionizing Radiation Standard (29 CFR 1910.1096).

OMB Control Number: 1218–0103.

Affected Public: Business or other for-profits.

Number of Respondents: 13,012.

Frequency: On Occasion; Quarterly; Annually; Immediately; Within 24 hours; Within 30 days.

Average Time per Response: Various.

Estimated Number of Responses: 293,075.

Estimated Total Burden Hours: 51,936.

Estimated Cost (Operation and Maintenance): $7,388,465.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0030). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on July 27, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–16708 Filed 8–7–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0009]

Fire Brigades Standard; Extension of the Office of Management and Budget's Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA is soliciting public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Fire Brigades Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by October 10, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using these methods, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2011–0009, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10 a.m. to 3 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2011–0009) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other materials in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, 202–693–2044, *Kenney.Theda@dol.gov;* Todd Owen, 202–693–1941, *Owen.Todd@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such

information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

OSHA does not mandate that employers establish fire brigades; however, if they do so, they must comply with the provisions of the Fire Brigades Standard. The provisions of the standard, including the paperwork requirements, apply to fire brigades, industrial fire departments, and private or contract fire departments, but not to airport crash rescue units or forest firefighting operations. Paragraphs (b)(1), (b)(2), and (c)(4) contain the paperwork requirements of the standard.

Under paragraph (b)(1) of the standard, employers must develop and maintain an organizational statement that establishes the: Existence of a fire brigade; the basic organizational structure of the brigade; type, amount, and frequency of training provided to brigade members; expected number of members in the brigade; and functions that the brigade is to perform. This paragraph also specifies that the organizational statement must be available for review by workers, their designated representatives, and OSHA compliance officers. The organizational statement describes the functions performed by the brigade members and, thereby, determines the level of training and type of personal protective equipment (PPE) necessary for these members to perform their assigned functions safely. Making the statement available to workers, their designated representatives, and OSHA compliance officers ensures that the elements of the statement are consistent with the functions performed by the brigade members and the occupational hazards they experience, and that employers are providing training and PPE appropriate to these functions and hazards.

To permit a worker with known heart disease, epilepsy, or emphysema to participate in fire brigade emergency activities, paragraph (b)(2) of the standard requires employers to obtain a physician's certificate of the worker's fitness. This provision provides employers with a direct and efficient means of ascertaining whether or not they can safely expose workers with these medical conditions to the hazards of firefighting operations.

Paragraph (c)(4) of the standard requires employers to inform fire brigade members of special hazards, such as the storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, water-reactive substances that may be present during fires and other emergencies, and any changes in these special hazards. It also requires that employers develop written procedures describing the actions that brigade members are to take when special hazards are present, and to make these procedures available in the education and training program and for review by brigade members.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Fire Brigades Standard (29 CFR 1910.156). The agency is requesting an increase in its current burden hours from 2,510 hours to 2,693 hours, a total increase of 183 hours. The adjustment is primarily due to an increase in the estimated number of manufacturing facilities with 100 or more workers. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Fire Brigades Standards (29 CFR 1910.156).

OMB Control Number: 1218–0075.

Affected Public: Business or other for-profits.

Number of Respondents: 24,856.

Total Responses: 3,729.

Frequency of Responses: On occasion.

Average Time per Response: Various.

Total Burden Hours: 2,693.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0009). You may supplement submissions by uploading documents electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments and your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from this Web site and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on July 31, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–16711 Filed 8–7–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0052]

Material Hoists, Personnel Hoists, and Elevators Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA is soliciting public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Standard on Material Hoists, Personnel Hoists, and Elevators.

DATES: Comments must be submitted (postmarked, sent, or received) by October 10, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648. *e* methods, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0052, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10 a.m. to 3 p.m., E.T.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0052) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other materials in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (a)(2) of the Material Hoists, Personnel Hoists, and Elevators Standard requires that the rated load capacities, recommended operating speeds, and special hazard warnings or instructions be posted on cars and platforms. Paragraph (b)(1)(i) requires that operating rules for material hoists be established and posted at the operator's station of the hoist. These rules shall include signal system and allowable line speed for various loads. Paragraph (c)(10) requires that cars be provided with a capacity and data plate secured in a conspicuous place on the car or crosshead.

These posting requirements are used by the operator and crew of the material and personnel hoists to determine how to use the specific machine and how much it will be able to lift as assembled in one or a number of particular configurations. If not properly used, the machine would be subject to failures, endangering the workers in the immediate vicinity.

Paragraph (c)(15) requires that a test and inspection of all functions and safety devices be made following the assembly and erection of hoists. The test and inspection are to be conducted under the supervision of a competent person. A similar inspection and test is required following major alteration of an existing installation. All hoists shall be inspected and tested at three-month intervals. A certification record (the most recent) of the test and inspection must be kept on file, including the date the test and inspection was completed, the identification of the equipment and the signature of the person who performed the test and inspection. This certification ensures that the equipment has been tested and is in safe operating condition. The most recent certification record will be disclosed to a Compliance Safety and Health Officer during an OSHA inspection.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information

collection requirements contained in the Standard on Material Hoists, Personnel Hoists, and Elevators (29 CFR 1926.552). The Agency is requesting an adjustment decrease of 2 burden hours, from 7,103 burden hours to 7,101 burden hours. The decrease is due to the Agency no longer taking a burden or cost for the disclosure of records during OSHA inspections.

Type of Review: Extension of a currently approved collection.

Title: Material Hoists, Personnel Hoists, and Elevators (29 CFR 1926.552).

OMB Control Number: 1218–0231.

Affected Public: Business or other for-profits.

Number of Respondents: 23,472.

Frequency of Responses: On occasion.

Number of Responses: 24,465.

Average Time: Various.

Estimated Total Burden Hours: 7,101.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2010–0052) for the ICR. You may supplement submissions by uploading documents electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on July 31, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–16710 Filed 8–7–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Rehabilitation Plan and Award (OWCP–16). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before October 10, 2017.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 *et seq.,* and the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.* Both of these acts authorize OWCP to pay for approved vocational rehabilitation services to eligible workers with work-related disabilities. In order to decide whether to approve a rehabilitation plan, OWCP must receive a copy of the plan, supporting vocational testing materials and the estimated cost to implement the plan, broken down to show the fees, supplies, tuition and worker maintenance payments that are contemplated. OWCP also must receive the signature of the rehabilitation counselor to show that the proposed plan is appropriate. Form OWCP–16 is the standard format for the collection of this information. The regulations implementing these statutes allow for the collection of information needed for OWCP to determine if a rehabilitation plan should be approved and payment of any related expenses should be authorized. This information collection is currently approved for use through September 30, 2017.

II. Review Focus

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks approval for the extension of this currently approved information collection in order to determine if a rehabilitation plan should be approved and payment of any related expenses authorized.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Rehabilitation Plan and Award.

OMB Number: 1240–0045.

Agency Number: OWCP–16.

Affected Public: Individual or households; Businesses or other for-profit.

Total Respondents: 3,913.

Total Responses: 3,913.

Time per Response: 30 minutes.

Estimated Total Burden Hours: 1,957.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 3, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2017–16300 Filed 8–7–17; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL WOMEN'S BUSINESS COUNCIL

Federal Register Meeting Notice; Quarterly Public Meeting

AGENCY: National Women's Business Council.

ACTION: Notice of open public meeting.

DATES: The Public Meeting teleconference will be held on Wednesday, August 9, 2017 from 2:30 p.m. to 3:00 p.m. EST.

ADDRESSES: The meeting will be held via teleconference.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), the U.S. Small Business Administration (SBA) announces the meeting of the National Women's Business Council. The National Women's Business Council conducts research on issues of importance and impact to women entrepreneurs and makes policy recommendations to the SBA, Congress, and the White House on how to improve the business climate for women.

This meeting is the 4th Quarter meeting for Fiscal Year 2017. The online meeting will open with remarks from Council Chairwoman, Carla Harris, providing updates on research projects. Time will be reserved at the end for audience participants to address Council Members directly with questions, comments, or feedback.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is requested. To RSVP and confirm attendance, the general public should email *info@nwbc.gov* with subject line—''RSVP for 8/9/17 Public Meeting''. Anyone wishing to make a presentation to the NWBC at this meeting must contact Cristina Flores, Associate Director of Public Affairs at *info@nwbc.gov,* 202–205–6827.

For more information, please visit the National Women's Business Council Web site at *www.nwbc.gov*.

Dated: July 25, 2017.

Richard Kingan,

SBA Committee Management Officer.

[FR Doc. 2017–16629 Filed 8–7–17; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0222]

Information Collection: Enforcement Discretion for Operating Reactors and Gaseous Diffusion Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Enforcement Discretion for Operating Reactors and Gaseous Diffusion Plants.''

DATES: Submit comments by September 7, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs (3150–0136), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0222 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0222.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML17180A053.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

Please include Docket ID NRC–2016–0222 in the subject line of your comment submission, in order to ensure that the NRC is able to make your

comment submission available to the public in this docket.

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. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Enforcement Discretion for Operating Reactors and Gaseous Diffusion Plants.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 25, 2017 (82 FR 19094).

1. The title of the information collection: Enforcement Discretion for Operating Reactors and Gaseous Diffusion Plants.

2. OMB approval number: 3150–0136.

3. Type of submission: Extension.

4. The form number if applicable: N/A.

5. How often the collection is required or requested: On Occasion.

6. Who will be required or asked to respond: Those licensees that voluntarily request enforcement discretion through the NOED process.

7. The estimated number of annual responses: 8.

8. The estimated number of annual respondents: 4.

9. An estimate of the total number of hours needed annually to comply with the information collection requirement or request: 680 (600 reporting + 80 recordkeeping).

10. Abstract: The NRC's Enforcement Policy includes the circumstances in which the NRC may grant a NOED. On occasion, circumstances arise when a power plant licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or any other license condition would involve an unnecessary plant shutdown or transient. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement (TSR) or other condition would unnecessarily call for a total plant shutdown, or, compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable.

In these circumstances, a licensee or certificate holder may request that the NRC exercise enforcement discretion, and the NRC staff may choose to not enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion is designated as a NOED.

A licensee or certificate holder seeking the issuance of a NOED must document and submit to the NRC by letter, in accordance with Inspection Manual Chapter 0410 (ADAMS Accession No. ML13071A487), the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

Dated at Rockville, Maryland, this 3rd day of August, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–16696 Filed 8–7–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0162]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering the approval of three amendment requests. The amendment requests are for Vermont Yankee Power Station, Virgil C. Summer Nuclear Station, Units 2 and 3; and Vogtle Electric Generating Plant, Units 3 and 4. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. Because the amendment requests contain sensitive unclassified non-safeguards information (SUNSI) and/or safeguards information (SGI), an order imposes procedures to obtain access to SUNSI and SGI for contention preparation.

DATES: Comments must be filed by September 7, 2017. A request for a hearing must be filed by October 10, 2017. Any potential party as defined in § 2.4 of title 10 of the Code of Federal Regulations (10 CFR), who believes access to SUNSI and/or SGI is necessary to respond to this notice must request document access by August 18, 2017.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0162. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop:

TWFN–8–D36M, 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: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5411, email: *Shirley.Rohrer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0162, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0162.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0162, facility name, unit number(s), plant docket number, application date, and subject 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 will post all comment submissions at *http://www.regulations.gov* as well as enter 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 into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI and/or SGI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or

order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document

and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on obtaining information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station (VY), Vernon, Vermont

Date of amendment request: March 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17172A460.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI). The proposed amendment would revise the Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan (the ''Plan'' or ''Security Plan'') at VY. The Security Plan will supersede the current Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan at VY. These changes will more fully reflect the permanently shut-down and defueled status of the facility, as well as the reduced scope of potential radiological accidents and security concerns once all spent fuel has been permanently moved to dry cask storage within the onsite VY independent spent fuel storage installation (ISFSI), an activity which is currently scheduled for completion in 2018.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

VY has submitted notifications pursuant to 10 CFR 50.82(a)(1) for permanent cessation of power reactor operations and permanent removal of fuel from the reactor vessel. Upon docketing of the 10 CFR 50.82(a)(1) certifications, under 10 CFR 50.82(a)(2) the VY Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. The irradiated fuel at VY is currently stored in the spent fuel pool (SFP) and within the ISFSI on a single pad. In this condition, the number of credible accidents or transients is significantly smaller than for a plant authorized to operate the reactor or emplace or retain fuel in the reactor vessel.

Construction of a second ISFSI pad is in progress and scheduled for completion in 2017, to allow for complete off-load of the SFP to dry storage in casks within the ISFSI. The proposed ISFSI PSP reflects the future site configuration with offload of fuel from the SFP to the ISFSI, with no intention to return spent fuel to the SFP. In this dry fuel storage only configuration, the Fuel Handling Accident currently described in VY Defueled Safety Analysis Report (DSAR) Chapter 6 would no longer be credible. Since the proposed amendment would have no significant effect on facility SSCs and no significant effect on the capability of facility structures, systems, components (SSCs) to perform their design functions for any accident previously evaluated, it does not significantly increase the likelihood of the malfunction of facility SSCs and does not increase the probability or consequences of an accident previously evaluated.

The casks are maintained in accordance with the provisions of the general license for the VY ISFSI, utilizing the Holtec International HI–STORM 100 Cask System, Certificate of Compliance (CoC) No. 72–1014, and in accordance with the associated Cask Final Safety Analysis Report (FSAR). The HI–STORM 100 Cask System consists of spent nuclear fuel (SNF) residing within a fuel basket structure contained within a sealed metallic canister, or Multi-Purpose Canister (MPC). The HI–STORM 100 receives and contains the sealed MPC for long term storage, and provides gamma and neutron shielding, ventilation passages, missile protection, and protection against natural phenomena and accidents for the MPC. Cask

FSAR Chapter 11, ''Accident Analysis'', Section 11.2 provides the evaluation of accidents for the HI–STORM 100 Cask System which satisfies the following minimum acceptance criteria:

• The MPC confinement boundary maintains radioactive material confinement,

• The MPC fuel basket structure maintains the fuel contents subcritical,

• The stored SNF can be retrieved by normal means and

• The system provides adequate shielding.

The HI–STORM 100 Cask System provides the spent nuclear fuel and radioactive material in storage with confinement, radiation shielding, criticality and passive heat removal, independent of other facility SSCs.

Security modifications associated with this proposed amendment include new security systems for lighting, intruder detection systems, protected area boundary fencing, access control systems, telecommunications equipment, a vehicle barrier system, and a central alarm station. These security modifications do not significantly affect the ability of the Cask System and MPC to perform their functions as described in the Cask FSAR. Hence the proposed amendment has no effect on the ability of the Cask System to perform its design function nor would it increase the likelihood of an accident previously evaluated.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of a previously evaluated accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment does not involve any physical alteration of any facility SSCs or Cask System components required to mitigate or prevent any accident previously evaluated, and does not have a significant effect on the capability of any facility SSC or Cask System component to perform its design functions. Thus, the proposed amendment does not create any initiators or precursors of a new or different kind of accident than previously evaluated. Likewise, the proposed amendment does not create the possibility of a new failure mode associated with any SSC malfunction or personnel errors that could result in a new or different kind of accident. Since the proposed amendment does not significantly affect any Cask System components, the credible events for the ISFSI are not changed.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Pursuant to 10 CFR 50.82(a)(2), the 10 CFR part 50 license for VY no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, therefore the occurrence of any postulated accidents associated with an operating nuclear reactor is no longer credible. The proposed changes would not be effective until after the transfer of spent fuel to the ISFSI is complete, with no intent to return spent fuel to the spent fuel pool, therefore the fuel handling accident described in VY DSAR Chapter 6 would no longer be credible in this configuration. The proposed amendment does not involve a significant change in any facility SSC or Cask System component's design, configuration, or operation. Therefore the modifications associated with this proposed amendment do not significantly affect the capability or manner in which facility SSCs or Cask System components perform their safety functions or the safety margins associated with their design and function.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Susan Raimo, Senior Counsel, Entergy Services, Inc., 101 Constitution Ave. NW., Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Bruce Watson, CHP.

South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: June 19, 2017. A publicly-available version is in ADAMS under Accession No. ML17170A339.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The requested amendment proposes changes to combined operating license (COL) Appendix C (and to plant-specific Tier 1 information), and associated Tier 2 information to remove the west walls of containment air filtration exhaust rooms A and B in the annex building to facilitate ease of access to equipment in the room during installation and maintenance. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, Appendix D, design certification rule is also requested for the plant-specific Design Control Document Tier 1 material departures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration.

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed activity removes radiation shield walls from the west end of the containment air filtration exhaust rooms A and B (Rooms 40551 and 40552) to facilitate installation, access and maintenance of filtration equipment. The removal of the walls results in increased levels of radiation; however, the increase does not change the radiation level classification of the area including the Zone 2 designation for the staging and storage area or the Zone 3 designation of Rooms 40551 and 40552. It is expected that by removing the walls, occupational doses are reduced through a reduction in expected occupancy time when personnel are required to access the filtration units. Radiation licensing commitments are met without consideration of the shield walls. The radiation levels associated with the equipment are not changed. No specific accident sequences for the containment air filtration units are analyzed or described in the licensing bases, apart from the information in UFSAR [Updated Final Safety Analysis Report] Subsection 12.3.3.5, which remains valid and is not adversely affected. The removed walls are not relied upon to mitigate evaluated accidents described in UFSAR Ch. 6 or 15 and are not credited for aircraft impact assessment. There are no changes to remaining walls that provide shielding in the area.

No safety-related structure, system, component (SSC) or function is adversely affected by this change. The change does not involve an interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the plant-specific UFSAR are not affected. The proposed changes do not involve a change to the predicted radiological releases due to postulated accident conditions, thus, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed activity to remove the radiation shield walls from the west end of the containment air filtration exhaust rooms A and B (Rooms 40551 and 40552) does not create a new or different kind of accident previously evaluated as the removal of the walls does not change equipment in the affected room or functions of SSCs. Radiation levels are maintained for each designated zone in the affected Rooms 40551 and 40552 and the nearby areas including the security room, the storage and staging area, and the auxiliary building. Surface dose rates for the filtration equipment are not changed by this activity.

The proposed activity does not adversely affect any safety-related equipment, and do

not add any new interfaces to safety-related SSCs that adversely affect safety functions. No system or design function or equipment qualification is adversely affected by these changes as the change does not modify any SSCs that prevent safety functions from being performed. The changes do not introduce a new failure mode, malfunction or sequence of events that could adversely affect safety or safety-related equipment.

Therefore, the requested amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Designated radiation level identified for the containment air filtration exhaust rooms A and B (Rooms 40551 and 40552) in UFSAR Figure 12.3–1 (Sheet 13) are unchanged. Radiation levels are determined for Room 40550 with removal of the walls and are calculated to be approximately 0.42 mRem/hr {milli/roentgen equivalent man/hour}. This radiation dose is within the radiation levels of ≤ 2.5 mRem/hr designated for the Zone 2 designation of these rooms. The different zones have varying level of access control that function to limit worker exposure. Because of the radiation protection controls, a potential increase in the dose rates in an area does not necessarily lead to a corresponding increase in worker exposure and can still be consistent with the ALARA [as low as reasonably achievable] principle. The change continues to comply with the applicable ALARA design considerations discussed in UFSAR Subsection 12.1.2.3. Removal of the walls support reduced duration of radiation exposure due to the improved access to Rooms 40551 and 40552 to perform maintenance activities to the filtration units. Therefore, the overall impact to occupational doses is not adverse. Radiation sources are not changed by the proposed activity. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes.

Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC, 20004–2514.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: May 24, 2017. A publicly-available version is in ADAMS under Accession No. ML17144A413.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The requested amendment proposes changes to combined operating license (COL) Appendix C (and to plant-specific Tier 1 information), and associated Tier 2 information to remove the west walls of containment air filtration exhaust rooms A and B in the annex building to facilitate ease of access to equipment in the room during installation and maintenance. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, Appendix D, design certification rule is also requested for the plant-specific Design Control Document Tier 1 material departures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed activity removes radiation shield walls from the west end of the containment air filtration exhaust rooms A and B (Rooms 40551 and 40552) to facilitate installation, access and maintenance of filtration equipment. The removal of the walls results in increased levels of radiation; however, the increase does not change the radiation level classification of the area including the Zone 2 designation for the staging and storage area or the Zone 3 designation of Rooms 40551 and 40552. It is expected that by removing the walls, occupational doses are reduced through a reduction in expected occupancy time when personnel are required to access the filtration units.

Radiation licensing commitments are met without consideration of the shield walls. The radiation levels associated with the equipment are not changed. No specific accident sequences for the containment air filtration units are analyzed or described in the licensing bases, apart from the information in Updated Final Safety Analysis Report (UFSAR) Subsection 12.3.3.5, which remains valid and is not adversely affected. The removed walls are not relied upon to mitigate evaluated accidents described in UFSAR Ch. [chapter] 6 or 15 and are not credited for aircraft impact assessment. There are no changes to remaining walls that provide shielding in the area.

No safety-related structure, system, component (SSC) or function is adversely affected by this change. The change does not involve an interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the plant-specific UFSAR are not affected. The proposed changes do not involve a change to the predicted radiological releases due to postulated accident conditions, thus, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed activity to remove the radiation shield walls from the west end of the containment air filtration exhaust rooms A and B (Rooms 40551 and 40552) does not create a new or different kind of accident previously evaluated as the removal of the walls does not change equipment in the affected room or functions of SSCs. Radiation levels are maintained for each designated zone in the affected Rooms 40551 and 40552 and the nearby areas including the security room, the storage and staging area, and the auxiliary building. Surface dose rates for the filtration equipment are not changed by this activity.

The proposed activity does not adversely affect any safety-related equipment, and do not add any new interfaces to safety-related SSCs that adversely affect safety functions. No system or design function or equipment qualification is adversely affected by these changes as the change does not modify any SSCs that prevent safety functions from being performed. The changes do not introduce a new failure mode, malfunction or sequence of events that could adversely affect safety or safety-related equipment.

Therefore, the requested amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Designated radiation level identified for the containment air filtration exhaust rooms A and B (Rooms 40551 and 40552) in UFSAR Figure 12.3–1 (Sheet 13) are unchanged. Radiation levels are determined for Room 40550 with removal of the walls and are calculated to be approximately 0.42 mRem/hr [milli/roentgen equivalent man/hour]. This radiation dose is within the radiation levels of ≤ 2.5 mRem/hr designated for the Zone 2 designation of these rooms. The different zones have varying level of access control that function to limit worker exposure. Because of the radiation protection controls, a potential increase in the dose rates in an area does not necessarily lead to a corresponding increase in worker exposure and can still be consistent with the ALARA [as low as reasonably achievable] principle. The change continues to comply with the applicable ALARA design considerations discussed in UFSAR Subsection 12.1.2.3. Removal of the walls support reduced duration of radiation exposure due to the

improved access to Rooms 40551 and 40552 to perform maintenance activities to the filtration units. Therefore, the overall impact to occupational doses is not adverse. Radiation sources are not changed by the proposed activity. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes.

Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation.

Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding;[2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–415–3710.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Administrative Services, Mail Services Center, Mail Stop P1–37, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *MAILSVC.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of $324.00[4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: U.S. Nuclear Regulatory Commission, ATTN: Personnel Security Branch, Mail Stop TWFN–03–B46M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.[5]

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 26th of July, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.
	Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

Day	Event/activity
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2017–16139 Filed 8–7–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0069]

Information Collection: Voluntary Reporting of Performance Indicators

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Voluntary Reporting of Performance Indicators.''

DATES: Submit comments by October 10, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0069. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0069 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0069.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public 1Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML17124A082.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2017–0069 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''Voluntary Reporting of Performance Indicators.''
2. *OMB approval number:* 3150–0195.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* N/A.
5. *How often the collection is required or requested:* Quarterly.
6. *Who will be required or asked to respond:* Power reactor licensees.
7. *The estimated number of annual responses:* 376.

8. *The estimated number of annual respondents:* 94.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* The total reporting and recordkeeping burden is 76,350 hours (75,200 hours of reporting and 1,150 hours of recordkeeping),

10. *Abstract:* As part of a joint industry-NRC initiative, the NRC receives information submitted voluntarily by power reactor licensees regarding selected performance attributes known as performance indicators (PIs). Performance indicators are objective measures of the performance of licensee systems or programs. The NRC uses PI information and inspection results in its Reactor Oversight Process to make decisions about plant performance and regulatory response. Licensees transmit PIs electronically to reduce burden on themselves and the NRC.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be Collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 3rd day of August, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–16697 Filed 8–7–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* August 8, 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 August 2, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 50 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–165, CP2017–245.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2017–16660 Filed 8–7–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* August 8, 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 August 2, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 338 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–166, CP2017–246.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2017–16661 Filed 8–7–17; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. *Title and purpose of information collection:* Certification of Termination of Service and Relinquishment of Rights; OMB 3220–0016.

Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) has evidence that the applicant has ceased railroad employment and relinquished rights to return to the service of a railroad employer. Under Section 2(f)(6) of the RRA, earnings deductions are required for each month an annuitant works in certain non-railroad employment termed Last Pre-Retirement Non-Railroad Employment.

Normally, the employee, spouse, or divorced spouse relinquishes rights and certifies that employment has ended as part of the annuity application process. However, this is *not always* the case. In limited circumstances, the RRB utilizes Form G–88, *Certification of Termination of Service and Relinquishment of Rights,* to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Completion is required to obtain or retain benefits. The RRB proposes no changes to Form G–88.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form number	Annual responses	Time (minutes)	Burden (hours)
G–88	3,600	6	360

2. *Title and purpose of information collection:* Statement of Authority to Act for Employee; OMB 3220–0034.

Under Section 5(a) of the Railroad Unemployment Insurance Act (RUIA), claims for benefits are to be made in accordance with such regulations as the Railroad Retirement Board (RRB) shall prescribe. The provisions for claiming sickness benefits as provided by Section 2 of the RUIA are prescribed in 20 CFR 335.2. Included in these provisions is the RRB's acceptance of forms executed by someone else on behalf of an employee if the RRB is satisfied that the employee is sick or injured to the extent of being unable to sign forms.

The RRB utilizes Form SI–10, Statement of Authority to Act for Employee, to provide the means for an individual to apply for authority to act on behalf of an incapacitated employee and also to obtain the information necessary to determine that the delegation should be made. Part I of the form is completed by the applicant for the authority and Part II is completed by the employee's doctor. One response is requested of each respondent. Completion is required to obtain benefits. The RRB proposes no changes to Form SI–10.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form number	Annual responses	Time (minutes)	Burden (hours)
SI–10	32	6	3

3. *Title and purpose of information collection:* Employee Non-Covered Service Pension Questionnaire; OMB 3220–0154.

Section 215(a)(7) of the Social Security Act provides for a reduction in social security benefits based on employment not covered under the Social Security Act or the Railroad Retirement Act (RRA). This provision applies a different social security benefit formula to most workers who are first eligible after 1985 to both a pension based in whole or in part on non-covered employment and a social security retirement or disability benefit. There is a guarantee provision that limits the reduction in the social security benefit to one-half of the portion of the pension based on non-covered employment after 1956. Section 8011 of Public Law 100–647 changed the effective date of the onset from the first month of eligibility to the first month of concurrent entitlement to the non-covered service benefit and the RRA benefit.

Section 3(a)(1) of the RRA provides that the Tier I benefit of an employee annuity shall be equal to the amount (before any reduction for age or deduction for work) the employee would receive if entitled to a like benefit under the Social Security Act. The reduction for a non-covered service pension also applies to a Tier I portion of the employee annuity under the RRA when the annuity or non-covered service pension begins after 1985. Since the amount of a spouse's Tier I benefit is one-half of the employee's Tier I, the spouse annuity is also affected.

Form G–209, Employee Non-Covered Service Pension Questionnaire, is used by the RRB to obtain needed information (1) from a railroad employee who while completing Form AA–1, Application for Employee Annuity (OMB No. 3220–0002), indicates entitlement to or receipt of a pension based on employment not covered under the Railroad Retirement Act or the Social Security Act; or (2) from a railroad employee when an independently-entitled divorced spouse applicant believes the employee to be entitled to a non-covered service pension. However, this development is unnecessary if RRB records indicate the employee has 30 or more years of coverage; or (3) from an employee annuitant who becomes entitled to a pension based on employment not covered under the Railroad Retirement Act or the Social Security Act. One response is requested of each respondent. Completion is required to obtain or retain benefits. The RRB proposes no changes to Form G–209.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form number	Annual responses	Time (minutes)	Burden (hours)
G–209 (Partial Questionnaire)	50	1	1
G–209 (Full Questionnaire)	100	8	13
Total	150		14

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.*

Written comments should be received within 60 days of this notice.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2017–16672 Filed 8–7–17; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81289; File No. SR–BatsBZX–2017–47]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats BZX Exchange, Inc. and Bats BZX Exchange, Inc.'s Equity Options Platform

August 2, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on July 24, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') and its equity options trading platform (''BZX Options'') to re-name NYSE MKT as NYSE American throughout the fee schedule.

The Exchange also proposes to modify fees applicable to BZX Equities for orders routed to NYSE American in connection with changes made by NYSE American to its fee structure. As of July 24, 2017, NYSE American transitioned to a fully automated cash equities market. In connection with this transition, NYSE American updated its fee structure in a variety of ways, including to charge a fee to add non-displayed liquidity and to provide no rebate (nor charge any fee) to add displayed liquidity.[6]

The Exchange proposes to modify the fee structure for orders that are routed to and add liquidity at NYSE American, which yielded fee code 8 for displayed liquidity and fee code NA for non-displayed liquidity. Orders yielding fee code 8 previously received a rebate of $0.00150 per share and orders yielding fee code NA were not provided a rebate or charged any fee.

The Exchange proposes to continue to apply fee code 8 to orders that add displayed liquidity at NYSE American but to change the rate from a rebate to a fee, charging orders that yield fee code 8 a fee of $0.00020 per share.

The Exchange also proposes to remove NYSE American (previously NYSE MKT) from the list of venues where an order that adds non-displayed liquidity yields fee code NA. The Exchange does not propose to modify the rate applied to orders yielding fee code NA, but, as a result of this change, orders adding non-displayed liquidity at NYSE American will yield fee code NB instead, which is applied to all routed executions at an exchange not covered by Fee Code NA that adds non-displayed liquidity. Similarly, the Exchange does not propose to modify the rate applied to orders yielding fee code NB, which is currently a fee of $0.00300 per share.

The Exchange notes that the changes proposed above will not impact the current fee structure for orders that add displayed liquidity at NYSE American in securities priced below $1.00, which, pursuant to footnote 10, are provided without charge and without rebate. However, the proposed change to remove NYSE American from fee code NA will impact pricing for non-displayed orders routed to NYSE American that add liquidity. Specifically, consistent with other orders yielding fee code NB, pursuant to footnote 18, orders in securities priced below $1.00 will be charged 0.30% of the total dollar value of an execution.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. At the outset, the Exchange notes that its proposal to refer to NYSE American is consistent with the Act as it will avoid confusion with the Exchange's fee schedule by reflecting NYSE MKT's new name. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes are designed to react to pricing changes at NYSE American, to avoid subsidizing routing to such venue. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, Inc. is voluntary.

[6] *See* SR–NYSEMKT–2017–43 (filed July 19, 2017), *available at: https://www.nyse.com/regulation/rule-filings?market=NYSE.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

The changes to fee code 8 and to remove NYSE American (NYSE MKT) from fee code NA are primarily to designed to react to pricing changes at NYSE American, effective July 24, 2017. These changes are necessary to avoid providing routing services with pricing that effectively subsidizes routing to NYSE American. The Exchange's prior pricing model for orders routed to NYSE American was based on a fee structure that provided rebates for orders that added liquidity. The Exchange believes it is reasonable and fair and equitable to charge fees for orders routed to NYSE American that no longer receive a rebate but instead are either assessed a fee by NYSE American or are provided free of charge. The Exchange also believes the proposed rates are reasonable and not unfairly discriminatory in that they are consistent with other rates already charged by the Exchange. Finally, the Exchange believes the proposed changes are not unfairly discriminatory in that they are equally applicable to all Members that use the Exchange's routing services to add liquidity at NYSE American.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed changes to the Exchange's routing pricing burden competition, as they are based on the pricing on other venues. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b-4 thereunder.[10] 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2017–47 and should be submitted on or before August 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16635 Filed 8–7–17; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81290; File No. SR–BatsEDGX–2017–31]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use of Bats EDGX Exchange, Inc. and Bats EDGX Exchange, Inc.'s Equity Options Platform

August 2, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 24, 2017, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-Members of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''EDGX Equities'') and its equity options trading platform (''EDGX Options'') to re-name NYSE MKT as NYSE American throughout the fee schedule.

The Exchange also proposes to modify fees applicable to EDGX Equities for orders routed to NYSE American in connection with changes made by NYSE American to its fee structure. As of July 24, 2017, NYSE American transitioned to a fully automated cash equities market. In connection with this transition, NYSE American updated its fee structure in a variety of ways, including to charge a fee to add non-displayed liquidity and to provide no rebate (nor charge any fee) to add displayed liquidity.[6]

The Exchange proposes to modify the fee structure for orders that are routed to and add liquidity at NYSE American, which yielded fee code 8 for displayed liquidity and fee code NA for non-displayed liquidity. Orders yielding fee code 8 previously received a rebate of $0.00150 per share and orders yielding fee code NA were not provided a rebate or charged any fee.

The Exchange proposes to continue to apply fee code 8 to orders that add displayed liquidity at NYSE American but to change the rate from a rebate to a fee, charging orders that yield fee code 8 a fee of $0.00020 per share.

The Exchange also proposes to remove NYSE American (previously NYSE MKT) from the list of venues where an order that adds non-displayed liquidity yields fee code NA. The Exchange does not propose to modify the rate applied to orders yielding fee code NA, but, as a result of this change, orders adding non-displayed liquidity at NYSE American will yield fee code NB instead, which is applied to all routed executions at an exchange not covered by Fee Code NA that adds non-displayed liquidity. Similarly, the Exchange does not propose to modify the rate applied to orders yielding fee code NB, which is currently a fee of $0.00300 per share.

The Exchange notes that the changes proposed above will not impact the current fee structure for orders that add displayed liquidity at NYSE American in securities priced below $1.00, which, pursuant to fee code 8 are provided without charge and without rebate. However, the proposed change to remove NYSE American from fee code NA will impact pricing for non-displayed orders routed to NYSE American that add liquidity. Specifically, consistent with other orders yielding fee code NB, orders in securities priced below $1.00 will be charged 0.30% of the total dollar value of an execution.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. At the outset, the Exchange notes that its proposal to refer to NYSE American is consistent with the Act as it will avoid confusion with the Exchange's fee schedule by reflecting NYSE MKT's new name. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes are designed to react to pricing changes at NYSE American, to avoid subsidizing routing to such venue. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, Inc. is voluntary.

The changes to fee code 8 and to remove NYSE American (NYSE MKT) from fee code NA are primarily to designed to react to pricing changes at NYSE American, effective July 24, 2017. These changes are necessary to avoid providing routing services with pricing that effectively subsidizes routing to NYSE American. The Exchange's prior pricing model for orders routed to NYSE American was based on a fee structure that provided rebates for orders that added liquidity. The Exchange believes it is reasonable and fair and equitable to charge fees for orders routed to NYSE American that no longer receive a rebate but instead are either assessed a fee by NYSE American or are provided free of charge. The Exchange also believes the proposed rates are reasonable and not unfairly discriminatory in that they are consistent with other rates already charged by the Exchange. Finally, the Exchange believes the proposed changes are not unfairly discriminatory in that they are equally applicable to all Members that use the Exchange's routing services to add liquidity at NYSE American.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed changes to the Exchange's routing pricing burden competition, as they are based on the pricing on other venues. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

[6] *See* SR–NYSEMKT–2017–43 (filed July 19, 2017), *available at: https://www.nyse.com/regulation/rule-filings?market=NYSE.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 thereunder.[10] 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGX–2017–31 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–BatsEDGX–2017–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2017–31 and should be submitted on or before August 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16636 Filed 8–7–17; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81293; File No. SR–Phlx–2017–04]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Permit the Listing and Trading of P.M.-Settled NASDAQ–100 Index® Options on a Pilot Basis

August 2, 2017.

I. Introduction

On January 18, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit the listing and trading of P.M.-settled NASDAQ–100 Index® (''NASDAQ–100'') options on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on February 3, 2017.[3] On March 14, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On May 2, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[5] On May 3, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[7] On July 25, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[8] The Commission received three comment letters on the proposed rule change, including two from the Exchange.[9] The Commission is approving the proposed rule change, as modified by Amendment Nos. 1 and 2, subject to a pilot period set to end on the earlier of: (1) Twelve months following the date of the first listing of the options; or (2) December 29, 2018.

II. Description of the Proposal, as Modified by Amendment Nos. 1 and 2

The Exchange is proposing to amend its rules to permit the listing and trading, on a pilot basis, of NASDAQ–100 options with third-Friday-of-the-month expiration dates, whose exercise settlement value will be based on the closing index value, symbol XQC, of the NASDAQ–100 on the expiration day (''P.M.-settled'').

The Exchange represents that the conditions for listing the proposed contract (''NDXPM'') on Phlx will be similar to those for Full Value Nasdaq 100 Options (''NDX''), which are already listed and trading on Phlx, except that NDXPM will be P.M.-settled.[10] In particular, NDXPM will use a $100 multiplier, and the minimum trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79894 (January 30, 2017), 82 FR 9259 (''Notice'').

[4] *See* Securities Exchange Act Release No. 80241, 82 FR 14393 (March 20, 2017).

[5] In Amendment No. 1, the Exchange revised its proposal to add that raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by an appropriate index as agreed by the Commission and the Exchange, would be provided as part of the pilot data. When the Exchange filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 to the public comment file for SR–Phlx–2017–04 (available at: *www.sec.gov/comments/sr-phlx-2017-04/phlx201704.htm*).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 80581, 82 FR 21587 (May 9, 2017) (''Order Instituting Proceedings'').

[8] In Amendment No. 2, the Exchange revised the proposed duration of the pilot program such that the pilot would terminate on the earlier of: (i) Twelve months following the date of the first listing of the options; or (ii) December 29, 2018. When the Exchange filed Amendment No. 2 with the Commission, it also submitted Amendment No. 2 to the public comment file for SR–Phlx–2017–04 (available at: *www.sec.gov/comments/sr-phlx-2017-04/phlx201704.htm*). Because Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment.

[9] *See* Letters to Brent J. Fields, Secretary, Commission, from Laura G. Dickman, Lead Counsel, Chicago Board Options Exchange, Incorporated (''CBOE''), dated May 30, 2017 (''CBOE Letter''); Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ PHLX LLC, dated June 12, 2017 (''Phlx Letter I''); and Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ PHLX LLC, dated June 29, 2017 (''Phlx Letter II'').

[10] *See* Notice, *supra* note 3, at 9260.

increment will be $0.05 for options trading below $3.00 and $0.10 for all other series. Strike price intervals will be set at no less than $5.00. Consistent with existing rules for index options, the Exchange will allow up to nine near-term expiration months, as well as LEAPS. The product will have European-style exercise and will not be subject to position limits, though there would be enhanced reporting requirements.[11]

As proposed, NDXPM would become subject to a pilot for a period that would end on the earlier of: (i) Twelve months following the date of the first listing of NDXPM; or (ii) December 29, 2018 (''Pilot Program''). If the Exchange were to propose an extension of the Pilot Program or should the Exchange propose to make the Pilot Program permanent, then the Exchange would submit a filing proposing such amendments to the Pilot Program. The Exchange notes that any positions established under the pilot would not be impacted by the expiration of the pilot. For example, a position in a P.M.-settled series that expires beyond the conclusion of the pilot period could be established during the pilot. If the Pilot Program were not extended, then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction.

The Exchange proposes to submit a Pilot Program report to Commission at least two months prior to the expiration date of the Pilot Program (the ''annual report''). The annual report would contain an analysis of volume, open interest, and trading patterns. The analysis would examine trading in the proposed option product as well as trading in the securities that comprise the NASDAQ–100. In addition, for series that exceed certain minimum open interest parameters, the annual report would provide analysis of index price volatility and share trading activity. In addition to the annual report, the Exchange would provide the Commission with periodic interim reports while the Pilot Program is in effect that would contain some, but not all, of the information contained in the annual report. The annual report would be provided to the Commission on a confidential basis. The annual report would contain the following volume and open interest data:

(1) Monthly volume aggregated for all trades;

(2) monthly volume aggregated by expiration date;

(3) monthly volume for each individual series;

(4) month-end open interest aggregated for all series;

(5) month-end open interest for all series aggregated by expiration date; and

(6) month-end open interest for each individual series.

In addition to the annual report, the Exchange would provide the Commission with interim reports of the information listed in Items (1) through (6) above periodically as required by the Commission while the Pilot Program is in effect. These interim reports would also be provided on a confidential basis. The annual report would also contain the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled NASDAQ–100 options traded on Phlx.

In addition, the annual report would contain the following analysis of trading patterns in Expiration Friday, P.M.-settled NASDAQ–100 option series in the Pilot Program: (1) A time series analysis of open interest; and (2) an analysis of the distribution of trade sizes. Also, for series that exceed certain minimum parameters, the annual report would contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays: A comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data would 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 as agreed by the Commission and the Exchange, would be provided. The Exchange would provide 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 series. The data would 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 randomly selecting the component securities, and sample periods would be determined by the Exchange and the Commission.[12]

III. Summary of Comments

As noted above, the Commission received three comment letters on the proposed rule change, including two letters from the Exchange.[13] In its letter, CBOE expresses support for Phlx's proposal, stating that NDXPM would not present any novel issues not considered in connection with SPXPM options.[14] CBOE further states that many of the concerns regarding P.M. settlement have been mitigated over time, and believes the availability of additional P.M.-settled options would enhance transparency, price discovery, and liquidity by moving these products from the over-the-counter market to an exchange environment.[15] In support of its position, CBOE states that it has not observed any adverse effects or impact on market volatility and the operation of fair and orderly markets on the underlying cash market at or near the close of trading in its SPXPM options.[16]

In its first comment letter, the Exchange notes that its proposal is largely based on CBOE's pilot program for SPXPM options.[17] In response to a request from Commission staff that any pilot data be made public, the Exchange states that, although it is willing to participate in further discussion with the Commission, CBOE, and other exchanges about the possibility of making public the data under its Pilot Program and other similar pilots, the Exchange does not believe it should be required to make its Pilot Program reports public absent the development of a uniform and transparent approach regarding pilot reports and other associated materials to similar proposed rule changes, such as the SPXPM options pilot.[18] Therefore, the Exchange maintains that any reports in connection with its Pilot Program will be submitted

[11] For a more detailed description of the proposed NDXPM contract, see Notice, *supra* note 3.

[12] *See* Notice, *supra* note 3, at 9261 and Amendment No. 1. The proposed Pilot Program for NDXPM options is similar to the pilot program approved for the listing and trading of P.M.-settled S&P 500 Index options (''SPXPM options''). *See* Securities Exchange Act Release No. 64011 (March 2, 2011), 76 FR 12775, 12776–77 (March 8, 2011).

[13] *See supra* note 9.

[14] *See* CBOE Letter at 2.

[15] *See id.*

[16] *See id.* In its letter, CBOE further proposes that the Commission approve pilot programs for a set period of time, such as three years, after which the respective pilot may become permanent or, if the Commission finds that the pilot resulted in adverse effects to the market, conclude. *See id.* at 3. The Commission notes that this comment is beyond the scope of the specific proposed rule change under consideration.

[17] *See* Phlx Letter I at 1.

[18] *See id.* at 2.

to the Commission on a confidential basis.[19]

In its second comment letter, the Exchange responds to the Order Instituting Proceedings and states that it does not expect any significant impact on trading in the underlying securities of NDXPM given the similarity to SPXPM options that are currently trading.[20] The Exchange believes that the changes in the operation and structure of the options markets over time, in conjunction with the proposed NDXPM Pilot Program's similarity to the SPXPM options pilot and its lack of novel issues, further support permitting trading in NDXPM on a pilot basis.[21] The Exchange further states that it expects the data to be provided under the NDXPM Pilot Program should be similar to data submitted in connection with the SPXPM options pilot, with the exception of the index to be used to normalize the pilot data for prevailing market volatility, for which the Exchange proposes to work with the Commission to identify an index it believes would be more suitable to the NDXPM Pilot Program.[22] The Exchange also reiterated its belief that the proposal could benefit investors to the extent it attracts trading from opaque over-the-counter markets to an exchange-listed market and could offer investors additional flexibility.[23]

IV. Discussion and Commission Findings

After careful consideration of the proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[24] and, in particular, the requirements of Section 6 of the Act.[25] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[26] which requires that an exchange have rules designed to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest, to allow Phlx to conduct a limited, and carefully monitored, pilot as proposed.

As noted in the Order Instituting Proceedings, the Commission has had concerns about the potential 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, including for cash-settled derivatives contracts based on a broad-based index.[27] In particular, the Commission sought input from commenters to inform its evaluation of whether P.M.-settled, cash-settled index options such as NDXPM could impact volume and volatility on the underlying cash equities markets at the close of the trading day, and the potential consequences this might have for investors and the overall stability of the markets.[28] The potential impact today remains unclear, given the significant changes in the closing procedures of the primary markets in recent decades. The Commission is mindful of the historical experience with the impact of P.M. settlement of cash-settled index derivatives on the underlying cash markets, but recognizes that these risks may be mitigated today by the enhanced closing procedures that are now in use at the primary equity markets.

For the reasons described below, the Commission believes that Phlx's proposed NDXPM Pilot Program is designed to mitigate concerns regarding P.M. settlement and will provide additional trading opportunities for investors while providing the Commission with data to monitor the effects of NDXPM and the impact of P.M. settlement on the markets. To assist the Commission in assessing any potential impact of a P.M.-settled NASDAQ–100 index option on the options markets as well as the underlying cash equities markets, Phlx will be required to submit data to the Commission in connection with the Pilot Program. The Commission believes that Phlx's proposed Pilot Program, together with the data and analysis that Phlx will provide to the Commission, will allow Phlx and the Commission to monitor for and assess any potential for adverse market effects of allowing P.M. settlement for Nasdaq–100 index options, including on the underlying component stocks. In particular, the data collected from Phlx's NDXPM Pilot Program will help inform the Commission's consideration of whether the Pilot Program should be modified, discontinued, extended, or permanently approved. 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 on a timely basis if warranted.

The Exchange represents that it has adequate surveillance procedures to monitor trading in these options thereby helping to ensure the maintenance of a fair and orderly market, and has represented that it has sufficient capacity to handle additional traffic associated with this new listing.[29]

For the reasons discussed above, the Commission finds that Phlx's proposal is consistent with the Act, including Section 6(b)(5) thereof, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. In light of the enhanced closing procedures at the underlying markets and the potential benefits to investors discussed by the Exchange in the Notice,[30] the Commission finds that it is appropriate and consistent with the Act to approve Phlx's proposal on a pilot basis. The collection of data during the Pilot Program and Phlx's active monitoring of any effects of NDXPM on the markets will help Phlx and the Commission assess any impact of P.M. settlement in today's market.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–Phlx–2017–04), as modified by Amendment Nos. 1 and 2, be, and hereby is, approved, subject to a pilot period set to expire on the earlier of: (1) Twelve months following the date of the first listing of NDXPM; or (2) December 29, 2018.

[19] *See id.*

[20] *See* Phlx Letter II at 2–4.

[21] *See id.* at 4–5.

[22] *See id.* at 5–6.

[23] *See id.* at 7.

[24] 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).

[25] 15 U.S.C. 78f.

[26] 15 U.S.C. 78f(b)(5).

[27] *See* Order Instituting Proceedings, *supra* note 7, at 21589. *See also* Securities Exchange Act Release Nos. 64599 (June 3, 2011), 76 FR 33798, 33801–02 (June 9, 2011) (order instituting proceedings to determine whether to approve or disapprove a proposed rule change to allow the listing and trading of SPXPM options); 65256 (September 2, 2011), 76 FR 55969, 55970–76 (September 9, 2011) (order approving proposed rule change to establish a pilot program to list and trade SPXPM options); and 68888 (February 8, 2013), 78 FR 10668, 10669 (February 14, 2013) (order approving the listing and trading of SPXPM on CBOE).

[28] *See* Order Instituting Proceedings, *supra* note 7, at 21589.

[29] *See* Notice, *supra* note 3, at 9261. In addition, the Commission notes that Phlx would have access to information through its membership in the Intermarket Surveillance Group with respect to the trading of the securities underlying the Nasdaq–100 index, as well as tools such as large options positions reports to assist its surveillance of NDXPM options. In approving the proposed rule change, the Commission also has relied upon the Exchange's representation that it has the necessary systems capacity to support new options series that will result from this proposal. *See id.*

[30] *See id.* at 9262.

[31] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16639 Filed 8–7–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81286; File No. SR–NSCC–2017–804]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Advance Notice To Expand the Application of the Family-Issued Securities Charge

August 2, 2017.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Act''),[2] notice is hereby given that on July 10, 2017, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–NSCC–2017–804 (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

The Advance Notice consists of amendments to the NSCC Rules and Procedures (''Rules'') [4] in order to (i) expand the application of NSCC's existing family-issued securities charge [5] to apply to all Members, as described below, and (ii) include a definition of ''Family-Issued Security'' as a security that was issued by a Member or by an affiliate of that Member, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

(B) Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of Proposed Changes

Currently, in calculating its Members' required deposits to the Clearing Fund, NSCC excludes positions in Family-Issued Securities of certain Members from its parametric volatility Clearing Fund component (''VaR Charge''), and instead charges an amount calculated by multiplying the absolute value of the long, net unsettled positions in that Member's Family-Issued Securities by a percentage that is no less than 40 percent (''FIS Charge''). The FIS Charge is currently only applied to Members that are rated 5, 6, or 7 on the Credit Risk Rating Matrix (''CRRM''). The proposed change would expand the application of the FIS Charge to the positions in Family-Issued Securities of all Members to help NSCC cover the specific wrong-way risk posed by Family-Issued Securities, as described further below.[6] Therefore, NSCC is proposing to amend (i) Rule 1 (Definitions and Descriptions) to add a definition of ''Family-Issued Security,'' and (ii) Procedure XV (Clearing Fund Formula and Other Matters) to expand the application of the FIS Charge to all Members by moving the description of FIS Charge from Section I.(B)(1) to Sections I.(A)(1) and I.(A)(2) in order to make clear that the FIS Charge would be included as a component of the Clearing Fund formula calculated for all Members.

As a central counterparty, NSCC occupies an important role in the securities settlement system by interposing itself between counterparties to financial transactions and thereby reducing the risk faced by participants and contributing to global financial stability. The effectiveness of a central counterparty's risk controls and the adequacy of its financial resources are critical to achieving these risk-reducing goals. In that context, NSCC continuously reviews its margining methodology in order to ensure the reliability of its margining in achieving the desired coverage. In order to be most effective, NSCC must take into consideration the risk characteristics specific to certain securities when margining those securities.

Among the various risks that NSCC considers when evaluating the effectiveness of its margining methodology are its counterparty risks and identification and mitigation of ''wrong-way'' risk, particularly specific wrong-way risk, defined as the risk that an exposure to a counterparty is highly likely to increase when the creditworthiness of that counterparty deteriorates. [7] NSCC has identified an exposure to specific wrong-way risk when it acts as central counterparty to a Member with respect to positions in Family-Issued Securities. In the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC.

In 2015, NSCC proposed to address its exposure to specific wrong-way risk in two ways.[8] First, NSCC proposed to apply the FIS Charge to its Members that are rated a 5, 6, or 7 on the CRRM (*i.e.,* Members on the Watch List).[9]

[32] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] On July 10, 2017, NSCC filed this Advance Notice as a proposed rule change (SR–NSCC–2017–010) with the Commission pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b–4, 17 CFR 240.19b–4. A copy of the proposed rule change is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[4] Terms not defined herein are defined in the Rules, *available at www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] The family-issued securities charge is currently described in Procedure XV, Section I.(B)(1) of the Rules, *supra* note 4.

[6] Members that do not trade in Family-Issued Securities would not be subject to the FIS Charge.

[7] *See Principles for financial market infrastructures,* issued by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions 47 n.65 (April 2012), *available at http://www.bis.org/publ/cpss101a.pdf.*

[8] *See* Securities Exchange Act Release No. 76077 (October 5, 2015), 80 FR 61256 (October 9, 2015), (SR–NSCC–2015–003) (''FIS Phase 1 Rule Change'').

[9] As part of its ongoing monitoring of its membership, NSCC utilizes the CRRM to rate its risk exposures to its Members based on a scale from 1 (the strongest) to 7 (the weakest). Members that fall within the higher risk rating categories (*i.e.,* 5, 6, and 7) are placed on NSCC's ''Watch List,'' and may be subject to enhanced surveillance or additional margin charges, as permitted under the Rules. *See* Rule 2B, Section 4 and Procedure XV, Section I.(B)(1) of the Rules, *supra* note 4. *See also* Securities Exchange Act Release No. 80734 (May 19, 2017), 82 FR 24174 (May 25, 2017), (SR–DTC–2017–002, SR–FICC–2017–006, SR–NSCC–2017–

Continued

Today, following implementation of the FIS Phase 1 Rule Change, the FIS Charge is applied by excluding positions in Family-Issued Securities of those Members from NSCC's VaR Charge, and instead charging an amount calculated by multiplying the absolute value of the long net unsettled positions in that Member's Family-Issued Securities by a percentage.[10] That percentage is no less than 40 percent and up to 100 percent, and is determined by NSCC based on the Member's rating on the CRRM and on the type of Family-Issued Securities submitted to NSCC. As such, under Procedure XV (1) fixed income securities that are Family-Issued Securities are charged a haircut rate of no less than 80 percent for Members that are rated 6 or 7 on the CRRM, and no less than 40 percent for Members rated 5 on the CRRM; and (2) equity securities that are Family-Issued Securities are charged a haircut rate of 100 percent for Members that are rated 6 or 7 on the CRRM, and no less than 50 percent for Members that are rated 5 on the CRRM. Members that have a rating on the CRRM of 1 through 4 are not currently subject to the FIS Charge. As stated above, Family-Issued Securities present NSCC with specific wrong-way risk such that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. Therefore, the FIS Charge is applied to the unsettled long positions in Family-Issued Securities, which are the positions that NSCC would close out following a Member default, as opposed to the short positions in net unsettled securities. The haircut rates were calibrated based on historical corporate issue recovery rate data, and address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default.

The FIS Charge is currently applied only to Members on the Watch List because these Members present a heightened credit risk to NSCC or have demonstrated higher risk related to their ability to meet settlement, and, as such, at the time the FIS Phase 1 Rule Change was proposed, NSCC believed there was a clear and more urgent need to address NSCC's exposure to specific wrong-way risk presented by these Members' positions in Family-Issued Securities.

Second, NSCC proposed to further evaluate its exposure to wrong-way risk presented by positions in Family-Issued Securities by reviewing the impact of expanding the application of the FIS Charge to positions in Family-Issued Securities of all Members.[11] Following its evaluation, NSCC has determined that the risk characteristics to be considered when margining Family-Issued Securities extend beyond Members' creditworthiness. More specifically, exposure to specific wrong-way risk is based on the correlation to the default of the issuer Member, and NSCC may face this risk with respect to positions in Family-Issued Securities of all of its Members, not only those Members on the Watch List. As such, in order to more effectively mitigate its exposure to specific wrong-way risk, NSCC is proposing to apply the FIS Charge to positions in Family-Issued Securities of all Members.

In order to implement this proposal, NSCC would amend Procedure XV to move the FIS Charge from Section I.(B)(1), where it is currently described as an additional deposit for Members on surveillance, to Sections I.(A)(1) and (2), to include the FIS Charge as a component of the Clearing Fund formula that is calculated for each Member.[12] Under the proposed change, the calculation of the FIS Charge would not change as applied to Members that are rated 5, 6, or 7 on the CRRM. NSCC is proposing to revise the description of the FIS Charge to include Members that are rated 1 through 4 on the CRRM.[13] Specifically, NSCC is proposing to amend the description of the FIS Charge in Procedure XV such that (1) fixed-income securities that are Family-Issued Securities would be charged a haircut rate of no less than 80 percent for Members that are rated 6 or 7 on the CRRM, and no less than 40 percent for Members that are rated 1 through 5 on the CRRM; and (2) equities that are Family-Issued Securities would be charged a haircut rate of 100 percent for Members rated 6 or 7 on the CRRM, and no less than 50 percent for Members that are rated 1 through 5 on the CRRM.

The proposed change would also amend NSCC Rule 1 (Definitions and Descriptions) to include a definition of Family-Issued Securities in order to provide more clarity to the Rules. Under the proposed change, ''Family-Issued Security'' would be defined as a security that was issued by a Member or an affiliate of that Member.

Expected Effect on and Management of Risk

By expanding the application of the FIS Charge to all Members, the proposed change would more allow NSCC to more effectively mitigate its exposure to specific wrong-way risk as posed by Family-Issued Securities. As described above, Family-Issued Securities present NSCC with specific wrong-way risk such that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. The FIS Charge addresses this risk by using haircut rates that are calibrated based on historical corporate issue recovery rate data, and address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default. Because NSCC may face specific wrong-way risk with respect to positions in Family-Issued Securities of all of its Members, the proposed change to expand the FIS Charge to all Members would reduce NSCC's exposure to specific wrong-way risk.

By mitigating specific wrong-way risk for NSCC as described above, the proposed change would also mitigate risk for Members because lowering the risk profile for NSCC would in turn lower the risk exposure that Members may have with respect to NSCC in its role as a central counterparty.

Consistency With the Clearing Supervision Act

The stated purpose of Title VIII of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[14] Section 805(a)(2) of the Clearing Supervision Act[15] also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like NSCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act[16] states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to, among

002) (approving proposed changes to the CRRM methodology).

[10] Procedure XV (Clearing Fund Formula and Other Matters), Section I.(B)(1), *supra* note 4.

[11] FIS Phase 1 Rule Change, *supra* note 8.

[12] Procedure XV, Sections I.(A)(1) and (2) and I.(B), *supra* note 4.

[13] Members that are not rated on the CRRM are not subject to the FIS Charge and would not be subject to the FIS Charge under the proposed change.

[14] 12 U.S.C. 5461(b).

[15] 12 U.S.C. 5464(a)(2).

[16] 12 U.S.C. 5464(b).

other things, promote robust risk management.

NSCC believes that the proposed change is consistent with Section 805(b) of the Clearing Supervision Act because it is designed to promote robust risk management. By enhancing the margin methodology applied to Family-Issued Securities of all Members, the proposal would assist NSCC in collecting margin that more accurately reflects NSCC's exposure to a Member that clears Family-Issued Securities and would assist NSCC in its continuous efforts to improve the reliability and effectiveness of its risk-based margining methodology by taking into account specific wrong-way risk. By assisting NSCC in more effectively mitigating its exposure to specific wrong-way risk, the proposal is designed to promote robust risk management, consistent with Section 805(b) of the Clearing Supervision Act.[17]

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act[18] and Section 17A of the Act.[19] Rule 17Ad–22 requires registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[20] For the reasons set forth below, NSCC believes the proposed change is consistent with Rules 17Ad–22(e)(4)(i), and (e)(6)(i) and (v), each promulgated under the Act.[21]

Rule 17Ad–22(e)(4)(i) under the Act requires, in part, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[22] The specific wrong-way risk presented by Family-Issued Securities is the risk that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. The haircut rates of the FIS Charge more accurately reflect this risk because they were calibrated based on historical corporate issue recovery rate data, and, therefore, address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default. In this way, NSCC has determined that the margining methodology used in calculating the FIS Charge more accurately reflects the risk characteristics of Family-Issued Securities than applying its VaR Charge, and would permit NSCC to more accurately identify, measure, monitor and manage its credit exposures to those Members with positions in Family-Issued Securities. Further, by expanding the application of the FIS Charge to all Members, the proposed change would assist NSCC in collecting and maintaining financial resources that reflect its credit exposures to those Members. Therefore, NSCC believes the proposed change is consistent with Rule 17Ad–22(e)(4)(i).

Rule 17Ad–22(e)(6)(i) under the Act requires, in part, that each covered clearing agency that provides central counterparty services establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[23] Rule 17Ad–22(e)(6)(v) under the Act requires, in part, that each covered clearing agency that provides central counterparty services establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.[24]

As stated above, Family-Issued Securities present NSCC with specific wrong-way risk that, in the event that a Member with unsettled long positions in Family-Issued Securities defaults, NSCC would close out those positions following a likely drop in the credit-worthiness of the issuer, possibly resulting in a loss to NSCC. Therefore, the haircut rates were calibrated based on historical corporate issue recovery rate data, and address the risk that the Family-Issued Securities of a Member would be devalued in the event of that Member's default, and would more accurately reflect the risk characteristics of Family-Issued Securities than applying its VaR Charge. In this way, the proposal would assist NSCC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of Family-Issued Securities. Additionally, NSCC believes application of the FIS Charge to positions in Family-Issued Securities of all Members is an appropriate method for measuring its credit exposures, because the FIS Charge accounts for the risk factors presented by these securities, *i.e.* the risk that these securities would be devalued in the event of a Member default. Therefore, NSCC believes the proposed change is consistent with Rule 17Ad–22(e)(6)(i) and (v).

III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its Web site of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notice

[17] *Id.*

[18] 12 U.S.C. 5464(a)(2).

[19] 17 CFR 240.17Ad–22 (''Rule 17Ad–22'').

[20] *Id.*

[21] 17 CFR 240.17Ad–22(e)(4) and (e)(6).

[22] 17 CFR 240.17Ad–22(e)(4)(i).

[23] 17 CFR 240.17Ad–22(e)(6)(i).

[24] 17 CFR 240.17Ad–22(e)(6)(v).

is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2017–804 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2017–804. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2017–804 and should be submitted on or before August 23, 2017.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16631 Filed 8–7–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81292; File No. SR–BOX–2016–48]

Self-Regulatory Organizations; BOX Options Exchange LLC; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Adopt Rules for an Open-Outcry Trading Floor

August 2, 2017.

I. Introduction

On November 16, 2016, BOX Options Exchange LLC (the ''Exchange'' or ''BOX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules for an open-outcry trading floor. The proposed rule change was published for comment in the **Federal Register** on December 05, 2016.[3] The Commission received three comment letters on the proposed rule change.[4] On January 10, 2017, the Commission extended the time period within which to approve, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to March 05, 2017.[5] On February 21, 2017, the Commission received a response letter from the Exchange, as well as Amendment No. 1 to the proposed rule change.[6] On March 1, 2017, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[7] In response to the Order Instituting Proceedings, the Commission received five additional comment letters.[8] On May 17, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the original filing, as modified by Amendment No.1, in its entirety.[9] On May 18, 2016, the Commission extended the time period for Commission action on the proceedings to determine whether to disapprove the proposed rule change to August 2, 2017.[10] Amendment No. 2 was published for comment in the **Federal Register** on May 23, 2017.[11] On May 25, 2017, the Commission received a second response letter from the Exchange.[12] The Commission received two comment letters in response to the publication of Amendment No. 2.[13] On July 14, 2017, the Commission received a third response letter from the Exchange.[14] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Exchange proposes to adopt rules that would allow for open-outcry trading on BOX's physical trading floor, located in Chicago (''Trading Floor'') as described below.[15]

A. BOX Floor Procedure

The Exchange proposes to allow two categories of market participants (''Floor Participants'') [16] to transact business on the Trading Floor.[17] One of these categories of market participants

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79421 (November 29, 2016), 81 FR 87607 (''Notice'').

[4] *See* letters to Brent J. Fields, Secretary, Commission, from Angelo Evangelou, Deputy General Counsel, The Chicago Board Options Exchange, Inc. (''CBOE''), dated January 10, 2017 (''CBOE Letter I''); Steve Crutchfield, Head of Market Structure, CTC Trading Group, LLC (''CTC Trading''), dated December 31, 2016 (''CTC Letter I''); and Joan C. Conley, Senior Vice President and Corporate Secretary, The Nasdaq Stock Market LLC (''Nasdaq''), dated December 22, 2016 (''Nasdaq Letter I'').

[5] *See* Securities Exchange Act Release No. 79768, 82 FR 4956 (January 17, 2017).

[6] *See* letter to Brent J. Fields, Secretary, Commission, from Lisa J. Fall, President, Exchange, received February 21, 2017 (''BOX Response Letter I''), and Amendment No. 1, dated February 21, 2017.

[7] *See* Securities Exchange Act Release No. 80134, 82 FR 12864 (March 7, 2017) (''Order Instituting Proceedings'').

[8] *See* letters to Brent J. Fields, Secretary, Commission, from Angelo Evangelou, Deputy General Counsel, CBOE, dated April 21, 2017 (''CBOE Letter II''); Steve Crutchfield, Head of Market Structure, CTC Trading, dated April 13, 2017 (''CTC Letter II''); John Kinahan, CEO, Group One Trading, LP, dated April 11, 2017 (''Group One Letter''); Elizabeth King, General Counsel and Corporate Secretary, New York Stock Exchange, dated March 28, 2017 (''NYSE Letter''); and Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, dated March 27, 2017 (''Nasdaq Letter II'').

[9] *See* Amendment No. 2, dated May 17, 2017.

[10] *See* Securities Exchange Act Release No. 80719, 82 FR 23935 (May 24, 2017).

[11] *See* Securities Exchange Act Release No. 80720 (May 18, 2017), 82 FR 23657 (''Notice of Amendment No. 2'').

[12] *See* letter to Brent J. Fields, Secretary, Commission, from Lisa J. Fall, President, Exchange, received May 25, 2017 (''BOX Response Letter II'').

[13] *See* letters to Brent J. Fields, Secretary, Commission, from Steve Crutchfield, Head of Market Structure, CTC Trading, dated July 10, 2017 (''CTC Letter III''); and Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, dated July 6, 2017 (''Nasdaq Letter III'').

[14] *See* letter to Brent J. Fields, Secretary, Commission, from Lisa J. Fall, President, Exchange, received July 14, 2017 (''BOX Response Letter III'').

[15] *See* proposed BOX Rule 100(a)(67).

[16] *See* proposed BOX Rule 100(a)(26).

[17] *See* proposed BOX Rule 100(a)(67).

consists of individuals (''Floor Broker'') [18] who will be registered as such with the Exchange and who will be permitted to accept and handle options orders, including representing such orders on the Trading Floor and entering those orders using the BOX Order Gateway (''BOG'') [19] for execution in the Exchange's automated trading system (the ''Trading Host'').[20] The second category of market participants consists of Options Participants of the Exchange located on the Trading Floor who receive permission from the Exchange to trade in options for their own account (''Floor Market Makers'').[21]

Contemporaneously upon receipt of an order and prior to the announcement of an order in the trading crowd, a Floor Broker wishing to execute an order will be required to record certain information about the order in the Floor Broker's order entry mechanism.[22] Specifically, the Floor Broker will be required to record: (i) The order type and order receipt time; (ii) the option symbol; (iii) buy, sell, cross or cancel; (iv) call, put, complex (*i.e.,* spread, straddle), or contingency order; (v) number of contracts; (vi) limit price or market order or, in the case of a multi-leg order, net debit or credit, if applicable; (vii) whether the transaction is to open or close a position; and (viii) the Options Clearing Corporation clearing number of the broker-dealer that submitted the order.[23]

The Floor Broker will then be required to ascertain that at least one Floor Market Maker is present in the Crowd Area [24] and announce the order to the trading crowd, in a process called open outcry.[25] During open outcry, Floor Market Makers physically located in the Crowd Area will be permitted to express interest in trading against the initiating order.[26] To do so, a Floor Market Maker will be required to verbalize that he is ''in'' after a Floor Broker announces an order, even if a Floor Market Maker had previously provided a valid quote prior to the Floor Broker's announcement of the order.[27] A Floor Market Maker will be considered ''out'' on a bid or offer if he does not affirmatively respond to the Floor Broker who announces the order, provided that the Floor Broker will be required to give a Floor Participant a reasonable amount of time within which to respond.[28]

Under the proposal, after an order is announced to the trading crowd, the Floor Broker will be permitted to submit a Qualified Open Outcry Order (''QOO Order'') through the BOG to the Trading Host for execution. QOO Orders are two-sided orders [29] comprised of an ''initiating side'' (the ''agency order''), which must be filled in its entirety, and a ''contra-side,'' which must guarantee the full size of the agency order.[30] The order announced by the Floor Broker on the Trading Floor will be considered the agency order. At the time of the announcement, the Floor Broker may be representing only that agency order (*i.e.,* a single-sided or unmatched order) on the Trading Floor in order to seek a contra-side, or the Floor Broker may already have a contra-side that guarantees the full size of that agency order.[31] If the Floor Broker does not have a contra-side and is therefore soliciting interest from the trading crowd when the initiating side is announced or to the extent the trading crowd provides a better price, the contra-side of the QOO Order will be the solicited interest from the trading crowd; [32] otherwise, the Floor Broker interest will be the contra-side of the QOO Order, subject to the allocation procedure as described below.[33]

For a non-complex QOO Order, the execution price must be equal to or better than the National Best Bid or Offer (''NBBO'').[34] A Complex QOO Order may be executed at a price without giving priority to equivalent bids or offers in the individual series legs on the initiating side, provided at least one options leg betters the corresponding bid or offer on the BOX Book by at least one minimum trading increment.[35] Under the proposed rules, an Options Exchange Official [36] will be required to certify that the Floor Broker adequately announced the QOO Order to the trading crowd.[37]

Once a QOO Order is submitted through the BOG, it would be immediately processed by the Trading Host.[38] The order would be executed based on market conditions at the time that the order is received by the Trading Host and in accordance with the Exchange's rules.[39] If there is an ongoing auction in the option series when the QOO Order is received by the Trading Host the QOO Order will be rejected.[40]

Under the proposal, the highest bid (lowest offer) in the trading crowd will have priority.[41] If there are two or more bids (offers) for the same options contract that represent the highest bid (lowest offer), priority will be afforded to such bids (offers) in the sequence in which they are made.[42] If a Floor Broker's bid or offer is accepted by more than one Floor Participant, the Floor Broker will be required to designate the priority order of the Floor Participants based on when each Floor Participant responds.[43] Starting with the Floor Participant with first priority, each Floor Participant will be entitled to buy or sell as many contracts as the Floor Broker may have available to trade until the Floor Broker's order has been filled

[18] *See* proposed BOX Rule 7540.

[19] *See* proposed BOX Rules 100(b)(2) and 7580(e).

[20] *See* BOX Rule 100(a)(66).

[21] *See* proposed BOX Rule 8510(b).

[22] *See* proposed BOX Rule 7580(e).

[23] *See* proposed BOX Rule 7580(e)(1).

[24] *See* proposed BOX Rules 100(a)(67) and 7580(a).

[25] *See* proposed BOX Rules 7600(b) and 7580(e)(2). This will be required whether the Floor Broker is representing a single-sided order and is soliciting contra-side interest, or the Floor Broker has sufficient interest to match against the order already. *See* proposed BOX Rule 7580(e)(2).

[26] *See* proposed BOX Rule IM–8510–2(b). It will be considered conduct inconsistent with just and equitable principles of trade for any Floor Broker or Floor Market Maker to intentionally disrupt the open outcry process. *See* proposed BOX Rule IM–7580–4.

[27] A Floor Broker will be permitted to request a market prior to announcing an order on the Trading Floor (''Market Probe''). When a Floor Broker announces a Market Probe, any responses from Floor Participants will be public to all Floor Participants. When a Floor Broker conducts a Market Probe, he must probe all Floor Participants. *See* Notice of Amendment No. 2, *supra* note 11, at 23662 n.75.

[28] *See* proposed BOX Rule 100(b)(5). A ''reasonable amount of time'' will be interpreted on a case-by-case basis by an Options Exchange Official, based on the current market conditions and trading activity on the Trading Floor. *See id.*

[29] A Floor Participant who wishes to place a limit order on the BOX Book will be required to submit such order electronically. *See* proposed BOX Rules IM–7580–1 and IM–8510–8. The BOX Book is defined as the electronic book of orders on each single option series maintained by the Trading Host. *See* BOX Rule 100(a)(10).

[30] *See* proposed BOX Rule 7600(a)(1).

[31] *See* proposed BOX Rule IM–7600–4. If a Floor Broker is holding two agency orders, he will choose which order will be the initiating side. *See* proposed BOX Rule 7580(e)(2).

[32] *See* proposed BOX Rule 7600(a)(1).

[33] *See id.*

[34] *See* proposed BOX Rule 7600(c).

[35] *See* proposed BOX Rule 7600(c).

[36] *See* proposed BOX Rule 100(b)(6). The QOO Order will not be deemed executed until it is processed by the Trading Host. *See* proposed BOX Rule 7600(c).

[37] *See* proposed BOX Rule 7600(b).

[38] *See* proposed BOX Rule 100(b)(2). Under the proposal, orders on the Trading Floor will not route to an away exchange and may not be considered in the determination of the opening price or participate in the opening trade. *See* proposed BOX Rules 7070(d) and 7600(e).

[39] *See* proposed BOX Rule 7600(a). Once a Floor Broker submits a QOO Order to the BOG, neither the submitting Floor Broker, nor anyone else, will be allowed to alter the terms of the QOO Order. *See* proposed BOX Rule 7600(c).

[40] *See* proposed BOX Rule 7600(a)(5). A Complex QOO Order will not be rejected if there is an ongoing auction in the options series of some, but not all, of the components of the Complex QOO Order. *See id.*

[41] *See* proposed BOX Rule 7610(a) and (b).

[42] *See id.*

[43] *See* proposed BOX Rule 7610(d)(2).

entirely.[44] However, if bids or offers are made by more than one Floor Participant simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.[45] If Floor Participants provide a collective response to a Floor Broker's request for a market in order to fill a large order, the order will be allocated pro rata pursuant to proposed BOX Rule 7610(d)(5).[46] The Floor Broker will be responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor Broker's bid, offer, or call for a market.[47]

The following BOX Book interest will have priority over the contra-side of the QOO Order: (i) Any equal or better priced bids or offers on the BOX Book that were submitted on behalf of persons who are not brokers or dealers in securities (''Public Customers'');[48] (ii) any non-Public Customer bids or offers on the BOX Book that are ranked ahead of such equal or better priced Public Customer bids or offers; and (iii) any non-Public Customer bids or offers on the BOX Book that are priced better than the proposed execution price.[49] When submitting the QOO Order to the BOG, a Floor Broker may, but will not be required to, provide a ''book sweep size.''[50] The book sweep size is the number of contracts, if any, of the initiating side of the QOO Order that the Floor Broker is willing to relinquish to orders and quotes on the BOX Book that have priority pursuant to proposed BOX Rule 7600(c).[51] If the number of contracts on the BOX Book that have priority over the contra-side of the QOO Order is greater than the book sweep size set by the Floor Broker, then the QOO Order will be rejected.[52]

The proposed rule change also describes the allocation process for QOO Orders.[53] First, under the proposal, the initiating side of the QOO Order will match against any bids or offers on the BOX Book that have priority as outlined above, provided that an adequate book sweep size is provided by the Floor Broker.[54] The remaining balance, if any, will be matched against the contra-side of the QOO Order, regardless of whether the Floor Broker is ultimately entitled to receive an allocation.[55] If the QOO Order is of a certain size, which size will be determined by the Exchange on an option by option basis (at a size that may not be less than 500 contracts), the Floor Broker will be entitled to cross, after all equal or better priced Public Customer bids or offers on the BOX Book and any non-Public Customer bids or offers that are ranked ahead of such Public Customer bids or offers are filled, 40% of the remaining contracts in the order.[56] Next, Floor Participants that respond with interest when the executing Floor Broker announces the QOO Order to the trading crowd will be allocated.[57] If interest remains, the remaining quantity of the initiating side of the QOO Order will be allocated to the executing Floor Broker.[58] If the QOO Order executes, the executing Floor Broker will be responsible for providing the correct allocations of the initiating side of the QOO Order to an Options Exchange Official or his or her designee, if necessary, who will properly record the order in the Exchange's system.[59] Floor Brokers also will be responsible for handling all orders in accordance with the Exchange's priority and trade-through rules.[60]

The Floor Participants who established the market will have priority over all other orders that were not announced in the trading crowd at the time that the market was established (but not over Public Customer orders on the BOX Book or any non-Public Customer orders that have priority over such Public Customer orders on the BOX Book) and will maintain priority over such orders except for orders that improve upon the market.[61]

B. Additional Floor Broker Obligations

A Floor Broker handling an order will be required to use due diligence to cause the order to be executed at the best price or prices available to him in accordance with the Rules of the Exchange.[62] All orders provided to Floor Brokers will be considered Not Held Orders[63] unless otherwise specified by the Floor Broker's client.[64] However, the proposed rule change would prohibit Floor Brokers from engaging in certain discretionary transactions.[65] An Options Floor Broker

[44] *See id.* For Complex QOO Orders, Floor Participants will not be permitted to give a competing bid or offer for one component of the order to prevent the Complex QOO Order from being executed. *See* proposed BOX Rule IM–7600–1(d).

[45] *See* proposed BOX Rule 7610(d)(4). Each Floor Participant on parity will receive an equal number of contracts, to the extent mathematically possible.

[46] Specifically, proposed BOX Rule 7610(d)(5) states that if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the Floor Participants will each receive a share of the order that is equal to the size of their respective bids. However, if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis, with the Floor Participants in the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of all bids or offers.

[47] *See* proposed BOX Rule 7610(d)(1). Any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by an Options Exchange Official. *See id.* An Options Exchange Official may nullify a transaction or adjust its terms if the Official determines the transaction to have been in violation of Exchange's Rules. *See id.*

[48] *See* BOX Rule 100(a)(51).

[49] *See* proposed BOX Rule 7600(c). For Complex QOO Orders, the following Complex Order Book interest will have priority: (i) Any equal or better priced Public Customer Complex bids or offers on the Complex Order Book or any non-Public Customer Complex bids or offers on the Complex Order Book that are ranked ahead of such equal or better priced Public Customer Complex bids or offers; and (ii) any non-Public Customer bids or offers on the Complex Order Book that are priced better than the proposed execution price. *See id.*

[50] *See* proposed BOX Rule 7600(h).

[51] *See* proposed BOX Rule 7600(h). Proposed BOX Rule IM–7600–3 states that it will be considered conduct inconsistent with just and equitable principles of trade for any Floor Broker to use the book sweep size for the purpose of violating the Floor Broker's duties and obligations.

[52] *See* proposed BOX Rule 7600(h).

[53] *See also* Notice of Amendment No. 2, *supra* note 11, at 23668–74 (providing a detailed description and examples of how orders will be allocated).

[54] *See* proposed BOX Rule 7600(d)(1) and (2).

[55] *See* proposed BOX Rule 7600(d)(3).

[56] *See* proposed BOX Rule 7600(f). *See also* proposed BOX Rule 7600(d)(3)(i). In determining whether a Complex QOO Order satisfies the eligible order size requirement, the Complex QOO Order must contain one leg which, standing alone, is for the eligible size or greater. *See* proposed BOX Rule IM–7600–1(d).

[57] *See* proposed BOX Rule 7600(d)(3)(ii).

[58] *See* proposed BOX Rule 7600(d)(3)(iii).

[59] *See* proposed BOX Rule 7600(d)(4). The executing Floor Broker must provide the correct allocations to an Options Exchange Official or his or her designee, in writing, without unreasonable delay. *See id.*

[60] *See* proposed BOX Rule 7600. Proposed BOX Rule 8510(h)(4) provides that it will be considered conduct inconsistent with just and equitable principles of trade for: (i) A Floor Broker to allocate orders other than in accordance with the Exchange's priority rules applicable to floor trades; (ii) a Floor Participant to enter into any agreement with another Floor Participant concerning allocation of trades; or (iii) a Floor Participant to harass, intimidate or coerce another Floor Participant to make or refrain from making any complaint or appeal.

[61] *See* proposed BOX Rule IM–7600–1(c). It will be the responsibility of the Floor Participant that established the market to alert the Floor Broker of the fact that the Floor Participant has priority when an order is announced. *See id.*

[62] *See* proposed BOX Rule 7570.

[63] *See* proposed BOX Rule 7600(g). A Not Held Order gives a Floor Broker discretion as to the price or time at which such order will be executed. *See id.*

[64] *See* proposed BOX Rule IM–7580–3.

[65] *See* proposed BOX Rules 7590, IM–7590–1 and IM–7590–2. Proposed BOX Rule 7590 will prohibit Floor Brokers from executing or causing to be executed any order or orders for which the Floor Broker is vested with discretion as to: (i) The choice of the class of options to be bought or sold; (ii) the number of contracts to be bought or sold; or (iii) whether any such transaction shall be one of purchase or sale. Proposed BOX Rule IM–7590–1 will prohibit the holding or acceptance of certain orders that could be interpreted as allowing the

handling a contingency order that is dependent upon the price of the underlying security will be responsible for satisfying the dependency requirement on the basis of the last reported price of the underlying security in the primary market that is generally available on the Trading Floor at any given time.[66]

Floor Brokers will be required to make reasonable efforts to ascertain whether each order entrusted to them is for the account of a Public Customer or a broker-dealer.[67] For broker-dealer orders, a Floor Broker must advise the trading crowd of the fact that it is an order for the account of a broker-dealer prior to open outcry and prior to submitting the order for execution, as well as note such fact in the Floor Broker's system.[68] Additionally, a Floor Broker will be required to inform the trading crowd when he is representing an order for a Market Maker and will be required to comply with proposed BOX Rules IM–8510–6 and IM–8510–9.[69] For Public Customer orders, a Floor Broker must disclose all securities that are components of the Public Customer order which is subject to crossing before requesting bids and offers for the execution of all components of the order.[70]

C. Floor Market Makers

Proposed BOX Rule 8500(a) will require a Floor Market Maker to register as a Market Maker with the Exchange, and such registration could be revoked or suspended at any time. The proposed rules will require Floor Market Maker transactions to constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market.[71] Additionally, a Floor Market Maker will be prohibited from effecting on the Exchange purchases or sales of any option in which such Floor Market Maker is registered, for any account in which he or his Options Participant is directly or indirectly interested, unless such dealings are reasonably necessary to permit such Floor Market Maker to maintain a fair and orderly market.[72]

A Floor Market Maker will have certain affirmative obligations in classes of options contracts to which the Floor Market Maker is assigned.[73] Floor Market Makers will be subject to a Continuous Open Outcry Quoting Obligation, which will require Floor Market Makers to provide a two-sided market complying with the quote spread parameter requirements contained in proposed Rule 8510(d)(1), in response to any request for a quote by a Floor Broker or Options Exchange Official.[74] Floor Market Maker quotations must be in a size of at least 10 contracts.[75] Additionally, Floor Market Makers will be subject to a maximum option price change, and will not be permitted to bid more than $1 lower and/or offer more than $1 higher than the last preceding transaction price for a particular option contract.[76]

The proposed rule change imposes other limitations on Floor Market Makers. Specifically, subject to certain exceptions, no Floor Market Maker will be allowed to initiate an Exchange options transaction while on the Trading Floor for any account in which he has an interest and execute as Floor Broker an off-floor order in options on the same underlying interest during the same trading session, or retain priority over an off-floor order while establishing or increasing a position for an account in which he has an interest while on the Trading Floor of the Exchange.[77] The proposed rule change also describes what Floor Market Maker orders will be considered ''on the Floor'' and which Floor Market Maker orders will be subject to certain restrictions of the proposed rule change.[78]

D. Options Exchange Officials and Supervision of the Trading Floor

Under the proposed rule change, the President of the Exchange and his or her designated staff will be responsible for monitoring: (1) Dealings of Floor Participants and their associated persons on the Trading Floor, and of the premises of the Exchange immediately adjacent thereto; (2) the activities of Floor Participants and their associated persons, in addition to establishing standards and procedures for the training and qualification of Floor Participants and their associated persons active on the Trading Floor; (3) all Trading Floor employees of Floor Brokers and Floor Market Makers, and will make and enforce such rules with respect to such employees as may be deemed necessary; (4) all connections or means of communications with the Trading Floor, and may require the discontinuance of any such connection or means of communication when, in the opinion of the President or his or her designee, it is contrary to the welfare or interest of the Exchange; (5) the location of equipment and the assignment and use of space on the Trading Floor; and (6) relations with other options exchanges.[79]

The proposed rule change provides for the designation of Options Exchange Officials. Specifically, any Exchange employee or officer may be designated as an Options Exchange Official and will have the ability to recommend and enforce rules and regulations relating to trading access, order, decorum, health, safety and welfare on the Exchange.[80] An Options Exchange Official will be required to, among other things, certify that Floor Brokers adequately announce QOO Orders to the trading crowd,[81] resolve disputes regarding a Floor Broker's determination of time priority sequence,[82] and properly record the allocation of the initiating side of a QOO Order as provided by a Floor Broker.[83] Options Exchange Officials will also be

Floor Broker discretion with respect to whether to purchase or sell options. Proposed BOX Rule IM–7590–2 will prohibit Floor Brokers from exercising any discretion with respect to the order of an options market maker registered on any exchange.

[66] *See* proposed BOX Rule 7580(b).

[67] *See* proposed BOX Rule IM–7580–2.

[68] *See* proposed BOX Rule IM–7580–2.

[69] *See* proposed BOX Rule 7580(d). Proposed BOX Rule 8510–6 will allow the Exchange to temporarily limit the number of Floor Market Makers in the trading crowd who are establishing or increasing a position when the interests of a fair and orderly market require such limitation. Proposed BOX Rule 8510–9 will prohibit a Floor Market Maker from acquiring a ''long'' position by pairing off with a sell order before the opening, unless all off-Floor bids at that price are filled.

[70] *See* proposed BOX Rule IM–7600–1(a). A Floor Broker crossing a Public Customer order with an order that is not a Public Customer order, when providing for a reasonable opportunity for the trading crowd to participate in the transaction, will be required to disclose the Public Customer order that is subject to crossing. *See* proposed BOX Rule IM–7600–1(e).

[71] *See* proposed BOX Rule 8510(a).

[72] *See* proposed BOX Rule 8500(c).

[73] *See* proposed BOX Rule 8510(d). Proposed BOX Rule 8610(e) describes the obligations of a Floor Market Maker with respect to classes of options to which the Floor Market Maker is not appointed. The obligations of a Floor Market Maker with respect to those classes of options to which he is assigned will take precedence over his other activities. *See* proposed BOX Rule IM–8510–1.

[74] *See* proposed BOX Rule 8510(c)(2). Quotations in open outcry may not be made with $5 bid/ask differentials provided in BOX Rule 8040(a)(7). *See* proposed BOX Rule 8510(d)(1).

[75] *See* proposed BOX Rule 8510(c)(2).

[76] *See* proposed BOX Rule 8510(d)(2). This standard will not ordinarily apply if the price per share of the underlying stock or Exchange-Traded Fund Share has changed by more than $1 since the last preceding transaction for the particular option contract. *See id.*

[77] *See* proposed BOX Rule 8510(f) and (g).

[78] *See* proposed BOX Rules IM–8510–3(b), IM–8510–4 and IM–8510–5.

[79] *See* proposed BOX Rule 100(b)(1). The Exchange states that it will submit a separate filing to the Commission to amend the Exchange's Minor Rule Violation Plan in BOX Rule 12140 to cover minor rule violations on the Trading Floor. The Exchange represents that it will not commence operation of the Trading Floor until the Exchange's Minor Rule Violation Plan has been amended to include violations which may occur on the Trading Floor.

[80] *See* proposed BOX Rule 100(b)(6).

[81] *See* proposed BOX Rule 7600(b).

[82] *See* proposed BOX Rule 7610(d)(1).

[83] *See* proposed BOX Rule 7600(d)(4).

allowed to temporarily limit the number of Floor Market Makers in the trading crowd who are establishing or increasing a position when the interests of a fair and orderly market are served by such limitation,[84] as well as call upon a Floor Market Maker to make a market.[85]

In addition, disputes occurring on and relating to the Trading Floor, if not settled by agreement between the interested Floor Participants, will be settled by an Options Exchange Official.[86] Options Exchange Officials will have the authority to direct the execution of an order, adjust the transaction terms or Participants to an executed order, or nullify a transaction if the Options Exchange Official determines the transaction to have been in violation of Exchange Rules.[87] All Options Exchange Official rulings are effective immediately and failure to comply with such a ruling may result in an additional violation.[88] All Options Exchange Official rulings are reviewable by the Chief Regulatory Officer or his or her designee, and the proposed rule change provides procedures regarding review of rulings by Options Exchange Officials.[89]

E. Clerks

The Exchange will permit Clerks—defined as any registered on-floor persons employed by or associated with a Floor Broker or Floor Market Maker and who are not eligible to effect transactions on the Trading Floor as a Floor Market Maker or Floor Broker—on the Trading Floor.[90] Proposed Rule 7630 sets forth identification requirements, registration requirements, and provisions relating to conduct on the Trading Floor with respect to Clerks.[91] A Floor Broker Clerk will be permitted to enter an order under the direction of a Floor Broker by way of any order handling device.[92] A Floor Market Maker Clerk will be permitted to communicate verbal market information (*i.e.,* bid, offer, and size) in response to requests for such information, provided that such information is communicated under the direct supervision of his or her Floor Market Maker employer, and such bids and offers are binding as if made by the Floor Market Maker employer.[93] All Trading Floor personnel, including clerks, interns, stock execution clerks and any other associated persons, of a Floor Participant not required to register pursuant to proposed Rule 2020(h) must be registered as a ''Floor Employee'' under ''BOX'' on Form U4.[94]

F. Communications and Equipment

The Exchange proposes BOX Rule 7660 to govern communications and equipment on the Trading Floor, including registration requirements, restrictions on use, capacity and functionality, recordkeeping requirements and exchange liability. Among other things, the proposed rule will allow Floor Market Makers to use their own cellular and cordless phones to place calls to any person at any location (whether on or off the Trading Floor) and allow Floor Brokers to use any communication device on the Trading Floor and in the Crowd Area to receive orders, provided that the Exchange's audit trail and record retention requirements are satisfied.[95] In addition, the Exchange represents that it has established a Communications Devices policy and violations of this policy may result in disciplinary action by the Exchange.[96] Proposed BOX Rule 7660 and any relevant Exchange policy are intended to apply to all communication and other electronic devices on the Trading Floor, including, but not limited to, wireless, wired, tethered, voice, and data.[97]

G. Other Changes

The Exchange's proposal includes several other provisions relating to the proposed Trading Floor, including Trading Floor hours;[98] Trading Floor admittance;[99] the term ''on the Floor,'' which means the Trading Floor, the rooms, lobbies and other premises immediately adjacent thereto made available by the Exchange for use by Floor Participants generally; other rooms, lobbies and premises made available by the Exchange primarily for use by Floor Participants; and the telephone and other facilities in any such place;''[100] and the location of Floor Participants on the Trading Floor.[101] The proposal also includes provisions relating generally to Floor Participants, including the registration of Floor Participants;[102] excepting Floor Participants who do not conduct business with the public from brokers' blanket bond requirements;[103] requiring Floor Participants to procure and maintain liability insurance;[104] generally prohibiting trading for joint accounts without the prior approval of the exchange;[105] prohibiting Floor Participants from relying on an exemption under Section 11(a)(1)(G) of the Act;[106] and procedures governing the resolution of uncompared trades between Floor Participants.[107] To accommodate new definitions relevant to the proposed Trading Floor, the Exchange is also renumbering certain subparts of Rule 100, Definitions, and making corresponding changes to update cross-references to such definitions where appropriate.[108]

H. Trading Floor Data

The Exchange represents that it will provide the Commission with data related to activity on the Trading Floor.[109] Specifically, the Exchange will provide information regarding size, participation, price improvement by spread and trade type, effective spread, Floor Market Maker participation, and BOX Book participation.[110] Firm-specific information will be provided to the Commission on a confidential basis each quarter and non-firm specific information will be made available to the public quarterly on the Exchange's Web site.[111]

III. Discussion and Commission Findings

After careful review and consideration of the comments received, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the

[84] *See* proposed BOX Rule IM–8510–6.

[85] *See* proposed BOX Rule 8510(d). *See also* proposed BOX Rule 7610(d)(3).

[86] *See* proposed BOX Rule 7640(a). The Exchange will be permitted to determine that an Options Exchange Official is ineligible to participate in a particular ruling where it appears such Options Exchange Official has a conflict of interest. *See* proposed BOX Rule IM–7640–1.

[87] *See* proposed BOX Rule 7640(b).

[88] *See* proposed BOX Rule 7640(c).

[89] *See* proposed BOX Rule 7640(e).

[90] *See* proposed BOX Rule 7630(a).

[91] *See* proposed BOX Rule 7630. Among other things, proposed BOX Rule 7630 will require Clerks to display prominently at all time badge(s) supplied to them by the Exchange while on the Trading Floor and specifies that Clerks will be primarily located at a workstation assigned to his employer unless the Clerk is (i) entering or leaving the Trading Floor; (ii) transmitting, correcting, or checking the status of an order or reporting or correcting an executed trade; or (iii) supervising other Clerks. *See id.*

[92] *See* proposed BOX Rule 7630(e).

[93] *See* proposed BOX Rule 7630(f)(2).

[94] *See* proposed BOX Rule 2020(i).

[95] *See* proposed BOX Rule 7660(h) and (i).

[96] *See* proposed BOX Rule IM–7660–1.

[97] *See* proposed BOX Rule IM–7660–2.

[98] *See* proposed BOX Rule 7500.

[99] *See* proposed BOX Rules 7510 and 7520.

[100] *See* proposed BOX Rule IM–8510–3(a).

[101] *See* proposed BOX Rule IM–8510–7.

[102] *See* BOX Rule 2020(h).

[103] *See* proposed BOX Rule 4180(g).

[104] *See* proposed BOX Rule 7230(f).

[105] *See* proposed BOX Rule 7650.

[106] *See* proposed BOX Rule IM–7600–5.

[107] *See* proposed BOX Rule 8530(a).

[108] *See, e.g.,* proposed BOX Rules 100, 7130, 7150, 7245.

[109] *See* Notice of Amendment No. 2, *supra* note 11, at 23679.

[110] *See id.*

[111] *See id.*

requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[112] In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Sections 6(b)(1) and 6(b)(5) of the Act.[113] Section 6(b)(1) of the Act [114] requires an 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. Section 6(b)(5) of the Act [115] 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 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, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

As previously noted, the Commission received three comment letters on the initial proposed rule change, and one response letter from BOX.[116] Subsequently, the Commission received five comment letters on the Order Instituting Proceedings and the proposed rule change as modified by Amendment No. 1, as well as a second response letter from BOX. Of these five comment letters, two urged disapproval of the proposed rule change,[117] while the remaining three requested clarity or more specificity on various aspects of the proposal.[118] Finally, in response to the publication of Amendment No. 2, two prior commenters submitted additional letters and BOX submitted an additional response letter.[119] One of these commenters raised concerns with several aspects of the proposal for which it requested further consideration,[120] while the other commenter urged disapproval of the proposed rule change, as amended.[121]

A. BOX Floor Participation

1. Floor Market Maker Presence Requirement

Four commenters expressed concern that BOX's initial proposal would allow a Floor Broker to execute trades on the Trading Floor when no Floor Market Makers are present.[122] One commenter argued that options exchange trading floors grew from crowded equities or futures floors and therefore were certain to have robust and active market maker populations.[123] The commenter further stated that the lack of rules to ensure robust market maker participation on the proposed Trading Floor would provide a way for internalizers to avoid exposure to market makers who might otherwise provide price improvement, which is contrary to investor protection and the public interest.[124] One commenter stated that allowing orders to be crossed without meaningful exposure to other market participants deprives floor orders of the opportunity for exposure to a bona fide open-outcry auction process.[125] Another commenter suggested that orders should be exposed to any Floor Participant that is eligible to interact as part of the crossing transaction.[126] Another commenter argued that any proposed new options trading floor should be required to electronically expose all orders originating on the trading floor to qualified market participants off the trading floor before such orders would be permitted to execute.[127]

One commenter suggested that prior to the commencement of trading, BOX should be required to demonstrate that the Trading Floor is sufficiently populated with market participants, particularly Floor Market Makers, to ensure that a reasonable amount of liquidity exists.[128] This commenter further noted that a well-populated trading floor is important for fostering price competition.[129]

In response to concerns about the potential for trades to be executed in the absence of a Floor Market Maker on the Trading Floor, BOX submitted Amendment No. 2 to require a Floor Broker to ascertain that at least one Floor Market Maker is present in the trading crowd prior to announcing an order to the trading crowd.[130] In addition, in response to concerns regarding a potential lack of order exposure to other Floor Participants, BOX stated that proposed Rules 7580(e)(2) and 7600(b) require all orders from the Trading Floor to be exposed to the trading crowd prior to execution in the Trading Host and to require a Floor Broker to give Floor Participants a reasonable amount of time to respond once an order is announced to the trading crowd.[131] BOX further stated that the proposal has always required orders to be exposed to the trading crowd prior to execution.[132] In addition, BOX stated that it plans to launch its trading operations on the Trading Floor as soon as the requisite number of Floor Market Makers and Floor Brokers are registered and able to participate on the Trading Floor.[133]

The Commission notes that the Exchange amended its proposal to require a Floor Broker to ascertain that at least one Floor Market Maker be present in the Crowd Area prior to announcing an order to the trading crowd. The Commission believes that this requirement—along with the BOX's other amendments to the proposal, such as the changes to the crowd area presence requirement and the Floor Market Maker quoting requirement, described below—are designed to increase the opportunities for another Floor Participant to compete to interact with the orders on the Trading Floor.[134]

2. Crowd Area Presence Requirement

Four commenters raised concerns with the proposed requirement in BOX's initial proposed rule change that a Floor Market Maker must be physically located in a specific Crowd Area to be deemed participating in the Crowd.[135]

[112] 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).

[113] 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78f(b)(5).

[114] 15 U.S.C. 78f(b)(1).

[115] 15 U.S.C. 78f(b)(5).

[116] These comments, as well as BOX's initial response, are described in detail in the Order Instituting Proceedings. *See* Order Instituting Proceedings, *supra* note 7.

[117] *See* CBOE Letter II and CTC Letter II, *supra* note 8.

[118] *See* Group One Letter, Nasdaq Letter II, and NYSE Letter, *supra* note 8.

[119] *See* Nasdaq Letter III and CTC Letter III, *supra* note 13 and BOX Response Letter III, *supra* note 14.

[120] *See* Nasdaq Letter III, *supra* note 13.

[121] *See* CTC Letter III, *supra* note 13.

[122] *See* CTC Letters I & II, CBOE Letter II, Group One Letter, and Nasdaq Letter II, *supra* notes 4 and 8.

[123] *See* CTC Letter I, *supra* note 4, at 4.

[124] *See id.* at 4–5. *See* also Group One Letter and NYSE Letter, *supra* note 8.

[125] *See* Group One Letter, *supra* note 8, at 2.

[126] *See* NYSE Letter, *supra* note 8, at 2.

[127] *See* CTC Letter I, *supra* note 4, at 3–4.

[128] *See* Nasdaq Letter III, *supra* note 13, at 3.

[129] *See id.* at 2.

[130] *See* BOX Response Letter II, *supra* note 12, at 3. *See also* Notice of Amendment No. 2, *supra* note 11, at 23663.

[131] *See* BOX Response Letter II, *supra* note 12, at 2–3.

[132] *See id.*

[133] *See* BOX Response Letter III, *supra* note 14, at 2.

[134] *See* proposed BOX Rule 7580(a).

[135] *See* CBOE Letters I & II, CTC Letters I & II, Group One Letter, and NYSE Letter, *supra* notes 4 and 8.

Two commenters expressed concern regarding the proposed rule change's description and application of physical boundary requirements.[136] One commenter suggested that this aspect of the proposed rule change would limit potential opportunities for market maker price improvement.[137] Another commenter suggested that the proposal to allow a Floor Market Maker to participate in a crowd only if he or she is physically located in a specific Crowd Area ''at the time the order is represented in the crowd'' is designed to discourage Floor Market Makers from providing liquidity.[138] The commenter suggested that the Exchange could instead open a Trading Floor comprised of a single Crowd Area with rules permitting all Floor Market Makers to trade all issues as a means to help ensure opportunities for price improvement.[139] Another commenter stated that, without knowledge of the order, it will be impossible for market makers to position themselves in advance in the appropriate pit, and therefore, multiple crowd areas will limit the ability of Floor Market Makers to participate, potentially threatening the best execution of customer orders.[140]

In response to these concerns, BOX submitted Amendment No. 2 to provide that the Trading Floor will be comprised of a single Crowd Area.[141] BOX further noted that all options classes will be located in that Crowd Area, and Floor Brokers must expose orders via open outcry in the Crowd Area.[142]

The Commission believes that providing all Floor Market Makers the opportunity to respond to all orders on the Trading Floor is designed to increase the potential for competition for an order, which may increase the quality of order executions on BOX.[143]

3. Market Makers Must Opt-In To Participate

Four commenters expressed concern about the aspect of the proposal that requires market makers to affirmatively opt-in to participate in a floor trade.[144] One commenter opposed the concept of assuming a market maker to be ''out'' by default and expressed their preference that BOX be required to allow Floor Market Makers to respond to a Floor Broker's request for a quote before a cross is executed.[145] Another commenter stated its belief that the proposed default ''out'' is unnecessary so long as the proposed rules support ample opportunities for Floor Market Maker participation.[146] Another commenter requested clarification as to what would constitute participation for Floor Market Makers,[147] while a different commenter suggested that a Floor Market Maker's failure to bid or offer in ''immediate and rapid succession'' could be treated the same way as the Floor Market Maker not responding at all—with the result that the Floor Market Maker will be considered ''out'' on the trade.[148]

In response, BOX submitted Amendment No. 2 to provide that a Floor Broker will be required to give Floor Participants a reasonable amount of time to respond once the Floor Broker announces an order to the trading crowd.[149] BOX also clarified that after a Floor Broker announces an order, a Floor Participant must verbalize that he is ''in'' even if the Floor Participant has already provided a valid quote prior to the announcement of the order by the Floor Broker.[150]

The Commission believes the proposal should ensure that Floor Participants may respond to orders announced in the trading crowd. In addition, the Commission notes that Amendment No. 2 will require an Options Exchange Official to certify that a Floor Broker adequately announced a QOO Order to the trading crowd.[151]

4. Floor Market Maker Quoting Requirement

Five commenters expressed concern with the proposed requirement in BOX's initial proposed rule change that Floor Market Makers would have to quote electronically in all classes offered on the proposed Trading Floor.[152] One commenter stated that the imposition of an electronic quoting requirement could limit potential market maker price improvement.[153] This commenter further argued that the quoting requirement creates a barrier to entry that they believe will limit market-maker participation on the Trading Floor.[154] Another commenter suggested that the proposed requirement appears to impose a costly and unprofitable burden on would-be market makers, which will discourage them from participating on the Trading Floor and which in turn will create a trading floor which is devoid of opportunities for meaningful order exposure and price improvement.[155] This commenter further argued that the proposed rule change will discourage competitive market maker participation on the proposed Trading Floor.[156] In response to commenters' concerns, in Amendment No. 2, BOX eliminated the requirement to quote electronically in the classes that the Floor Market Maker quotes on the Trading Floor.[157]

The Commission believes that BOX's proposal to require a Floor Market Maker to provide a two-sided market that complies with certain delineated quote spread parameters in response to any request for quote by a Floor Broker or Options Exchange Official, is consistent with the Act.

B. Single-Sided Floor Orders

Two commenters raised concerns about the inability of Floor Participants to represent single-sided orders on the proposed BOX Floor.[158] One commenter noted that some language in Amendment No. 1 ''welcomes'' Floor Brokers to bring unmatched orders to the Trading Floor, while other language stated that ''orders on the floor must be two-sided orders,'' which the commenter found to be contradictory and confusing.[159] In response, the Exchange submitted Amendment No. 2 to specifically state that Floor Brokers will be permitted to bring an unmatched order to the Trading Floor in order to seek a contra-side, and then enter the order into the BOX system using the QOO order type.[160]

Specifically, the Exchange noted that, as was true in its initial proposed rule

[136] *See* CBOE Letter I and CTC Letter I, *supra* note 4.

[137] *See* CBOE Letter I, *supra* note 4, at 2, n.2.

[138] *See* CTC Letter I, *supra* note 4, at 6.

[139] *See id.*

[140] *See* Group One Letter, *supra* note 8, at 2.

[141] *See* BOX Response Letter II, *supra* note 12, at 2.

[142] *See id.*

[143] *See* proposed BOX Rule 100(b)(5).

[144] *See* CTC Letter II, Group One Letter, Nasdaq Letter II, and NYSE Letter, *supra* note 8.

[145] *See* CTC Letter II, *supra* note 8, at 6.

[146] *See* Group One Letter, *supra* note 8, at 3.

[147] *See* Nasdaq Letter II, *supra* note 8, at 3.

[148] *See* NYSE Letter, *supra* note 8, at 2.

[149] *See* Notice of Amendment No. 2, *supra* note 11, at 23659. *See also* proposed BOX Rule 100(b)(5).

[150] *See* Notice of Amendment No. 2, *supra* note 11, at 23660. In addition, the Exchange noted that at least one other options exchange with an options floor also requires members of its trading crowd to respond to participate in a floor crossing transaction. *See* CBOE Rule 6.74(a). *See also* NYSE Arca Rule 6.47(a); and NYSE American LLC Rule 934NY.

[151] *See* proposed BOX Rule 7600(b).

[152] *See* CBOE Letters I & II, CTC Letters I & II, Group One Letter, Nasdaq Letters I & II, and NYSE Letter, *supra* notes 4 and 8.

[153] *See* CBOE Letter I, *supra* note 4, at 2 n.2.

[154] *See* CBOE Letter II, *supra* note 8, at 2.

[155] *See* CTC Letter I, *supra* note 4, at 5. *See also* CTC Letter III, *supra* note 13, at 2.

[156] *See* CTC Letter I, *supra* note 4, at 5.

[157] *See* Notice of Amendment No. 2, *supra* note 11, at 23658. *See also* BOX Response Letter II, *supra* note 12, at 2.

[158] *See* CBOE Letter I and CTC Letters I & II, *supra* notes 4 and 8.

[159] *See* CTC Letter II, *supra* note 8, at 8.

[160] *See* proposed BOX Rules 7580(e)(2), 7600(b), IM–7600–4. *See also* BOX Response Letter I, *supra* note 6, at 4.

change, Floor Brokers will be permitted to bring single-sided orders to the Trading Floor in order to find contra-side liquidity.[161] The Commission notes that the Exchange's proposed rules state that Floor Brokers will have the ability to represent single-sided orders on the Trading Floor, will be permitted to solicit bids and offers from Floor Market Makers to provide a contra-side order, and set forth rules governing the handling and execution of single-sided orders originating on the Trading Floor.

C. Trade-Through and Priority Rules

One commenter stated that the proposed rule change is unclear regarding how the proposed BOG would systematically prevent violations of priority and trade-through requirements.[162] This commenter further stated that it is unclear whether exposure in the trading crowd is required and whether the market against which trades are validated differs depending on the method of execution.[163] Specifically, the commenter claimed that the proposed rule change does not sufficiently describe the timing and process for validating trades.[164] In addition, this commenter stated that the proposed rule change does not discuss the specific manner in which surveillance reviews transactions for violations of Exchange rules or the manner in which the BOG or the Exchange enforces compliance for on-floor transactions.[165]

In response to the commenter's concern that the proposed rule change is unclear about whether the BOG would systematically prevent violations of priority and trade-through requirements, BOX stated that the method by which trades are received and processed by the Trading Host serves as a safeguard to prevent violations of the priority and trade-through requirements.[166] BOX also noted that the execution does not occur when there is verbal agreement in the trading crowd, but rather when the executing Floor Broker sends the order from the Trading Floor to the Trading Host for execution.[167] BOX further stated that it structured the proposal to prevent trade-through violations and protect priority interest on the BOX Book.[168]

In response to the commenter's suggestion that the proposed rule change does not adequately discuss surveillance, BOX stated that it currently has surveillance procedures in place to monitor compliance with the Exchange's rules and that these procedures will be used to monitor transactions originating from the Trading Floor.[169]

In response to BOX's assurances regarding its proposed surveillance procedures, the commenter stated that it is unclear whether BOX would have real-time surveillance coverage on the trading floor in addition to other types of surveillance coverage.[170] The commenter suggested that real-time surveillance is necessary to monitor the unique aspects of member floor trading, such as negotiating open-outcry trades, handling floor disputes, and maintaining the ability to manually intervene in the floor environment.[171]

In response, BOX stated that it will have both a real-time surveillance presence on the trading floor and other surveillance coverage.[172] BOX further noted that proposed Rule 7600(b) will require an Options Exchange Official to certify that a Floor Broker adequately announced a QOO Order to the trading crowd and stated that such certification is only possible if the Official is physically present on the Trading Floor.[173] Finally, BOX reiterated that because all orders from the Trading Floor will be processed by the Trading Host, the Exchange also will electronically monitor all orders from the Trading Floor in the same manner as it does with electronic orders.[174]

The Commission notes that the Exchange represents that the Trading Host will establish an electronic audit trail for options orders represented and executed by Floor Brokers, that according to the Exchange, will provide an accurate time-sequenced record of all orders from the Trading Floor, beginning with the receipt of an order by the Exchange and documenting all stages of the order.[175] The Commission believes that the proposed systematization of all orders submitted to the Trading Floor is designed to provide a more complete audit trail and allow the Exchange to better monitor compliance with applicable Commission regulations and Exchange Rules.[176] In addition, the Commission notes that the proposal requires all QOO Orders to be submitted through the BOG to be immediately processed by the Trading Host.[177] The Commission further notes that orders are not deemed executed until they are processed by the Trading Host. The Commission believes that the automation provided by the BOG and the Trading Host may benefit the Exchange, its members and users, and other market participants by, for example, producing more accurate and timely trade reports and should ensure compliance with trade-through and priority rules. For example, the Trading Host will automatically prohibit a QOO Order from executing if such execution would trade-through a better priced order on the BOX Book (and the Floor Broker does not provide an adequate book sweep size) or on another market.[178] In addition, processing and executing all QOO Orders by the Trading Host could provide a more accurate timestamp for audit trail and recordkeeping purposes than a manual alternative.[179] The Commission believes that the functionality provided by the BOG and the Trading Host is reasonably designed to assist Floor Participants in complying with applicable Commission rules and regulations, and with the Exchange's Rules.

D. Book Sweep

Three commenters expressed concern about the proposed ''book sweep size'' mechanism.[180] One commenter suggested that the book sweep size would be a feature that prevents executions of orders on the BOX Book.[181] The commenter further stated that the book sweep mechanism could prevent orders from executing in circumstances where there are orders on the BOX Book that could fill the order, possibly at a better price, and thus the mechanism potentially compromises its participants' compliance with best-execution obligations and unfairly discriminates against investors with

[161] *See* Notice of Amendment No. 2, *supra* note 11, at 23660.

[162] *See* Nasdaq Letter I, *supra* note 4, at 2. *See also* Nasdaq Letter II, *supra* note 8, at 3–4.

[163] *See* Nasdaq Letter I, *supra* note 4, at 2.

[164] *See id.*

[165] *See id.* at 3.

[166] *See* BOX Response Letter I, *supra* note 6, at 1–2. *See also* BOX Response Letter II, *supra* note 12, at 3 (stating that since the execution does not occur until the order is processed by the Trading Host, the system will enforce compliance with trade-through, priority, and other rules).

[167] *See* BOX Response Letter II, *supra* note 12, at 3.

[168] *See* BOX Response Letter I, *supra* note 6, at 2.

[169] *See id.*

[170] *See* Nasdaq Letter III, *supra* note 13, at 1–2.

[171] *See id.*

[172] *See* BOX Response Letter III, *supra* note 14, at 2.

[173] *See id.*

[174] *See id.*

[175] *See* Notice of Amendment No. 2, *supra* note 11, at 23661.

[176] *See* proposed BOX Rule 7580(e)(1).

[177] *See* proposed BOX Rule 100(b)(2).

[178] *See* proposed BOX Rule 7600.

[179] The Commission notes that the proposed rule change does not permit trades to occur on the Trading Floor if there is a malfunction with the Trading Host or related Trading Floor systems such as the BOG. *See* proposed BOX Rule 7580(e)(1).

[180] *See* CBOE Letter II, CTC Letters I, II, & III, and NYSE Letter, *supra* notes 4, 8 and 13.

[181] *See* CTC Letter I, *supra* note 4, at 7. *See also* CTC Letter III, note 13, at 3.

executable orders resting in the BOX Book.[182] Another commenter suggested that the book sweep size functionality could allow Floor Brokers to ensure the internalization of orders by not designating a book sweep size.[183]

In response to the commenters' concerns regarding the book sweep size aspect of the proposal, BOX stated that the book sweep size is a voluntary tool that will aid Floor Brokers in satisfying duties owed to their customers, such as best execution.[184] For example, according to BOX, when a Floor Broker needs an order to be executed immediately, the broker could opt either to provide a book sweep size equal to the entire size of the order, which provides liquidity to the BOX Book, or to provide an execution price that is better than the current best price on BOX, which presents an opportunity for potential price improvement.[185] BOX also noted that it believes functionality similar to the book sweep size mechanism is available on at least one other trading floor, so the book sweep size aspect of its proposal is not unique.[186] BOX further stated that any Floor Broker that uses the book sweep size for the purpose of violating his or her duties and obligations will be considered to have engaged in conduct inconsistent with just and equitable principles of trade.[187]

The Commission believes that the book sweep size functionality should provide Floor Brokers with an efficient mechanism to automatically execute orders (provided they designate a sufficient book sweep size) without having to send a separate order to clear orders on the BOX Book that have priority.

The Commission reminds broker-dealers that they have a legal duty to seek to obtain best execution of customer orders.[188] A broker-dealer's duty of best execution derives from common law agency principles and fiduciary obligations, and is incorporated in SRO rules and, through judicial and Commission decisions, the antifraud provisions of the federal securities laws.[189] The duty of best execution requires broker-dealers to periodically assess the quality of competing markets to assure that order flow is directed to the markets providing the most beneficial terms for their customer orders.[190] Broker-dealers must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices.[191] In doing so, broker-dealers must take into account price improvement opportunities, and whether different markets may be more suitable for different types of orders or particular securities.[192]

E. Compliance With Section 11(a) of the Act

One commenter expressed concern that BOX may not have adequately explained how options participants would comply with Section 11(a)(1) of the Act when effecting transactions through the BOG.[193] More specifically, this commenter noted that BOX did not explain how a BOX member that is the counterparty to a QOO Order would comply with Section 11(a) of the Act.[194] In response, BOX amended its proposal to help ensure compliance with Section 11(a)(1) of the Act.[195]

Section 11(a)(1) of the Act[196] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts''), unless an exception applies. Sections 11(a)(1)(A)–(I) of the Act[197] and the rules thereunder provide certain exemptions from this general prohibition, including the exemption set forth in Rule 11a2–2(T) under the Act.[198] The Exchange represents that its proposed rule change is consistent with Section 11(a) of the Act and the rules thereunder.[199] The Exchange also states that the proposed rule change would not limit in any way the obligation of a Participant to comply with Section 11(a) of the Act or the rules thereunder.[200]

The Commission notes that the Exchange proposes to adopt IM–7600–5, which states that a Participant shall not utilize the Trading Floor to effect any transaction for a covered account by relying on an exemption under Section 11(a)(1)(G) of the Act (''G Exemption'').[201] As the Exchange notes,

[182] *See* CTC Letter I, *supra* note 4, at 7–8. *See also* CTC Letter III, note 13, at 3.

[183] *See* CBOE Letter II, *supra* note 8, at 2.

[184] *See* BOX Response Letter I, *supra* note 6, at 3–4. *See also* BOX Response Letter II, *supra* note 12, at 3–4; BOX Response Letter III, *supra* note 14, at 3.

[185] *See* BOX Response Letter I, *supra* note 6, at 4.

[186] *See id. See also* BOX Response Letter II, *supra* note 12, at 4; BOX Response Letter III, *supra* note 14, at 3. BOX states that it believes the proposed book sweep size mechanism is comparable to the PHLX Floor Broker Management System.

[187] *See* BOX Response Letter II, *supra* note 8, at 4.

[188] *See, e.g., Newton* v. *Merrill, Lynch, Pierce, Fenner & Smith, Inc.,* 135 F.3d 266, 269–70, 274 (3d Cir.), cert. denied, 525 U.S. 811 (1998); Certain Market Making Activities on Nasdaq, Securities Exchange Act Release No. 40900 (Jan. 11, 1999) (settled case) (citing *Sinclair* v. *SEC,* 444 F.2d 399 (2d Cir. 1971); *In re Arleen Hughes,* 27 SEC 629, 636 (1948), aff'd sub nom. *Hughes* v. *SEC,* 174 F.2d 969 (D.C. Cir. 1949)). *See also* Order Execution Obligations, Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290 (Sept. 12, 1996) (''Order Handling Rules Release'').

[189] Order Handling Rules Release, *supra* note 188, at 48322. *See also Newton,* 135 F.3d at 270. Failure to satisfy the duty of best execution can constitute fraud because a broker-dealer, in agreeing to execute a customer's order, makes an implied representation that it will execute it in a manner that maximizes the customer's economic gain in the transaction. *See Newton,* 135 F.3d at 273 (''[T]he basis for the duty of best execution is the mutual understanding that the client is engaging in the trade—and retaining the services of the broker as his agent—solely for the purpose of maximizing his own economic benefit, and that the broker receives her compensation because she assists the client in reaching that goal.''); *In re Marc N. Geman,* Securities Exchange Act Release No. 43963 (Feb. 14, 2001) (citing *Newton,* but concluding that respondent fulfilled his duty of best execution). *See also* Payment for Order Flow, Securities Exchange Act Release No. 34902 (Oct. 27, 1994), 59 FR 55006, 55009 (Nov. 2, 1994) (''Payment for Order Flow Final Rules''). If the broker-dealer intends not to act in a manner that maximizes the customer's benefit when he accepts the order and does not disclose this to the customer, the broker-dealer's implied representation is false. *See Newton,* 135 F.3d at 273–274.

[190] Order Handling Rules Release, *supra* note 188, at 48322–33 (''In conducting the requisite evaluation of its internal order handling procedures, a broker-dealer must regularly and rigorously examine execution quality likely to be obtained from different markets or market makers trading a security.''). *See also Newton,* 135 F.3d at 271; Market 2000: An Examination of Current Equity Market Developments, at V–4 (SEC Division of Market Regulation January 1994) (''Without specific instructions from a customer, however, a broker-dealer should periodically assess the quality of competing markets to ensure that its order flow is directed to markets providing the most advantageous terms for the customer's order.''); Payment for Order Flow Final Rules, *supra* note 189, at 55009.

[191] Order Handling Rules, *supra* note 188 at 48323.

[192] *See id.*

[193] *See* NYSE Letter, *supra* note 8, at 5–6.

[194] *See id.*

[195] *See* BOX Response Letter II, *supra* note 12, at 4.

[196] 15 U.S.C. 78k(a)(1).

[197] 15 U.S.C. 78k(a)(1)(A)–(I).

[198] 17 CFR 240.11a2–2(T).

[199] *See* Notice of Amendment No. 2, *supra* note 11, at 23681.

[200] *See id.*

[201] 15 U.S.C. 78k(a)(1)(G). Section 11(a)(1)(G) of the Act provides an exemption from the general prohibition in Section 11(a)(1) of the Act for any transaction for a member's own account, provided that: (i) Such member is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, and whose gross income normally is derived principally from such business and related activities; and (ii) such transaction is effected in compliance with rules of the Commission which, as a minimum, assure that the transaction is not inconsistent with the maintenance of fair and orderly markets and yields

because no covered account transactions utilizing the Trading Floor may rely on the G Exemption, Participants utilizing the Trading Floor to effect transactions for covered accounts may only rely upon other exemptions to the Section 11(a)(1) prohibition.[202]

In addition to statutory exemptions, Rule 11a2–2(T) under the Act,[203] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once the order has been transmitted to the member performing the execution; [204] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor an associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Participants utilizing the Trading Floor may comply with the conditions of Rule 11a2–2(T) under the Act.[205]

Rule 11a2–2(T)'s first requirement is that orders for covered accounts be transmitted from off the exchange floor. The Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[206] The Exchange states that Floor Brokers will receive matched or unmatched orders either via telephone, or electronically to the Floor Broker's order entry mechanism.[207] Moreover, the Exchange states that a Participant could submit an order for a covered account from off the Trading Floor to an unaffiliated Floor Broker for representation on the Trading Floor and use the ''effect versus execute'' exemption (assuming the other conditions of the rule are satisfied).[208] The Commission notes that a Participant that submits an order for a covered account that utilizes the Trading Floor, and who wishes to rely on the ''effect versus execute'' exemption, must submit the order from off the Trading Floor.

Second, Rule 11a2–2(T) requires that neither the initiating member nor an associated person of the initiating member participate in the execution of the transaction at any time after the order for the transaction has been transmitted. The Exchange represents that at no time following the submission of an order utilizing the Trading Floor will the submitting Participant or any associated person of such Participant acquire control or influence over the result or timing of the order's execution.[209] In addition, the Exchange states that once a Floor Broker submits a QOO order to the BOG for execution, neither the Floor Broker nor anyone else may alter the terms of the order.[210] Moreover, when a Floor Broker submits a QOO Order for execution, the order will be executed in accordance with Exchange rules and based on market conditions of when the order is received by the Trading Host.[211] Accordingly, based on the Exchange's representations, the Commission believes that a Participant and its associated persons would not participate in the execution of an order submitted for execution utilizing the Trading Floor.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member that is not associated with the member initiating the order. According to the Exchange, to rely on the exemption in Rule 11a2–2(T), a Participant could submit an order for a covered account from off the Trading Floor to an unaffiliated Floor Broker.[212] The Exchange also states that a Participant relying on Rule 11a2–2(T) could not submit an order for a covered account to its ''house'' Floor Broker on the Trading Floor for execution.[213] The Commission notes that if a Participant sends its order from off the floor to an affiliated Participant that is on the floor, who then directs the order into the Trading Host for execution, the off-floor Participant may not rely on the exemption in Rule 11a2–2(T).

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[214] The

priority, parity, and precedence in execution to orders for the account of persons who are not members or associated with members of the exchange. *See also* 17 CFR 240.11a1–1(T) (setting forth requirements for relying on the G Exemption).

[202] *See* Notice of Amendment No. 2, *supra* note 11, at 23681. Section 11(a) of the Act and the rules thereunder provide other exemptions to the Section 11(a)(1) prohibition, including, for example, the ''effect versus execute'' exemption (as discussed below), the exemption for transactions by a dealer acting in the capacity of a market maker, and the exemption for transactions to offset a transaction made in error.

[203] 17 CFR 240.11a2–2(T).

[204] This prohibition also applies to associated persons of the initiating member. The member may, however, participate in clearing and settling the transaction.

[205] The Commission has previously found that the all-electronic transactions effected through the Trading Host are consistent with the requirements of Section 11(a) of the Act and Rule 11a2–2(T) thereunder. *See, e.g.,* Securities Exchange Act Release Nos. 72848 (August 14, 2014), 79 FR 49361 (August 20, 2014) (SR–BOX–2014–16) (order approving the Exchange's proposal to adopt new trade allocation algorithms for matching trades at the conclusion of the PIP and the COPIP); and 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (order granting the Exchange's application for registration as a national securities exchange). As part of the current proposal, the Exchange represents that the Trading Host will enforce trade-through and priority rules in the same manner for QOO orders as the Trading Host does for all other orders on the Exchange. *See* Notice of Amendment No. 2, *supra* note 11, at 23659.

[206] *See, e.g.,* Securities Exchange Act Release Nos. 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979); and 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (''1978 Release'').

[207] *See* Notice of Amendment No. 2, *supra* note 11, at 23666.

[208] *See id.* at 23681.

[209] *See id.* The Commission notes that a Participant may cancel or modify the order, or modify the instructions for executing the order. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as the modifications or cancellations are also transmitted from off the floor. *See* 1978 Release, *supra* note 206, at 11547 (stating that the ''non-participation requirement does not prevent initiating members from canceling of modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[210] *See* proposed Rule 7600(c) and Notice of Amendment No. 2, *supra* note 11, at 23666.

[211] *See* proposed Rule 7600(a) and Notice of Amendment No. 2, *supra* note 11, at 23665.

[212] *See* Notice of Amendment No. 2, *supra* note 11, at 23681.

[213] *See id.*

[214] In addition, Rule 11a2–2(T)(d) requires that, if a member or associated person is authorized by written contract to retain compensation in connection with effecting transactions for covered accounts over which the member or associated person thereof exercises investment discretion, the member or associated person must furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 206, at 11548 (stating that ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after

Continued

Commission notes that Participants and their associated persons trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.

F. Options Market Structure: Price Improvement, Fragmentation and Trading Floor Data

Three commenters expressed concern that the proposed rule change would negatively impact opportunities for orders to receive price improvement.[215] Specifically, one commenter stated that the proposed rule change is designed to minimize opportunities for market maker and public customer trading interest to interact with, and provide price improvement to, orders being crossed on the BOX floor.[216] This commenter asserts that the proposed rule change is designed to offer a frictionless crossing mechanism, which can be utilized to the detriment of customers.[217]

Two commenters expressed concern that the proposed rule change would increase fragmentation in the options trading market. One commenter stated that the proposed BOX floor would add an additional trading venue that firms, who have finite resources, would be required to staff and which would further fragment liquidity without offering anything unique or beneficial to customers.[218] Another commenter stated that opening a new trading floor will exacerbate the practice of ''venue shopping,'' and noted that the number of market making firms is limited, and that market making firms lack the resources necessary to staff an escalating number of physical trading floors with dedicated personnel.[219]

In response, BOX argues that concerns about the general success of options trading floors are beyond the scope of its proposal.[220] BOX further asserts that raising concerns about options trading floors either lacks merit or is an attempt to delay the approval of its proposal.[221] In addition, BOX commits to provide the Commission with data related to activity on the Trading Floor, specifically information regarding size, participation, price improvement by spread and trade type, effective spread, Floor Market Maker participation, and BOX Book participation.[222] This information could be used to evaluate, among other things, the levels of participation and amount of price improvement on the Trading Floor. Finally, BOX indicated that it believes a new trading floor will be good for the markets by providing increased competition which may lead to improvements in the market, which will inure to the benefit of all market participants.[223]

The Commission believes that the proposed rule change is consistent with the Act. Under the proposed rule change, the Exchange will establish an ''open outcry'' trading floor where orders will be sent to Floor Brokers who will represent those orders in an agency capacity, and who will be required to announce such orders to a trading crowd composed of Floor Market Makers prior to any execution. In this regard, the Commission notes that the Exchange made modifications to the initial proposal that are designed to remove or reduce the potential impediments to order interaction on the BOX Floor and which are designed to increase opportunities for price improvement. The Commission also notes that the data the Exchange has committed to provide may assist the Commission in assessing the level of participation in crossing transactions by market makers and other market participants, aside from the firm that initiated the cross, and to better review whether existing exchange rules appropriately allow for robust and beneficial competition on the options trading floors.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[224] that the proposed rule change (SR–BOX–2016–48), as modified by Amendment Nos. 1 and 2, be, hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[225]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16638 Filed 8–7–17; 8:45 am]

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deciding that such arrangements are suitable to their interests'').

[215] *See* CBOE Letters I & II, CTC Letters I & II, and Nasdaq Letter II, *supra* notes 4, 8 and 13.

[216] *See* CBOE Letter I, *supra* note 4, at 1–2.

[217] *See id.* at 2.

[218] *See* CBOE Response Letter I, *supra* note 4, at 1.

[219] *See* CTC Letter I, *supra* note 4, at 3.

[220] *See* BOX Response Letter I, *supra* note 6, at 4.

[221] *See id.*

[222] *See* Notice of Amendment No. 2, *supra* note 11, at 23679.

[223] *See* BOX Response Letter III, *supra* note 14, at 3–4.

[224] 15 U.S.C. 78s(b)(2).

[225] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81291; File No. SR–BatsEDGA–2017–19]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats EDGA Exchange, Inc.

August 2, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 24, 2017, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to EDGA Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

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 amend its fee schedule applicable to its equities trading platform (''EDGA Equities'') to re-name NYSE MKT as NYSE American throughout the fee schedule.

The Exchange also proposes to modify fees for orders routed to NYSE American in connection with changes made by NYSE American to its fee structure. As of July 24, 2017, NYSE American transitioned to a fully automated cash equities market. In connection with this transition, NYSE American updated its fee structure in a variety of ways, including to charge a fee to add non-displayed liquidity and to provide no rebate (nor charge any fee) to add displayed liquidity.[6]

The Exchange proposes to modify the fee structure for orders that are routed to and add liquidity at NYSE American, which yielded fee code 8 for displayed liquidity and fee code NA for non-displayed liquidity. Orders yielding fee code 8 previously received a rebate of $0.00150 per share and orders yielding fee code NA were not provided a rebate or charged any fee.

The Exchange proposes to continue to apply fee code 8 to orders that add displayed liquidity at NYSE American but to change the rate from a rebate to a fee, charging orders that yield fee code 8 a fee of $0.00020 per share.

The Exchange also proposes to remove NYSE American (previously NYSE MKT) from the list of venues where an order that adds non-displayed liquidity yields fee code NA. The Exchange does not propose to modify the rate applied to orders yielding fee code NA, but, as a result of this change, orders adding non-displayed liquidity at NYSE American will yield fee code NB instead, which is applied to all routed executions at an exchange not covered by Fee Code NA that adds non-displayed liquidity. Similarly, the Exchange does not propose to modify the rate applied to orders yielding fee code NB, which is currently a fee of $0.00300 per share.

The Exchange notes that the changes proposed above will not impact the current fee structure for orders that add displayed liquidity at NYSE American in securities priced below $1.00, which, pursuant to fee code 8 are provided without charge and without rebate. However, the proposed change to remove NYSE American from fee code NA will impact pricing for non-displayed orders routed to NYSE American that add liquidity. Specifically, consistent with other orders yielding fee code NB, orders in securities priced below $1.00 will be charged 0.30% of the total dollar value of an execution.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. At the outset, the Exchange notes that its proposal to refer to NYSE American is consistent with the Act as it will avoid confusion with the Exchange's fee schedule by reflecting NYSE MKT's new name. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes are designed to react to pricing changes at NYSE American, to avoid subsidizing routing to such venue. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, Inc. is voluntary.

The changes to fee code 8 and to remove NYSE American (NYSE MKT) from fee code NA are primarily designed to react to pricing changes at NYSE American, effective July 24, 2017. These changes are necessary to avoid providing routing services with pricing that effectively subsidizes routing to NYSE American. The Exchange's prior pricing model for orders routed to NYSE American was based on a fee structure that provided rebates for orders that added liquidity. The Exchange believes it is reasonable and fair and equitable to charge fees for orders routed to NYSE American that no longer receive a rebate but instead are either assessed a fee by NYSE American or are provided free of charge. The Exchange also believes the proposed rates are reasonable and not unfairly discriminatory in that they are consistent with other rates already charged by the Exchange. Finally, the Exchange believes the proposed changes are not unfairly discriminatory in that they are equally applicable to all Members that use the Exchange's routing services to add liquidity at NYSE American.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed changes to the Exchange's routing pricing burden competition, as they are based on the pricing on other venues. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and paragraph (f) of Rule 19b–4 thereunder.[10] 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,

[6] *See* SR–NYSEMKT–2017–43 (filed July 19, 2017), *available at:https://www.nyse.com/regulation/rule-filings?market=NYSE.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGA–2017–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGA–2017–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGA–2017–19 and should be submitted on or before August 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16637 Filed 8–7–17; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, August 10, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: August 3, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–16745 Filed 8–4–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81288; File No. SR–BatsBYX–2017–16]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats BYX Exchange, Inc.

August 2, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 24, 2017, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BYX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BYX Equities'') to re-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b-4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

name NYSE MKT as NYSE American throughout the fee schedule.

The Exchange also proposes to modify fees for orders routed to NYSE American in connection with changes made by NYSE American to its fee structure. As of July 24, 2017, NYSE American transitioned to a fully automated cash equities market. In connection with this transition, NYSE American updated its fee structure in a variety of ways, including to charge a fee to add non-displayed liquidity and to provide no rebate (nor charge any fee) to add displayed liquidity.[6]

The Exchange proposes to modify the fee structure for orders that are routed to and add liquidity at NYSE American, which yielded fee code 8 for displayed liquidity and fee code NA for non-displayed liquidity. Orders yielding fee code 8 previously received a rebate of $0.00150 per share and orders yielding fee code NA were not provided a rebate or charged any fee.

The Exchange proposes to continue to apply fee code 8 to orders that add displayed liquidity at NYSE American but to change the rate from a rebate to a fee, charging orders that yield fee code 8 a fee of $0.00020 per share.

The Exchange also proposes to remove NYSE American (previously NYSE MKT) from the list of venues where an order that adds non-displayed liquidity yields fee code NA. The Exchange does not propose to modify the rate applied to orders yielding fee code NA, but, as a result of this change, orders adding non-displayed liquidity at NYSE American will yield fee code NB instead, which is applied to all routed executions at an exchange not covered by Fee Code NA that adds non-displayed liquidity. Similarly, the Exchange does not propose to modify the rate applied to orders yielding fee code NB, which is currently a fee of $0.00300 per share.

The Exchange notes that the changes proposed above will not impact the current fee structure for orders that add displayed liquidity at NYSE American in securities priced below $1.00, which, pursuant to footnote 10, are provided without charge and without rebate. However, the proposed change to remove NYSE American from fee code NA will impact pricing for non-displayed orders routed to NYSE American that add liquidity. Specifically, consistent with other orders yielding fee code NB, pursuant to footnote 14, orders in securities priced below $1.00 will be charged 0.30% of the total dollar value of an execution.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. At the outset, the Exchange notes that its proposal to refer to NYSE American is consistent with the Act as it will avoid confusion with the Exchange's fee schedule by reflecting NYSE MKT's new name. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes are designed to react to pricing changes at NYSE American, to avoid subsidizing routing to such venue. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, Inc. is voluntary.

The changes to fee code 8 and to remove NYSE American (NYSE MKT) from fee code NA are primarily designed to react to pricing changes at NYSE American, effective July 24, 2017. These changes are necessary to avoid providing routing services with pricing that effectively subsidizes routing to NYSE American. The Exchange's prior pricing model for orders routed to NYSE American was based on a fee structure that provided rebates for orders that added liquidity. The Exchange believes it is reasonable and fair and equitable to charge fees for orders routed to NYSE American that no longer receive a rebate but instead are either assessed a fee by NYSE American or are provided free of charge. The Exchange also believes the proposed rates are reasonable and not unfairly discriminatory in that they are consistent with other rates already charged by the Exchange. Finally, the Exchange believes the proposed changes are not unfairly discriminatory in that they are equally applicable to all Members that use the Exchange's routing services to add liquidity at NYSE American.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed changes to the Exchange's routing pricing burden competition, as they are based on the pricing on other venues. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and paragraph (f) of Rule 19b–4 thereunder.[10] 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBYX–2017–16 on the subject line.

[6] *See* SR–NYSEMKT–2017–43 (filed July 19, 2017), *available at: https://www.nyse.com/regulation/rule-filings?market=NYSE.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

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–BatsBYX–2017–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2017–16 and should be submitted on or before August 29, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16634 Filed 8–7–17; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81294; File No. SR–NYSEArca–2017–40]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change in Connection With the Proposed Merger of Its Wholly Owned Subsidiary NYSE Arca Equities, Inc. With and Into the Exchange

August 2, 2017.

On June 2, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change, in connection with the proposed merger (''Merger'') of its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'') with and into the Exchange, to amend (1) Article III, Sections 3.01, 3.02 and 4.02 of the Amended and Restated NYSE Arca Bylaws; (2) certain Rules of the Exchange to facilitate the Merger and create a single rulebook covering options and equities; (3) the NYSE Arca Options Fee Schedule; and (4) the Schedule of Fees and Charges for Exchange Services. In addition, the Exchange proposed to remove the NYSE Arca Equities organizational documents, rules of NYSE Arca Equities, and NYSE Arca Equities Schedule of Fees and Charges for Exchange Services from the Exchange's rules and adopt a new fee schedule for the Exchange's equity market. The proposed rule change was published for comment in the **Federal Register** on June 20, 2017.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is August 4, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates September 18, 2017 as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2017–40).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–16640 Filed 8–7–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80929 (June 14, 2017), 82 FR 28157 (June 20, 2017).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Send all comments to Mary Frias, Loan Specialist, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Mary Frias, Loan Specialist, 202–401–8234, *mary.frias@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: For SBA Financial assistance programs, information regarding the assets and liabilities of certain owners, officers and

guarantors of the small business applicant benefiting from such assistance is used when analyzing the applicant's repayment abilities or creditworthiness. The information is also collected from applicants and participants in SBA's 8a/BD program to determine whether they meet the economic disadvantage requirements of the program.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

(1) *Title:* Personal Financial Statement.

Description of Respondents: Applicants and Participants in SBA's 7(a) loan programs, 504 loan programs, Disasters, 8(a) BD programs and WOSB.

Form Number: SBA Forms 413 7(a), 413–504/SBG, 413 Disaster, 413 8(a) and 413 WOSB.

Total Estimated Annual Responses: 371,108.

Total Estimated Annual Hour Burden: 391,812.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2017–16652 Filed 8–7–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10078]

Notice of Determinations; Culturally Significant Object Imported for Exhibition Determinations: ''Artist's Choice: David Hammons'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object to be included in the exhibition ''Artist's Choice: David Hammons,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Museum of Modern Art, New York, New York, from on or about October 7, 2017, until on or about January 1, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the imported object, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–16630 Filed 8–7–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10063]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Golden Kingdoms: Luxury and Legacy in the Ancient Americas'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Golden Kingdoms: Luxury and Legacy in the Ancient Americas,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum, Los Angeles, California, from on or about September 16, 2017, until on or about January 28, 2018, at The Metropolitan Museum of Art, New York, New York, from on or about February 26, 2018, until on or about May 28, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–16670 Filed 8–7–17; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1032 (Sub-No. 1X)]

Nebraska, Kansas & Colorado Railway, L.L.C.—Discontinuance of Service Exemption—in Franklin, Harlan, Furnas and Red Willow Counties, Neb., and Decatur, Rawlins and Cheyenne Counties, Kan.

Nebraska, Kansas & Colorado Railway, L.L.C. (NKCR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over 174.2 miles of rail line located between: (1) Milepost 216.9, at Franklin, Neb., and milepost 257.4, at Oxford Jct., Neb.; and (2) milepost 0.2, at Orleans Jct., Neb., and milepost 133.9, at St. Francis, Kan, in Franklin, Harlan, Furnas, and Red Willow Counties, Neb., and Decatur, Rawlings, and Cheyenne Counties, Kan. (the Line). The Line traverses United States Postal Service Zip Codes 67756, 67745, 67730, 67731, 67739, 67744, 67749, 69026, 69036, 69046, 68926, 68920, 68977, 68967, 68966, 68971, 68960, 68929, 68939, 68946, 68972, and 69020.

NKCR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two

years; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or which any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on September 7, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by August 18, 2017.[2] Petitions for reconsideration must be filed by August 28, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NKCR's representative: Karl Morell, 440 1st Street NW., Suite 440, Washington, DC 20001.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: August 3, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Rena Laws-Byrum,

Clearance Clerk.

[FR Doc. 2017–16701 Filed 8–7–17; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which currently is set at $1,700. *See* 49 CFR 1002.2(f)(25). Effective on September 1, 2017, the fee will increase to $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25) (STB served July 28, 2017).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–67]

Notice: Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice: Extension.

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 extend the comment period to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before September 22, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0613 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, AIR673, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *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,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington.

Victor Wicklund,

Manager, Transport Standards Branch.

PETITION FOR EXEMPTION

Docket No.: FAA–2017–0613.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: § 25.807(g)(7).

Description of Relief Sought: Allow up to 200 passenger seats when a third pair of Type III exits are installed on the Boeing Model 737–8200, 737–9, and 737–900ER airplanes.

[FR Doc. 2017–16642 Filed 8–7–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–65]

Petition for Exemption; Summary of Petition Received; Southwest Airlines Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 22, 2017.

ADDRESSES: Send comments identified by docket number {FAA–2003–14563} 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: Valentine Castaneda at 202–267–7977 or *Val.Castaneda@faa.gov,* Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2003–14563.

Petitioner: Southwest Airlines, Co.

Section(s) of 14 CFR Affected: 93.123.

Description of Relief Sought: Petitioner is requesting a five year extension of existing FAA's exemption 8112, which would continue to allow Southwest Airlines to conduct three scheduled inside-perimeter operations, at Washington National Airport (DCA), as follows:

(1) In the 0800 hour to provide service between Washington, DC (DCA) and St. Louis (STL);

(2) In the 1100 hour to provide service between Columbus (CMH) and DCA; and

(3) In the 1600 hour to provide service between DCA and Indianapolis (IND).

[FR Doc. 2017–16705 Filed 8–7–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventeenth Tactical Operations Committee Meeting

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

ACTION: Seventeenth TOC Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Seventeenth TOC Meeting. TOC is a subcommittee of the Federal advisory committee, RTCA Inc.

DATES: The meeting will be held August 22, 2017, 10:30 a.m.–12:30 p.m., Eastern Daylight Time.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Trin Mitra, TOC Secretariat, 202–330–0665, *tmitra@rtca.org,* 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given of the Seventeenth TOC Meeting. The TOC is a component of RTCA, which is a Federal Advisory Committee. The agenda will include the following:

August 22, 2017, 10:30 a.m. to 12:30 p.m., Eastern Daylight Time

1. Welcome and Introductions of TOC Members
2. Official Statement of Designated Federal Official
3. Review and Approval of Meeting Summary From the Sixteenth TOC Meeting
4. FAA Update
5. Consideration of Recommendations on PBN Route Structure
6. Consideration of Recommendations on Aeronautical Information Management Modernization (AIMM) Segment 3
7. Discussion on Current and Future Tasks
8. Other Business
9. Closing Comments—DFO and Chairs
10. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 3, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–16646 Filed 8–7–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–64]

Petition for Exemption; Summary of Petition Received; Republic Airline Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 22, 2017.

ADDRESSES: Send comments identified by docket number FAA–2002–13734 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: Clarence Garden on 202–267–7489 or *clarence.garden@faa.gov,* Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2003–13734.

Petitioner: Republic Airline, Inc.

Section(s) of 14 CFR Affected: 93.123.

Description of Relief Sought: Petitioner is requesting a five-year extension of existing FAA's exemption 7370, which would continue to allow Republic Airline, Inc. the right to use exemption slot number 1497 at Ronald Reagan Washington National Airport (DCA) until September 30, 2022.

[FR Doc. 2017–16706 Filed 8–7–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0070]

Agency Request for Approval of a New Information Collection: Recruitment and Debriefing of Human Subjects for a Study on Commercial Vehicle Crash Avoidance Systems (CAS)

ACTION: Request for public comments on a proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a new information collection for which NHTSA intends to seek OMB approval.

DATES: Written comments should be submitted by October 10, 2017.

ADDRESSES: You may submit comments identified by Docket No. NHTSA–2017–0070 through one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays. Telephone: 202–366–9826.

• *Fax:* 202–493–2251.

Instructions: All submission must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulation.gov,* including any personal information provided. Please see the Privacy heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Alrik L. Svenson, Office of Vehicle Safety Research, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone: 202–366–0436. For access to background documents, please contact Mr. Svenson.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: Field Study of Newer Generation Heavy Vehicle Automatic Emergency Braking (AEB) Systems

OMB Control Number: Not assigned.

Form Numbers: None.

Type of Review: New Information Collection.

Background: The National Highway Traffic Safety Administration (NHTSA) is assessing the benefits of crash avoidance technologies for heavy trucks that include Automatic Emergency

Braking (AEB) to prevent fatalities, injuries, and property damage in crashes involving heavy vehicles. Previous studies have investigated crash problem size, economic cost, and preliminary safety benefits concerning these systems. The underlying methods of these studies have included test track evaluations, objective test procedures, technology field demonstrations, and ''naturalistic'' studies. As both of the major AEB system suppliers are scheduled to release new products in the second half of 2016, NHTSA is interested in the real world performance of these new systems, which are designed to address the shortcomings of the previous generation of AEB systems. These systems have been designed to offer improved threat detection and new features such as stationary object braking. Additionally, a new product called Detroit Assurance™ was released in 2015 for Freightliner trucks by Detroit Diesel Corporation. This system shares many features with the OnGuard and Wingman® products including advanced emergency braking (AEB), forward collision warnings (FCW), and adaptive cruise control (ACC).

Description of the Need for the Information and Proposed Use of the Information: The collection of information consists of: (1) A demographic questionnaire, (2) initial CAS technology questionnaires, and (3) post study CAS technology questionnaire.

The information to be collected will be used as follows:

- *Demographic questionnaire* will be used to obtain demographic information so that analysis may account for participants from various groups (*e.g.,* age gender, driving experience, and experience with CAS technology).
- *Initial CAS technology questionnaires* will be used to get information about drivers' beliefs and attitude towards the CAS technology installed on the commercial vehicle they use for their job. These questionnaires will assess perceived usability of the systems in terms of acceptance and satisfaction, as well as willingness to have this technology in their vehicle. Each driver will complete this survey at the start of his or her data collection.
- *Post study CAS technology questionnaires* will be used to get information about drivers' beliefs and attitude towards the CAS technology installed on the commercial vehicle they use for their job. These questionnaires will also be used to assess perceived distraction potential of the systems in terms. Each driver will complete a post study questionnaire once, after the completion of his or her data collection. The post study survey will gauge how drivers' attitudes and preferences may have changed over the course of participation.
- Each participating driver will have a data acquisition system installed in their vehicle for three months while they perform their normal work duties. This system will collect video of the driver and forward roadway, telemetry and vehicle network data related to driving, and activations of the vehicle's CAS.

Respondents: Commercial vehicle drivers who are assigned a single, specific commercial vehicle that is equipped with the eligible technologies. Trucking fleets (approximately 7–10) will be contacted first to see if they have trucks equipped with the technologies and would be willing to have their drivers participate in the study.

Estimated Number of Respondents: 175, after compensating for potential drop-outs

Estimated Number of Responses: Full participation in the study will include 3 responses for a total of 92 questions per participant, plus a consent form that will be reviewed prior to participation.

Estimated Total Annual Burden: 110 minutes per respondent, including consent (204 hours total).

Estimated Frequency: Twice at the start of participation (demographic and initial CAS technology surveys), once at the completion of participation approximately 3 months later.

TABLE 1—ESTIMATED BURDEN HOURS

Instrument	Number of respondents [1]	Frequency of responses	Number of questions	Estimated individual burden (minutes)	Total estimated burden hours	Total annualize cost to respondents [2]
Informed Consent Form	175	1	N/A	10	29	$584.64
Demographic questionnaire	175	1	19	10	29	584.64
Initial CAS Technology Survey	175	1	36	25	73	1,471.68
Final CAS Technology Survey	175	1	37	25	73	1,471.68
Total					204	4,112.44

[1] The number of respondents in this table includes drop-out rates.
[2] Estimated based on the mean hourly rate nationwide for Heavy and Tractor-Trailer Truck Drivers of $20.16 as reported in the May 2014 Occupational Employment and Wage Estimates, Bureau of Labor Statistics. *http://www.bls.gov/oes/current/oes_nat.htm#35-0000.*

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995, 44. U.S.C. Chapter 35, as amended; 5 CFR part 1320; and 49 CFR 1.95.

Issued in Washington, DC.

Nathaniel Beuse,

Associate Administrator for Vehicle Safety Research.

[FR Doc. 2017–16650 Filed 8–7–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2017–0070]

Request for Approval of a New Information Collection

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on November 23, 2016.

DATES: Written comments should be submitted on or before September 7, 2017.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: For access to background documents, contact Eric Traube, Office of Vehicle Safety Research, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; Telephone: 202–366–5673.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with these requirements, this notice announces that the following information collection request has been forwarded to OMB. In the November 23, 2016 **Federal Register**,[1] NHTSA published a 60-day notice requesting public comment on the proposed collection of information. We received no comments.

OMB Control Number: Not assigned.

Title: Driver Alcohol Detection System for Safety—Field Operational Test.

Form Numbers: None.

Type of Review: New Information Collection.

Abstract: NHTSA and the Automotive Coalition for Traffic Safety (ACTS) began research efforts in February 2008 to try to find potential in-vehicle approaches to address the problem of alcohol-impaired driving. Members of ACTS comprise motor vehicle manufacturers representing approximately 99 percent of light vehicle sales in the U.S. This cooperative research partnership, known as the Driver Alcohol Detection System for Safety (DADSS) Program, is exploring the feasibility, potential benefits of, and public policy challenges associated with a more widespread use of non-invasive, in-vehicle technology to prevent alcohol-impaired driving. NHTSA and ACTS outlined a research program to assess the state of detection technologies that are capable of measuring blood alcohol concentration (BAC) or Breath Alcohol Concentration (BrAC) and to support the creation and testing of prototypes and subsequent hardware that could be installed in vehicles. As part of the research program, NHTSA and ACTS will build research vehicles that include both a breath- and touch-based sensor in order to evaluate the potential implementation and integration of both breath- and touch-based sensor technologies.

This collection, which shall commence on September 1, 2017, pertains to a field operational test (FOT) of both the breath- and touch-based research vehicles developed under this program. A key to the establishment of effective, unobtrusive in-vehicle alcohol detection systems is an understanding of real-world use of the technology. This FOT will allow NHTSA and ACTS to evaluate the functionality of these research vehicles under varying operating conditions by having study participants drive DADSS research vehicles through some preset routes. The research vehicles are the first vehicles of this kind, and will be used to gather data regarding sensor validity and reliability. This study will provide a greater understanding of drivers using the technology under varying environmental conditions. Data collected from the DADSS FOT will be used to further refine the DADSS Performance Specifications and evaluate system performance; specifically cases when the system may detect alcohol when none is present.

Description of the Need for the Information and Proposed Use of the Information: The collection of information consists of: (1) An eligibility interview (2) multi-day FOT of DADSS sensors, and (3) post-test day questionnaire.

The information to be collected will be used for the following purposes:

- *Eligibility interview* will be used to obtain self-reported eligibility information, including health, driving/criminal record, and drinking behavior, that participants must meet to qualify for participation in this study (*e.g.,* must hold valid driver's license). Participants will also be asked to provide the height and weight.
- *The DADSS FOT* will be used to establish effective non-invasive, in-vehicle alcohol detection systems through an understanding of the real-world use of the technology. Breath-and touch-based sensor data along with video data (for in-vehicle validation of sensor data) collected from the DADSS FOT will be used to further refine the DADSS Performance Specifications and evaluate subsystem/sensor performance. This study will provide a greater understanding of drivers using the technology under varying environmental conditions.
- *Post-test day questionnaire(s)* will be used to get information about any technical difficulties or issues drivers may have had with the DADSS–FOT vehicles at the end of each test day.
- *Participants must:*
  - Be at least 21 years of age
  - Hold a valid U.S. or Canadian driver's license
  - Have no more than one (1) driving infraction and/or conviction on their driving record for the previous three years
  - Be free of any criminal conviction in their past including criminal driving offenses
  - Be willing to work at least five (5) days per week for 12 consecutive weeks during a three-month data collection cycle
  - Meet health criteria:
    - i. Cannot have a substance abuse condition including alcoholism
    - ii. Cannot have a history of neck or back conditions which still limit their ability to participate in certain activities.
    - iii. Cannot have a history of brain damage from stroke, tumor, head injury, recent concussion, or disease or infection of the brain
    - iv. Cannot have a current heart condition which limits their ability to participate in certain activities
    - v. Cannot have current uncontrolled respiratory disorders or disorders requiring oxygen
    - i. Cannot have had epileptic seizures or lapses of consciousness within the last 12 months
    - ii. Cannot have chronic migraines or tension headaches (no more than one per month during the past 12 months).
    - iii. Cannot have current problems with motion sickness, inner ear problems, dizziness, vertigo, or balance problems
    - iv. Cannot have uncontrolled diabetes (have they been recently diagnosed or have they been hospitalized for this condition, or any changes in their insulin prescription during the

[1] 80 FR 24314 (April 30, 2015).

past 3 months)
v. Must not have had any major surgery within the past 6 months (including eye procedures).
vi. Cannot currently be taking any medications or supplements that may interfere with driving ability (*i.e.,* cause drowsiness or impair motor abilities).
vii. Must not be pregnant or planning to become pregnant.

- Have normal (or corrected-to-normal) hearing and vision.
- Self-report that they are able to read, write, speak and understand English.
- Be excluded if anyone in their household works in or is retired from any of the following businesses, occupations, or industries, which may constitute a conflict of interest with the DADSS–FOT:

i. The police force or another law enforcement agency, working as a police officer, corrections officer, or probation officer
ii. A newspaper, magazine, radio or television station, or related Web site or online news site
iii. An advertising, marketing, or public relations agency
iv. A market or public opinion research company
v. The automobile or automotive industry
vi. Liquor sales or hospitality, such as bartending
vii. Law, such as a lawyer or attorney, or working at a law firm, or in the legal profession
viii. The federal, state, or county Departments of Transportation

- Be excluded if anyone in their immediate family has been a victim of drunk driving, or if they personally know someone that has been a victim.

Estimated Number of Respondents: 600.

Estimated Time per Response: Completion of the eligibility interview is expected to take 15 minutes. Following the eligibility/demographic interview, 480 of the 600 initial participants are expected to attend a one- (1) hour orientation session and participate in the FOT. On a given test day, the DADSS FOT will require four (4) hours per day, including a post-test day interview.

Estimated Total Annual Burden: Fifteen (15) minutes for each ineligible participants and 241 hours per participant (115,830 hours total).

Estimated Frequency: One (1) time for the eligibility interview and 60 times (days) for the DADSS–FOT and post-test day interviews.

TABLE 1—ESTIMATED BURDEN HOURS

Instrument	Number of individuals	Frequency of responses	Number of questions	Estimated individual burden	Total estimated burden hours	Total cost of burden hours over 24-month study period
Eligibility/Demographic Interview.	600	1	32	15 min	150	* $1,087.50
Orientation	480	1	N/A	1 hr	480	** 9,360.00
FOT including post-test questions.	480	650 tests per participant.	8 (test-day questions).	4 hr/day for 60 days.	115,200	** 2,246,400.00
TOTAL					115,830	2,258,685.00

* Interviewees will not be compensated for the eligibility/demographic interview, but we calculate the estimated burden hour cost to the public using the prevailing Federal minimum wage rate of $7.25/hour.
** Participants in the FOT will be compensated $19.50 per hour for their time in the orientation and the FOT study and this rate was used to calculate their burden hours.

Authority: The Paperwork Reduction Act of 1995, 44. U.S.C. chapter 35, as amended; 5 CFR part 1320; and 49 CFR 1.95.

Issued in Washington, DC.

Nathaniel Beuse,

Associate Administrator for Vehicle Safety Research.

[FR Doc. 2017–16651 Filed 8–7–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Members of Senior Executive Service Performance Review Boards

AGENCY: Internal Revenue Service (IRS), Department of the Treasury.

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish the names of those IRS employees who will serve as members on IRS's Fiscal Year 2017 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective September 1, 2017.

FOR FURTHER INFORMATION CONTACT: Cheryl Huffman, IRS, 250 Murall Drive, Kearneysville, WV 25430, (304) 579–6987.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members to the IRS's SES Performance Review Boards. The names and titles of the executives serving on the boards are as follows:

Kirsten B. Wielobob, Deputy Commissioner for Services and Enforcement
Jeffrey J. Tribiano, Deputy Commissioner for Operations Support
David P. Alito, Deputy Division Commissioner, Wage & Investment
Dretha M. Barham, Director, Operations Support, Small Business/Self-Employed
Robert J. Bedoya, Director, Submission Processing, Information Technology
Michael C. Beebe, Director, Return Integrity and Compliance Services, Wage & Investment
E. Faith Bell, Deputy IRS Human Capital Officer
Thomas A. Brandt, Chief Risk Officer
Linda J. Brown, Director Submission Processing, Wage & Investment
Phyllis Brown, Director, Collection-Headquarters, Small Business/Self-Employed
Carol A. Campbell, Director, Return Preparer Office
John V. Cardone, Director, Withholding and International Individual Compliance, Large Business & International
Robert Choi, Director, Employee Plans, Tax Exempt & Government Entities
Elia I. Christiansen, Executive Director, Office of Equity, Diversity & Inclusion
James P. Clifford, Director, Customer Account Services, Wage & Investment
Amelia C. Colbert, Acting Chief of Staff

Kenneth C. Corbin, Commissioner, Wage & Investment
Brenda A. Dial, Director, Examination, Small Business/Self-Employed
Nanette M. Downing, Assistant Deputy Commissioner, Government Entities/Shared
Service, Tax Exempt & Government Entities
Pamela Drenthe, Director, Examination Planning and Performance Analysis, Small Business/Self-Employed
Alain Dubois, Deputy Chief, Financial Officer
John C. Duder, Project Director, Deputy Commissioner for Services and Enforcement
Elizabeth A. Dugger, Assistant Deputy Commissioner for Operations Support
Kimberly A. Edwards, Director, Western Compliance, Large Business & International
Dennis A. Figg, Director, Program and Business Solutions, Large Business & International
Nikole C. Flax, Deputy Chief, Appeals
John D. Fort, Chief, Criminal Investigation
Karen L. Freeman, Deputy Chief Information Officer for Operations, Information Technology
Silvana G. Garza, Chief Information Officer, Information Technology
Ursula S. Gillis, Chief, Financial Officer
Linda K. Gilpin, Associate Chief Information Officer, Enterprise IT Program Management Office, Information Technology
Dietra D. Grant, Director, Customer Assistance, Relationships and Education, Wage & Investment
Darren J. Guillot, Director, Collection—Field, Small Business/Self-Employed
Valerie Gunter, Director, Media & Publications, Wage & Investment
Daniel S. Hamilton, Associate Chief Information Officer, Enterprise Services, Information Technology
Donna C. Hansberry, Chief, Appeals
Barbara Harris, Director, Northeastern Compliance Practice Area, Large Business & International
Nancy E. Hauth, Director, Examination Field, Small Business/Self-Employed
Mary R. Hernandez, Associate Chief Information Officer, Enterprise Operations, Information Technology
Benjamin D. Herndon, Director, Research, Applied, Analytics & Statistics
John E. Hinding, Director, Cross Border Activities Practice Area, Large Business & International
David W. Horton, Deputy Commissioner, Tax Exempt & Government Entities
Cecil T. Hua, Director, Infrastructure Services, Information Technology
Eric C. Hylton, Deputy Chief, Criminal Investigation
Scott E. Irick, Director, Examination Headquarters, Small Business/Self-Employed
Sharon C. James, Associate Chief Information Officer, Cybersecurity, Information Technology
Robin D. Jenkins, Director, Collection—Campus, Small Business/Self-Employed
Tracy A. Keeter, Director, Enterprise Technology Implementation, Information Technology
Andrew J. Keyso Jr., Chief of Staff
Edward T. Killen, Chief Privacy Officer, Privacy, Governmental Liaison and Disclosure
Terry Lemons, Chief, Communications & Liaison
Sunita B. Lough, Commissioner, Tax Exempt & Government Entities
William H. Maglin II, Associate Chief Financial Officer for Financial Management
Paul J. Mamo, Director, Online Services
Lee D. Martin, Director, Whistleblower's Office
Erick Martinez, Director of Field Operations—Northern Area, Criminal Investigation
Ivy S. McChesney, Director, Examination—Ogden, Small Business/Self-Employed
Kevin Q. McIver, Chief, Agency-Wide Shared Services
Tina D. Meaux, Assistant Deputy Commissioner Compliance Integration, Large Business & International
Mary E. Murphy, Commissioner, Small Business/Self-Employed
Frank A. Nolden, Director, Stakeholder, Partnerships, Education & Communication, Wage & Investment
Douglas W. O'Donnell, Commissioner, Large Business & International
Nina E. Olson, National Taxpayer Advocate
Kaschit D. Pandya, Deputy Associate Chief Information Officer, Enterprise Operations, Information Technology
Holly O. Paz, Director, Pass Through Entities, Large Business & International
Richard A. Peterson, Senior Advisor/Technology Advisor, Deputy Commissioner for Services and Enforcement
Mary S. Powers, Director, Operations Support, Wage & Investment
Scott B. Prentky, Director, Collection, Small Business/Self-Employed
Robert A. Ragano, Deputy, Associate Chief Information Officer for Applications Development, Information Technology
Tamera L. Ripperda, Deputy Commissioner, Small Business/Self-Employed
Kathy J. Robbins, Director, Enterprise Activities, Large Business & International
Richard L. Rodriguez, Director, Facilities Management and Security Services, Agency-Wide Shared Services
Rene S. Schwartzman, Deputy Director Online Services and IRS Identity Assurance Executive
Rosemary Sereti, Deputy Commissioner, Large Business & International
Theodore D. Setzer, Assistant Deputy Commissioner International, Large Business & International
Verline A. Shepherd, Associate Chief Information Officer for User and Network Services, Information Technology
Nancy A. Sieger, Associate Chief Information Officer for Applications Development, Information Technology
Susan Simon, Director, Field Assistance, Wage & Investment
Harrison Smith, Deputy Chief Procurement Officer
Tommy A. Smith, Associate Chief Information Officer, Strategy and Planning, Information Technology
Marla L. Somerville, Deputy Chief Information Officer for Strategy and Modernization, Information Technology
Carolyn A. Tavenner, Director, Affordable Care Act
Kathryn D. Vaughan, Director, Examination—Campus, Small Business/Self-Employed
Margaret Von Lienen, Director, Exempt Organizations, Tax Exempt & Government Entities
Shanna R. Webbers, Chief Procurement Officer
Stephen A. Whitlock, Director, Office of Professional Responsibility
Lavena B. Williams, Director, Eastern Compliance, Large Business & International
Johnny E. Witt, Deputy Director, Affordable Care Act

This document does not meet the Treasury's criteria for significant regulations.

Jeffrey J. Tribiano,

Deputy Commissioner for Operations Support, Internal Revenue Service.

[FR Doc. 2017–16707 Filed 8–7–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0556]

Agency Information Collection Activity: Living Will and Durable Power of Attorney for Health Care

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 10, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Brian.McCarthy4@va.gov*. Please refer to ''OMB Control No. 2900–0556'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 461–6345.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 7331.

Title: Living Will and Durable Power of Attorney for Health Care; VA Form 10–0137.

OMB Control Number: 2900–0556.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–0137, VA Advance Directive: Durable Power of Attorney for Health Care and Living Will, is the Department of Veterans Affairs (VA) recognized legal document that permits VA patients to designate a health care agent and/or specify preferences for future health care. The VA Advance Directive is invoked if a patient becomes unable to make health care decisions for him or herself. Use of the VA Advance Directive is specified in VHA Handbook 1004.02, Advance Care Planning and Management of Advance Directives. Veterans' rights to designate a health care agent and specify health care preferences in advance are codified in 38 CFR 17.32. This regulation also obligates VA to recognize advance directives and to use the information contained therein when health care decisions must be made for a patient that has lost decision making capacity. Use of advance directives is a well-established standard within clinical practice in the U.S. Offering the opportunity to complete an advance directive and the requirement to honor such documents is supported by Joint Commission standards and the Patient Self Determination Act of 1990 (applicable to Medicare providers.) Use of advance directives is also consistent with the health care ethics standard that patients have autonomy in health care decision making and have a right to control what is done to them in a medical setting.

Affected Public: Individuals and households.

Estimated Annual Burden: 171,811 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 343,622.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–16683 Filed 8–7–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0720]

Agency Information Collection Activity Under OMB Review: Operation Enduring Freedom/Operation Iraqi Freedom Seriously Injured/Ill Service Member Veteran Worksheet

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 7, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0720'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov*. Please refer to ''OMB Control No. 2900–0720'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Operation Enduring Freedom/Operation Iraqi Freedom Seriously Injured/Ill Service Member Veteran Worksheet (VA Form 21–0773).

OMB Control Number: 2900–0720.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–0773 is a checklist for Veterans Service Representatives to verify they have given information, applications, and/or referral service to our Operation Enduring Freedom or Operation Iraqi Freedom service members who have at least six months remaining on active

duty and who may have suffered a serious injury or illness. This form is always maintained in the veteran's claims folder.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 79 on April 26, 2017, pages 19312 and 19313.

Affected Public: Individuals or Households.

Estimated Annual Burden: 7,000.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 14,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–16679 Filed 8–7–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0089]

Agency Information Collection Activity: Statement of Dependency of Parent(s)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 10, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy Kessinger, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0089'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy Kessinger at (202) 632–8924.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 102, 38 U.S.C. 1315.

Title: Statement of Dependency of Parent(s) VA Form 21P–509.

OMB Control Number: 2900–0089.

Type of Review: Revision of a currently approved collection.

Abstract: 38 U.S.C. 102 requires that income and dependency must be determined before benefits may be paid to, or for, a dependent parent. Regulatory authority is found in 38 CFR 3.4 and 38 CFR 3.250. Information is requested by this form under the authority of 38 U.S.C. 501(a)(2).

VA Form 21P–509 is used by VBA to gather income and dependency information from claimants who are seeking payment of benefits as, or for, a dependent parent. This information is necessary to determine dependency of the parent and make determinations which affect the payment of monetary benefits. The form is used by a veteran seeking to establish his/her parent(s) as dependent(s), and by a surviving parent seeking death compensation.

Affected Public: Individuals and households.

Estimated Annual Burden: 4,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once, ad hoc.

Estimated Number of Respondents: 8,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–16681 Filed 8–7–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0636]

Agency Information Collection Activity: Accelerated Payment Verification of Completion

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 10, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Cynthia Harvey-Pryor, Veterans Benefits Administration (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0636'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites

comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 107–103 and Public Law 110–181.

Title: Accelerated Payment Verification of Completion, (VA Form 22–0840).

OMB Control Number: 2900–0636.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 22–0840 allows VA claimants to certify that they received an accelerated payment and how such payment was used.

Affected Public: Individuals and households.

Estimated Annual Burden: 1.17 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 14.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–16682 Filed 8–7–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Longitudinal Investigation of Gender, Health and Trauma (LIGHT) Survey

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 10, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 461–6345.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Under 38 U.S.C., Part I, Chapter 5, Section 527.

Title: Longitudinal Investigation of Gender, Health and Trauma (LIGHT) Survey.

OMB Control Number: 2900–NEW.

Type of Review: New Collection.

Abstract: The purpose of this study is to understand the cumulative effects of lifetime exposure to trauma and ongoing exposure to trauma such as community and intimate partner violence on Veterans' mental and physical health, including its impact on the reproductive health of Veterans. To implement this research, VHA and entities working on behalf of VHA will conduct a nationwide longitudinal survey of Veterans residing in communities with varying levels of crime. Specifically, this longitudinal study will involve surveying Veterans regarding their life experiences, experiences within their neighborhood, mental health symptomatology, physical health, reproductive health, mental health service use, social support, and coping style three times over the course of approximately 1 year. We will contact a random sample of 14,000 Veterans (11,000 female and 3,000 male) between the ages of 18 and 45 obtained from VA DoD Identity Repository (VADIR) to invite them to participate in this study, with the ultimate goal of achieving a baseline sample of ~4,000 Veterans (~3,000 female and ~1,000 male). Given our primary aim to examine the role of community violence on outcomes, we will oversample for residency in high crime communities using zip codes to ensure that individuals living in these areas are invited to participate and are, therefore, represented in the study sample. We will also oversample rural communities using zip codes. Finally, as we are explicitly interested in under-represented populations in the larger Veteran population, we will also oversample racial minorities. Our response rate target for the survey is ~30%, which is consistent with other recent surveys of the Veteran population. After adjusting for potentially unusable or ineligible records (estimated at ~8%), we predict ~4,000 will complete the study.

Affected Public: Individuals and households.

Estimated Annual Burden:

Time 1 Survey: 3,000 hours.

Time 2 Survey: 3,000 hours.

Time 3 Survey: 3,000 hours.

Estimated Average Burden Per Respondent:

Time 1 Survey: 45 minutes.

Time 2 Survey: 45 minutes.

Time 3 Survey: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents:

Time 1 Survey: 4,000.

Time 2 Survey: 4,000.

Time 3 Survey: 4,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–16680 Filed 8–7–17; 8:45 am]

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